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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Tuesday, 20th February 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, you must keep this impressive spirit to the end of this term. We have a quorum to transact business. Congratulations to your leadership and yourselves.

(Applause)

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Naomi Waqo (Marsabit County, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Legal Notice No.221 of 2023 relating to the Revision of Laws Order, 2023 and the Explanatory Memorandum from the Office of the Attorney-General.
2. Response by the Auditor-General on the discrepancy in the application of Audited and Approved Revenue for Financial Year 2019/2020.
3. The Quarterly Economic and Budgetary Review Reports for the Financial Year 2023/2024 from the National Treasury.
4. First Quarter National Government and County Governments Budget Implementation Review Reports for Financial Year 2023/24 from the Office of the Controller of Budget.
5. Annual Report and Financial Statements of Kenya Electricity Generating Company PLC for the period ended 30th June 2023 from the Ministry of Energy and Petroleum.
6. The Annual Corporate Report for 2022-2023 for the Office of the Auditor-General.
7. Special Audit Report of the Auditor-General on Infrastructure Projects and Programmes at the Ministry of Youth Affairs, Sports and the Arts for the ten years (2013-2022).

Hon. Speaker, I lay.

Hon. Speaker: Thank you. Is the Chairman of the Budget and Appropriations Committee or any member of the Committee or of the Mediation Committee here?

(Hon. Danson Mwashako spoke off the record)

Hon. Mwashako, are you a member of the Mediation Committee or the Budget and Appropriations Committee? There is a report to be laid by your Committee. When your Chairman comes, we will allow him to do so at whatever stage.

Next Order.

NOTICES OF MOTIONS

ADOPTION OF REPORT ON ENHANCING REPORTING OF PARLIAMENTARY BUSINESS ON ONLINE PLATFORMS

Hon. Speaker: Chairperson, Parliamentary Broadcasting and Library Committee. Hon. Epuyo, are you the Chairperson? Go ahead.

Hon. Daniel Nanok (Turkana West, UDA): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Select Committee on Parliamentary Broadcasting and Library on Enhancing Reporting of Parliamentary Business on Online Platforms, laid on the Table of the House on Wednesday, 4th October 2023.

Hon. Speaker, I do not know whether I am reading the right notice. I hope it is the right one. This is what I have.

Hon. Speaker: Next is the Member for Dagoretti South. The matter is deferred. Member for Mandera South, Hon. Abdul Haro.

DEVELOPMENT OF A SATELLITE-BASED CLIMATE CHANGE MONITORING POLICY

Hon. Abdul Haro (Mandera South, UDM): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, aware that the Constitution recognises the people's respect for the environment as the country's heritage and the commitment to sustaining the environment for future generations; further aware that the cyclic drought in the country has caused devastating effects and serious disruption to the economy; recognising that climate change is a global problem, with developing countries being the most affected as these regions are dependent on climate-sensitive sectors such as agriculture and forestry; further recognising that severe effects of climate change are already being experienced in the form of frequent droughts, flooding and other extreme weather occurrences; concerned that the current climate change monitoring mechanisms in the country are based on traditional methods which rely on ground observations and climate models which have limitations in terms of accuracy, timeliness and spatial coverage; noting that the country recently launched its first operational satellite to collect and transmit high-quality data; further noting that this technology can help in accurately monitoring and forecasting climatic and weather patterns; cognisant of the fact that other jurisdictions have made use of this technology to monitor climate change with marked positive impacts; appreciating that the use of technology, especially satellite technology, would allow enhanced monitoring that can have significant impact on sustainable environmental management; further appreciating that this technology would be useful in monitoring difficult-to-reach, expansive and unsafe areas; now, therefore, this House resolves that the Ministry of Environment, Climate Change and Forestry develop a policy on information technology that deploys the use of satellites in the monitoring and forecasting of climatic conditions, with the objective of ensuring timely and accurate data collection to

enhance the country's capacity to respond to weather-related risks and vulnerabilities including climate change.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Haro. I will go back to the Member for Dagoretti South, Hon. John Kiarie.

ESTABLISHMENT OF A SCIENCE MUSEUM

Hon. John Kiarie (Dagoretti South, UDA): Thank you, Hon. Speaker, for accommodating me. I am juggling between the House and a sitting of a parliamentary Committee on the Budget Policy Statement (BPS) matter of which I am the Chair.

Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that Article 11(2)(b) of the Constitution provides that the government shall recognise the role of science and indigenous technologies in the development of the nation; further aware that the Vision 2030 provides for the integration of information, communication and technology in the country's transformative agenda; concerned that there exists no science museum for consolidating indigenous scientific and technological innovations, training and research purposes in the East Africa region; appreciating that integration of science and technology would greatly enhance Kenya's economic and societal success; noting that there is potential for growth in the technology sector by establishing a science museum; further noting that the informal science education plays a key role in the progression of Science, Technology, Engineering and Mathematics (STEM); acknowledging that science museums operate as the nexus between science practitioners, policy-makers and the public; cognisant of the fact that a science museum in the country would greatly impact on the economy of the country in the quest to become an industrialised nation; now, therefore, this House resolves that the national Government, through the relevant ministries establish and operationalise a science museum in the country.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. KJ. Next is the Chairperson of the Mediation Committee, Hon. Ndindi Nyoro. He is not here yet. Hon. Mwashako.

(Hon. Danson Mwashako consulted with the Speaker)

Next is the Chairperson of the Public Investments Committee on Social Services, Administration and Agriculture, Hon. Wangwe.

ADOPTION OF REPORT ON NON-COMPLIANT STATE CORPORATIONS

Hon. Emmanuel Wangwe (Navakholo, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the report of the Auditor-General on twenty-three non-compliant State corporations, laid on the Table of the House on Wednesday, 23rd August 2023.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. We will come back to that Order when Hon. Ndindi comes in. We go to Order No. 7. Hon. Mwashako, as we go to that Order, look for your Chairman.

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When we get to the Report of the National Dialogue Committee (NADCO), I will not give him an opportunity.

On Order No. 7, there is a Statement by the Member for Kigumo, Hon. Munyoro.

QUESTIONS AND STATEMENTS

REQUEST FOR STATEMENT

Hon. Speaker: Hon. Munyoro.

EXPLOITATIVE LENDING PRACTICES FOR BODABODA OPERATORS

Hon. Joseph Munyoro (Kigumo, 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 Finance and National Planning on the plight of bodaboda operators across the country.

The bodaboda sector has emerged as one of the key sectors driving the uptake of the Buy-Now-Pay-Later (BNPL) models for purchase of various merchandise including motorcycles. The model, according to industry players, has gained popularity especially among young and low-income consumers who may not have access to traditional credit facilities. Recent reports indicate that bodaboda riders and small vendors account for the largest share of the BNPL model. However, what is marketed as an accessible path to owning a motorbike and achieving financial independence has become a nightmare for hundreds of jobless youth in the country. BNPL providers lure borrowers with deceitful promises of low down-payments and easy installments yet hidden fees, exorbitant interest rates and aggressive debt collection tactics soon reveal the true cost of a commodity.

According to bodaboda operators, the business is highly competitive and the daily proceeds cannot service weekly instalments. As a result, hundreds of young people are counting losses following indiscriminate impounding of the motorcycles including those belonging to diligent owners with less than 10 per cent outstanding loans.

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

1. Could the Chairperson explain the measures and mechanisms the Government has put in place to regulate the activities of BNPL providers in the country including addressing rogue lending institutions responsible for violations of consumers' rights?
2. Could the Chairperson explain plans the Government has put in place to develop alternative financing models that are fair, transparent and genuinely empower bodaboda operators?

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Munyoro. Is the Chairman of the Departmental Committee on Finance and National Planning here? The Vice-Chair, Hon. Benja.

Hon. Benjamin Lang'at (Ainamoi, UDA): Thank you, Hon. Speaker. We shall take the request to the Committee, process and table a response as soon as possible.

Hon. Speaker: Can you bring a response in two weeks?

Hon. Benjamin Lang'at (Ainamoi, UDA): Yes. We will do so in two weeks.

Hon. Speaker: Next is the Member for Kirinyaga County, Hon. Jane Njeri.

(Hon. David Kiplagat raised his hand)

Hon. Speaker: Is that Hon. DK? Why are you raising your hand?

Hon. David Kiplagat (Soy, UDA): Thank you, Hon. Speaker. I am raising my hand because we are on Statements. There is a statement that I had requested from the Chairman of the Departmental Committee on Administration and Internal Affairs in terms of the events that happened in Matunda, where one lady was killed by robbers. Up to date, we have not received any substantial statement on the matter.

Hon. Speaker: Did you direct it to the Departmental Committee on Administration and Internal Affairs?

Hon. David Kiplagat (Soy, UDA): Yes.

Hon. Speaker: Tongoyo's Committee. Is Hon. Tongoyo in the House? Hon. Raso, when will you bring the response to Kiplagat's request? Give Hon. Raso the microphone.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Speaker. As you said at the beginning of this Session, that matter had lapsed. The matter is already before the Ministry of Interior and National Administration. We can still pursue it because it is a security matter which should not be allowed to go down the drain. We request for two weeks to respond to the Member.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Raso, I will not give you two weeks. This is a matter that was brought last Session. You should be asking for a day or two instead of two weeks.

Hon. Ali Raso (Saku, UDA): Hon. Speaker, I am well guided.

Hon. Speaker: Can you bring a response on Tuesday afternoon?

Hon. Ali Raso (Saku, UDA): I am well guided, Hon. Speaker.

Hon. Speaker: Excellent. Is the Member for Kirinyaga here? Yes, Hon. Jared Okello

Hon. Jared Okello (Nyando, ODM): Hon. Speaker, I thank you very much. Last week, you gave a very detailed report on how to handle issues that lapsed with the Session pertaining to Questions and Statements. I want to bring to your attention that towards the end of last Session, there were two petitions that were properly debated before this House. Both of them generated a lot of interest from Members. This pertains to hardship allowance by Nyatike Constituency and another one that I cannot remember. We realised that this is a matter that cuts across most of the constituencies.

Whereas you may not have delved into lapse of petitions, if you were to invoke the inherent powers of the Speaker, I would kindly request you to allow the Public Petitions Committee to proceed with this matter so that we can conclude. That will be beneficial to most Members in this House. Otherwise, reinventing the wheel may turn out to be quite untidy and may not sit well with Members in this House.

Hon. Speaker: Hon. Jared, if you listened to my communication properly, I never mentioned petitions. Petitions do not lapse with the end of the Session. They remain alive until they are disposed of.

Hon. Nimrod Mbai, there is a bit of concern that there are too many petitions pending before your Committee. Many of them. In fact, many have exceeded the time that is set out in the Standing Orders. I would like to have a meeting with you and your Committee so that I can assist you to discharge your duties a little more robustly. Please check with the Clerk. He will give you and your Committee an appointment to come and see me.

Hon. Nimrod Mbai (Kitui East, UDA): Thank you, Hon. Speaker.

Hon. Speaker: Petitions are time bound. It is not very good when you have between 30 to 39 petitions that are all way out of time.

Yes, Hon. Owen.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. On the same note, the Public Petitions Committee came into life in this Thirteenth Parliament. In the previous Parliament, we had petitions being dealt with by the Departmental Committees. This

was more effective. As we review our Standing Orders, I would urge that we revert back to where we have more expert opinion at the departmental level and where we will fast track these petitions. Otherwise, Kenyans and Members that have sent petitions to the House are suffering.

I do not think Hon. Mbai and his Committee are incompetent, but the work is too much for them and the subjects are too diverse. They may not be able to take care of them at the right time. I urge this House that we need to re-look at our Standing Orders; petitions should go back to the Committees so that we can fast-track work.

I thank you, Hon. Speaker.

Hon. Speaker: Yes, Hon. Kamket. Give Hon. Kamket the microphone. There you are.

Hon. Kassait Kamket (Tiaty, KANU): Thank you, Hon. Speaker. I want to add to what you mentioned. I am one of the people whose constituents brought a petition through our Women Representative. It is almost one year down the line. In line with what the Hon. Baya is saying, I think it is time we reviewed our Standing Orders. When we give the Public Petitions Committee all the petitions, they might not be able to handle them. It is time to revert back to the Committees. If our Petition is more than a year now, how many others are pending? This discussion is timely. We need to review our Standing Orders and relieve this gentleman. We should allow relevant Committees to address the issues affecting Kenyans.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I do want to open debate on this. We cannot change our Standing Orders to address issues of efficiency. I do not think that is the right way to go. I will direct the Leader of the Majority Party that the Clerk will give Hon. Mbai an opportunity to come with the Public Petitions Committee to see me so that we can address any difficulties they have in processing petitions.

This Committee was set up to offload the bulk of work from Committees so as to give them time to do their work. I was told that Committees were spending inordinately large amounts of time on petitions against their core business. We need to inject more energy and vigour in the Public Petitions Committee headed by Hon. Nimrod. We will assist them to do so. We cannot change the law because we are not moving fast enough.

Yes, Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, we stand as you have directed, but the matter is more holistic. There are many statements that have not been replied to.

In the case that Hon. DK has just raised, somebody lost his or her life. It has been a year down the line and there is still no response to that death. The Executive, which is responsible for giving this explanation, is not taking this matter seriously. Parliament is the only place where they can be held accountable. Our mandate is very clear; legislation, oversight and representation. There is no other organ that can oversee the Executive. When we ask these Questions, it is not a favour they are doing by responding. It is a constitutional mandate that they are supposed to execute. We need to enforce it properly.

I know my colleagues are from a retreat. They should not feel like they are “government” They are Members of Parliament. We have to oversee the Executive. You can just take *mandazis* and thank them for the meeting.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Ndindi, let us go back to Order No.5. Please lay the Report on the Table and then go to Order No.6 and give your notice of Motion.

PAPERS

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Speaker. I beg to lay the following Paper on the Table:

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Report of the Mediation Committee on the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023)

Hon. Speaker: Go ahead and give notice of Motion.

NOTICE OF MOTION

APPROVAL OF MEDIATED VERSION OF THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150 (3), this House adopts the Report of the Mediation Committee on the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023), laid on the Table of the House on Tuesday, 20th February 2024, and approves the Mediated Version of the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023).

Thank you very much, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Ndindi.

Hon. John Mbadi (Nominated, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, what is the point of order?

Hon. John Mbadi (Nominated, ODM): Hon. Speaker, the Chairperson of the Budget and Appropriations Committee is purporting to have laid a Paper yet I am seeing him with a sheet of paper. So, where is the Paper that he claims to have laid?

(Laughter)

He laid it on his desk.

Hon. Speaker: Chairperson, have you laid the Paper on the Table?

(Loud consultations)

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Speaker. As you are aware, the Papers are already laid.

Hon. Speaker: We go back to Order No.7. I saw Hon. Gaceri walk in. Member for Kirinyaga. Hon. Njeri, you are late. I have called you twice.

Hon. Njeri Maina (Kirinyaga County, UDA): My apologies, Hon. Speaker. I had paid a courtesy call to the Office of the Prime Cabinet Secretary. My senior here, is trying to distract me.

(Hon. Samwel Chepkonga distracted Hon. Njeri Maina)

Hon. Speaker: Hon. Chepkonga, do not distract Hon. Njeri.

(Laughter)

Go ahead.

REQUEST FOR STATEMENT

DEATH OF PERSONS AFTER CONSUMPTION OF
ILLICIT BREW IN KIRINYAGA COUNTY

Hon. Njeri Maina (Kirinyaga CWR, 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 Administration and Internal Security regarding the death of 23 persons after consuming illicit brew in Kangai Village, Kirinyaga County.

Hon. Speaker, over the years, the country has witnessed various incidences where people lose their lives after consuming illicit and adulterated alcoholic drinks. The most recent occurrence happened in Kangai Village in Kirinyaga County on 6th February 2024, where 23 persons died while several others lost their sight after consuming illicit alcohol suspected to have expired and with a high concentration of ethanol. It is feared that the death toll may rise since the conditions of victims who are receiving treatment have been deteriorating.

Hon. Speaker, there has been an escalation of trade in illicit and adulterated liquor, proliferation of counterfeit alcoholic brands, mushrooming of liquor outlets operating without proper licensing, increase in underage drinking and the rise in deaths attributable to illicit liquor in the country. The situation calls for strict implementation of the regulatory framework on alcoholic promotion, licensing, and treatment and rehabilitation of addicts as provided for under the Alcoholic Drinks Control Act, 2010 in order to mitigate the adverse effects of illicit brews.

Hon. Speaker, 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. Could the Chairperson provide a report regarding the status of investigations into deaths of the victims of illicit brew in Kangai Village, Kirinyaga County in February 2024?
2. Could the Chairperson also provide information on whether the owners of the outlet from where the brew was obtained has been apprehended and prosecuted?
3. Could the Cabinet Secretary explain measures the Government has put in place to ensure strict compliance with the Alcoholic Drinks Control Act, 2010 and effective implementation of alcohol control policies in regions mostly affected by consumption of illicit brews?

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Njeri.

Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. On the Statement, I will ask for two weeks to get a response from the Ministry.

Hon. Speaker: I will not give you two weeks. Twenty three lives were lost and, therefore, I will give you a week. You should be having facts with you within the shortest time possible.

Hon. Gabriel Tongoyo (Narok West, UDA): I am well guided, Hon. Speaker. The alcohol menace and Kenyans losing their lives is becoming an issue that should concern all of us. As much as we want to say that the issue falls under the Ministry of Interior and National Administration under the National Police Service, we all know that licensing of bars is a role of the county governments, and it is an issue that we must start a conversation on.

We have a big issue and as a House, we must start looking at our laws because the Constitution of Kenya, 2010 refers the function of licensing to the counties, and that is what is probably giving our officers a hard time when it comes to enforcement. However, on the one-week period, I oblige.

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

Hon. Speaker: Yes, Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I have listened to the Chairperson of the Departmental Committee on Administration and Internal Affairs carefully, and he is saying that the licensing of bars is a function of county governments. County governments licence bars and not illicit brews or *chang'aa*. This is an issue of enforcement of the law which squarely lies with the Ministry of Interior and National Administration. As you directed, let the Chairperson produce an answer in a week's time. Let us not use scapegoats. It is an issue of enforcement of the law.

Hon. Speaker: Yes, Hon. Rindikiri.

(Loud consultations)

Order, Hon. Members. The conversations are too loud.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Speaker. The Chairperson of the Departmental Committee on Administration and Internal Security is out of order because these are deaths we are talking about. The brew they took came from a Police Station, which is within his mandate.

(Applause)

That is what the Woman Representative of Kirinyaga was talking about. He cannot run away from his responsibility. Let them get down to business and give us the correct information. He should not divert our attention.

(Applause)

Hon. Speaker: Thank you. Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I am constrained but to agree with the Member for Buuri and Hon. Junet, indeed, there is absolutely nothing wrong with the county governments licensing bars. This particular incident in Kirinyaga – maybe the Chairperson is not aware – is that police officers have already been arrested and charged in court because they stole exhibits that were being stored at a police station and sold them to a trader, who then sold the same alcohol to bar patrons. Therefore, the problem is not one that we can point at the county governments in terms of licensing of bars. It begins with law enforcement vide the police. Therefore, the Chairperson, being the one who oversees the police, must be emphatic in ensuring that his Committee summons the Inspector-General of Police to say what they are going to do to ensure that the police do their work of enforcing the law as it is.

Secondly, and most importantly, I hope that the Chairperson, other than pointing fingers, will take this opportunity, through the Departmental Committee on Administration and Internal Security, to draft a national government-level legislation touching on the licensing of manufacturers of alcohol because that will not be left to the county governments. It is up to us, and that is what I would have wanted to hear the Chairperson speak to. This Committee will draft a legislation that will regulate the movement of ethanol and methanol in this country because what we are calling illicit brews are not. They are simply ethanol and methanol mixed with water, being sold to people as alcohol. Sale of ethanol is one of the most lucrative illicit trades.

The road between Namanga and Nairobi, and the entire corridor, including Isebania in Migori, is a crime scene. Therefore, the Chairperson should know that every truck on that road is carrying ethanol in drums disguised as onions and tomatoes. If you want to be the Officer

Commanding Police Division (OCPD) today, you have to know people at Vigilance House to be deployed to Kajiado because it is the most lucrative place to be because of this illicit trade. Therefore, the Chairperson should not use counties as a scapegoat. We must deal with the problem as it is. The problem is with the police, who are the law enforcers. This House, through the Committee, has an obligation, through the Committee, to make sure that we have a legislation that regulates the sale of ethanol and methanol.

Thank you, Hon. Speaker.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Speaker. Let me take this opportunity to sympathise with the lost souls who died from consuming the illicit brew. There is the danger of branding some local brews as illicit simply because people have lost lives in other places. Yes, the licensing of bars is the mandate of the county governments but beyond that, the enforcement of the law against production and the rest, squarely falls on the relevant ministries and security organs.

Hon. Speaker, we have a very pure local gin in my constituency manufactured in hygienic conditions, and we have never had of any challenges.

Hon. Speaker: Hon. Oundo, what you are calling gin is in fact, an outlawed drink called *chang'aa*.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): No, Hon. Speaker. It is not called *chang'aa*. We call it *enguri* and it is a very clear and clean gin.

Hon. Speaker: Go and read the definition of *chang'aa* in the *Chang'aa* Prohibition Act.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, if you go to my constituency, you will see that we have no shortage of kids or pregnant women. Honestly, we do not want the mess that has happened in Central Kenya to be a blanket application to the entire country to eliminate our national pass time in our communities. Let regions deal with their problems as they arise and not have a national condemnation of local brews.

Thank you, Hon. Speaker.

(Loud consultations)

Hon. Speaker: Order, Hon. Oundo. For the avoidance of doubt, under the *Chang'aa* Prohibitions Act, *chang'aa* is described as *enguri*, *machwara*, *machози ya simba*, *kill-me-quick* or any other spirituous liquor howsoever described.

(Laughter)

So, it is not a local brew that is defensible. Yes, Hon. Mukunji will be the last to speak to this one.

(Hon. Ali Raso spoke off the record)

Hon. Mukunji, there is a point of order. Let me hear Hon. Raso first. Hon. Raso, is it a point of order or you want to contribute? Pardon? Hon. Mukunji, go ahead.

Hon. Gitonga Mukunji (Manyatta, UDA): Hon. Speaker, I just want to thank Hon. Njeri, the Member for Kirinyaga County for this important Statement.

If the National Assembly cannot act now when 23 lives have been lost, I do not think there is any other important time to act on this issue.

I agree with the Leader of the Majority Party that police officers are part and parcel of the thriving illicit ethanol trade in this country. It has gotten to a point where we really have to

call it to order. I want to see a stoppage of importation of ethanol until we know who these traders are and whether they are paying taxes. We have made billionaires out of the ethanol trade and they have become very powerful that they are able to buy the police force, from top to bottom. That is why we have lost lives in Kirinyaga and we might continue to lose more. The young generation will be in serious danger if this Assembly does not act. We have to enact laws to ensure that the population of this country does not thrive on drunkenness. A drunkard is a sick individual and is not actually a bad person. However, we are treating the symptoms instead of the disease. The people who are selling poison in this country are well known. We have to go after them without fear. If we do not do that, the young generation will judge us harshly.

Thank you, Hon. Speaker.

Hon. Speaker: We will end there on this subject. Hon. Raso, I had promised to give you one minute to contribute. Hon. Dawood and Hon. Dorothy Muthoni will have one minute each to contribute.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Speaker. I support the request for a Statement by Hon. Njeri. Her request raised fundamental issues. I believe even the Chairperson of the Departmental Committee on Administration and Internal Affairs did not contradict the Hon. Member. There must be a robust response to this particular issue. However, the Chairperson has said that the issue at stake is the law. The law mandates the county governments to collect money. The county governments are interested in collecting money but they are not at any point...

Hon. Speaker: Hon. Raso, the point that the Leader of the Majority Party, Hon. Junet and others have raised is very simple. The county governments license bars but they do not license venues for homicides. When homicides are committed, they become a matter for the police to deal with. That is why Hon. Tongoyo must call his troops to order. No excuses.

Hon. Members: Yes!

Hon. Speaker: There is no county government in this country that licenses anybody to kill another.

Hon. Members: Yes!

Hon. Speaker: Yes, Hon. Dawood.

Hon. Rahim Dawood (North Imenti, Independent): Thank you, Hon. Speaker.

Hon. Speaker: You have one minute.

Hon. Rahim Dawood (North Imenti, Independent): Thank you, Hon. Speaker. If you remember, we rid the Mount Kenya region of alcohol in 2015. Licensing is not the only problem. Factories which produce third generation liquors need to be closed down immediately because that is where the problem is. When we closed wines and spirits shops in Meru County, the owners went to court and got orders to re-open. We need to approach this issue in a two-pronged manner where courts do not interfere with whatever is being done and we stop the factories from operating.

Hon. Speaker: Your neighbour, Hon. Dorothy Muthoni.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Speaker. I want to laud the Women Representative for Kirinyaga County, Hon. Njeri, for bringing this very fundamental issue to the Floor of the House. We are discussing the loss of lives. This House should take this matter seriously because as you have alluded, Hon. Speaker, licensing and homicide are two different things. We call upon the Ministry of Interior and National Administration to give us a way forward on how they intend to deal with this menace.

Hon. Speaker: Thank you. We will end there. Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I first want to appreciate the fact that it is unfortunate that lives were lost. It is very sad that we lost such a large number of young and productive Kenyans through intake of illicit brew. I agree with all Members that

we need to look into the whole structure, even that of our police service. I will heed your guidance on this case. We will communicate with the Ministry to get a response in a record short time.

Hon. Speaker: On Tuesday.

Hon. Gabriel Tongoyo (Narok West, UDA): On Tuesday. The Leader of the Majority Party got it right. We are responsible for legislation and we can re-look at aspects of licensing of production, imports and exports. At the same time, we should tighten our laws and policies on licensing, especially at the county level, with a possibility of reverting some functions to the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) for proper management and licensing of liquor stores.

I once again say sorry and extend my condolences to the families of those who lost their lives.

Hon. Speaker: Before we go to the next order, allow me to introduce students from Ikuu Girls Secondary School from Chuka/Igambang'ombe Constituency in Tharaka Nithi County, and Matungulu Girls Secondary School from Matungulu Constituency in Machakos County, who are seated in the Public and Speaker's Galleries. On my behalf and that of Members, I welcome the students and their teachers to the National Assembly.

Hon. Mule has asked me to allow him to acknowledge the school from his constituency. Do it in one minute on behalf of the whole House for the two schools.

Hon. Stephen Mule (Matungulu, WDM): Thank you very much, Hon. Speaker. I want to welcome Matungulu Girls Secondary School, whose Form Four class of 2023 topped in the entire Machakos County. Congratulations, girls. We are very proud of you. We will continue to promote education in constituencies.

The future of this nation lies in this House, where all Members of Parliament support young boys and girls in their respective constituencies through bursaries funded by the National Government Constituencies Development Fund (NG-CDF). I urge the leadership to ask the Cabinet Secretary for the National Treasury and Economic Planning, Prof. Njuguna Ndung'u, to release the entire NG-CDF allocation to make sure that we keep these girls in school because things are tough. We wish you all the best. We are very proud of you for coming on top in Machakos County. You are blessed to be in the House.

(Several Members consulted loudly)

We also welcome Ikuu Girls Secondary School to the House. We are very proud of you. Hon. Speaker, there is a joke going around that the girl-child is being favoured. I urge Members to also look at the boy-child. God bless you. God bless Kenya.

Hon. Speaker: Thank you.

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, notwithstanding the provisions of Standing Order 232(7) relating to presentation of the Budget Policy Statement (BPS), this House resolves to extend the period for consideration of the BPS, 2024 by a period of 14 days...

(The Speaker consulted with the Clerks-at-the-Table)

Hon. Speaker: Order, Hon. Ndindi Nyoro. The Motion that you are trying to move will be on the Order Paper for tomorrow. I gave you an opportunity to give a progress report on the time-bound BPS hearings that are going on.

STATEMENT

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PROGRESS REPORT ON CONSIDERATION OF
THE BUDGET POLICY STATEMENT, 2024

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Speaker, for your guidance. I thank you for this chance because it is very important that I bring the attention of this House to one of our critical roles of budget-making. It is usually a lengthy process. Most of us probably thought that the process starts in June. However, to bring Members up to speed, the process starts in the previous calendar year. For example, for this financial year, the budget-making process started in November last year when we conducted public participation and formed sector-working groups. After forming sector-working groups, we are now in the process of setting the ceilings for all departments, especially the sectors that constitute our economy.

To bring Members up to speed, we have already started the process of departmental committees meeting their respective accounting officers. That is why even the Principal Secretaries (PSs) who were previously engaged elsewhere, especially in the Parliamentary Group (PG) meeting in Naivasha, have been recalled to Nairobi so that they continue meeting their respective Departmental Committees. The process of considering the Budget Policy Statement (BPS) is time-bound. There cannot be many negotiations around that time.

Therefore, mine is just to thank all Chairpersons of Departmental Committees. I request them to stick to the days provided and meet some of our PSs today for those who are meeting them today and others tomorrow. I humbly request that we conclude hearing the PSs by this Saturday so that we are on time to process the BPS within the statutory timelines.

Hon. Speaker, I thank you. I thank all Members who belong to other Departmental Committees. I request them kindly that we stick to the timelines of today, tomorrow and Friday. These days have been provided for meeting the PSs so that we keep ourselves within the statutory time.

Hon. Speaker: Thank you, Hon. Ndindi Nyoro. We can go to Order No.8. Yes, Hon. Nyikal. What is your point of order?

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Speaker. As we go to Order No.8, I rise to seek your guidance on tabling and contents of Committee Reports regarding Bills. Although what I am saying arises from my observation on the Bill we are discussing I think we, as a House, should address that issue.

Firstly, we tend to get Reports very late. Often, Members do not get time to benefit from what Committees have worked on and the stakeholder issues raised. Secondly, most of the Reports I have seen relating to Bills are normally done in very clear fashions. The stakeholder meetings are reported verbatim. Thereafter, we have schedules of observations and recommendations. In the case of a Bill, you will have a schedule of amendments. It makes it very easy for Members not to go through all the details of the stakeholder discussions but rather focus on these and make quick decisions. That was missing in this Report. One has to go through all reports of discussions from a particular group and then get Committee observations. In the end, we do not get good clearance.

Why do I raise those two issues on tabling and contents of Committee reports? When you have very important Bills like this one, the Committee's work guides Members' discussion. Therefore, we may have to go into the rules of procedure of the House and go back to say that we cannot have Bills discussed before a committee gives a report and a time of maybe two days before the discussion starts. In exceptional cases, we can do that with the leave of the Speaker. I thought I would raise this because I am finding the use of committee reports being eroded. That is a very important bit of legislation at the committee stage. I have noted it before.

This is a particularly important Bill that should have gotten all the attention we required and guidance from the Committee.

Hon. Speaker: Hon. Nyikal, I think you are suffering from being absent in the House. Your Whip of the Minority Party ably raised the matter you are raising when this Bill was being called for Second Reading. He complained that the Report had just been laid and Members needed time to read through it. By now, I am sure that Members have read the Report. What is more important is that the Report and the content are more useful during the Committee of the whole House. That is when you can make changes to the Bill arising out of the Committee's recommendations. That is when you can file your amendments if you wish. However, I get your point. The Clerk will address some of the issues that you have raised.

Order No.8. Yes, Hon. Junet. Is it on the same issue?

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, it is on the BPS. The Chairman of the Budget and Appropriations Committee has explained the issue.

(Hon. Kimani Ichung'wah consulted loudly)

Through you, Hon. Speaker, I ask the Leader of the Majority Party to lend me an ear. The BPS is one of the most important documents in the budget-making process in this House. It was supposed to be laid in this House by 15th February 2024. Today is 20th February 2024. We are late by five days. Yes, it was laid. However, we have lost time. Going forward, I am of the view that it is either we change our Standing Orders so that it can be committed to the relevant Committees when we are away or we change the Public Finance Management Act so that the timelines can be increased from 14 days to 21 days.

This document informs how our Budget will look like in the next financial year. I know Members are asking whether we are implementing it. Every Member must take this framework and document seriously. Through the Leader of the Majority Party, I urge that we bring an amendment to the Finance Management Act so that we can increase the timeline.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Junet, what you are complaining about has been cured. The Standing Orders say it has to be laid by 15th February 2024. It was laid on that day. It has to take 14 days. Hon. Ndindi Nyoro has asked us to extend it by seven days to 21 days. Your worries are taken care of.

Next Order.

BILL

Second Reading

THE AFFORDABLE HOUSING BILL (National Assembly Bill No.75 of 2023)

(Moved by Hon. Kimani Ichung'wah on 15.2.2024)

(Resumption of debate interrupted on 15.2.2024)

Hon. Speaker: Hon. Mbadi, you were on the Floor. However, there is a point of order by Hon. Chepkonga. Hold your horses.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Speaker. I rise pursuant to Standing Order 95 as read together with Standing Order 83.

Before I raise that point of order, I thought my very good friend, Hon. Musa Sirma who is the Chairman of the NG-CDF, had very important information to communicate to this House particularly, when Hon. Stephen Mule was welcoming his students. We thought that the students would go back home knowing that the NG-CDF had been released.

(Laughter)

Hon. Speaker: Can you raise your point of order to Order No.8?

(Hon. Musa Sirma rose on his feet)

Hon. Sirma, you do not have to stand up simply because your name was mentioned. Take your seat. Hon. Chepkonga, go ahead and raise your point of order.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Speaker. He needs to queue to raise his point of order himself.

This matter has been ably canvassed in this House. Without anticipating debate on the next Order, it is extremely important. It has exercised the minds of Kenyans.

Hon. Speaker: What is your point of order?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I rise on a point of order in accordance with Standing Order 95 read together with Standing Order 83. Would I be in order to call upon the Mover to reply? This matter has already been spent. In fact, many issues were discussed last time. What I wanted to discuss has also been discussed by another Member. So, I would be redundant. Therefore, it is important that the Mover be called upon to reply so that we can move to the most important debate that is disturbing Kenyans. We need to sort out this before baba is appointed Chairman for the African Union (AU).

Hon. Speaker: Before I exercise that discretion, I will allow Hon. Mbadi, who is a ranking Member of this House, to exhaust his time.

Hon. Otiende Amollo, do you have a point of order?

Order Musa Sirma!

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Speaker, Hon. Chepkonga is a ranking Member and he is my friend. In recent times, we have been co-chairing a very important sub-committee on the NG-CDF. When he stands on a point of order pursuant to Standing Order 95 to persuade you to exercise your discretion yet he knows that the day the debate on this matter started, him and I were busy representing this House in another important matter, he is not only misleading the House, but also unfair to the rest of us. Other Members and I have not had the opportunity to say our bit. So, I urge you not to accept that invite. This is a very important matter. As you know, it has invited interpretation by the court. As a House, we got it wrong the first time. It is important that we get it right the second time without rushing. I was the first Member to be in this House this afternoon waiting to speak on this matter.

I submit.

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Nominated, ODM): Thank you, Hon. Speaker. I had three minutes left to make my contribution. There is something that worries me with this Bill at Clause 4 and a few Members had spoken on it. The Executive in its effort to correct what was said in the court is creating a bigger problem to the people of Kenya. If you look at Clause 4(1) on imposition of levy, it says: "There is imposed a levy known as Affordable Housing Levy." 4(2) says: "The Levy shall be at the rate of 1.5 percent of:

(a) the gross salary of an employee;

(b) the gross income of a person received or accrued which is not subject to the Levy under paragraph (a)."

We are exposing Kenyans - including *mama mbogas* in the streets - who were promised that this Levy will only affect those who are salaried with payslips, to unnecessary harassment by the Kenya Revenue Authority (KRA). To impose this Levy on people who do not have salaries is going to be a nightmare. What we are doing is allowing the KRA officers to be snooping and harassing Kenyans, including farmers. What this provision means is that, if you were to go to your farm, get maize and sell it, a levy is supposed to be imposed on that gross produce that you get from your shamba. They are even not removing the cost of producing maize. That is punitive and this is one of the worst legislations that can be passed in a House like this. Unless there will be an amendment to remove this or to make it non-implementable, this provision should not be allowed to stand. I do not want to go any further.

(Hon. Kimani Ichung'wah gestured)

I can see the Leader of the Majority Party gesturing; I do not know for what. I have just mentioned that...

(Loud consultations)

Hon. Speaker: Order, Hon. Members! Double N order! Is that Hon. Ng'elechei? The exuberance and loud conversations are disrupting even the Speaker to hear what the Member on the Floor is saying.

Hon. John Mbadi (Nominated, ODM): Hon. Speaker, what I was saying is very important. I may need to repeat it. The provision under Clause 4 is very dangerous. I would urge that this matter is re-looked into. For the farmers in the village, after producing their crops and selling their produce, they will be required to surrender 1.5 per cent of their gross produce to the Housing Levy. That is punitive and it is going to lead to unnecessary harassment of ordinary Kenyans by the KRA. I can see the Leader of the Majority Party laughing. When he was moving this Motion, he said that they are very happy because the Government is going to receive more money. Why should they be happy when the hustlers are suffering? Is it just because they are getting more money to do things that are not so clear like providing housing to people that we do not know? This is something that needs to be looked into and removed from this law. Even though the Judiciary mentioned about discrimination, there should be a better way...

Hon. Speaker: Hon. Members, I have been asked to call the Mover to reply, but I will give Hon. Otiende Amollo and one other Member on this side a chance, then I will call the Mover to reply.

Hon. Otiende Amollo.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. This issue has various facets. The first one which is of note is the aspect of it increasing the tax burden to Kenyans by 3 per cent. While many people are still familiar with the 3 per cent, what they are not familiar with is the penalty that is also prescribed. That, if you do not remit that 3 per cent within 30 days, there will be an additional penalty of 3 per cent so that in any one month you are in danger of having to pay 6 per cent which can be recovered by court action.

Second - this bears repetition - it must be borne in mind that as the national Government endeavours to do all these, the Fourth Schedule of the Constitution in Part I and Part II makes it very clear that no matter how well intentioned the Government may be, housing still remains a county government function. The only thing that is given to the national Government is the policy. This Bill is not prescribing policy; it is prescribing the way of doing it. That will remain unconstitutional no matter how we couch it.

The third is in terms of counties. This Bill is very strange. It comes under the hand of Hon. Kimani Ichung'wah with the purpose that it has nothing to do with the counties. First, in the very face of the Bill, if you look at Clause 10(2)(c) and Clause 12(3)(b)(i), they both mention the county. In rendering their explanation, we have been told that they are getting land that is right now held by counties. You cannot get land from the counties and say the Bill does not concern counties by definition and by law. It means that by whatever formulation, the Bill must involve the Senate and must also be involved in a discussion with the county governments.

The question of land is not clear. This Bill proceeds as if these units will be built in the air. There is no attempt to talk about land acquisition at all. In fact, more importantly, under the Constitution, whether it is land held on behalf of the counties or the national Government, it is only the National Land Commission (NLC) that is authorised to allocate that land. The Bill does not recognise the NLC. I have seen the submission by the Commission itself. It is persuading the Committee to have provisions on the process of land acquisition. Otherwise, we might end up putting public money on land that is not owned by the public.

Hon. Speaker, this Bill, in a very serious manner, has several aspects that are very unclear. Firstly, it is in terms of ownership. It does not make it clear whether we are talking of affordable ownership or rental of houses. It is totally confusing. Clauses 10 and 37 of the Bill only talk about paying 10 per cent of whatever is deemed to be the worth of the unit. It does not say whether the 10 per cent represents the purchase or rental price. When you talk about administration in this Bill, it becomes very confusing.

In Clause 11 of the Bill, the money is supposed to be divided in three ways. Part of it is divided to the National Housing Corporation (NHC). Another part is allocated to the Slum Upgrading Programme. The third part is allocated to the State Department for Housing, Urban Planning and Public Works. It then seeks to assume later in the Bill that it is only the State Department and the Board that is created that administer the Fund.

The truth is once you allocate land to the NHC and the Slum Upgrading Fund, you have no means under the Bill of superintending it. It means that only one third of the money allocated under this Bill will be superintended by the Board that is created. In all fairness, the Bill then does something very dangerous in Clause 2(a). We all know that KRA collects taxes. However, Clause 2(a) of the Bill authorises any other person appointed by the Cabinet Secretary for the National Treasury for the purpose of collection of funds. We are enabling an entity that is not owned by the Government to collect taxes. We must be the only country that does such a thing. Besides, later on 2 per cent of the money allocated are then allowed to be retained by this actor. Who is this person whom we are giving the responsibility of collecting money that belong to Kenyans in this Bill?

I wish to submit that however well intentioned, this Bill still requires a lot of proper analysis and engagement not only at the level of drafting, but also at the idea level. It is still premature and not well cooked. It is being rushed and will end up in problems.

I submit, Hon. Speaker. Thank you very much.

Hon. Speaker: I will give an opportunity to Hon. Kimani and then we will call upon the Mover to reply. You have given the microphone to a Member I have not called out. Yes, Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Speaker. We appreciate the debate we have this afternoon and the views held by Hon. Otiende Amollo and other Members. During the Committee of the whole House tomorrow, the joint departmental committees on Finance and National Planning, and Housing, Urban Planning and Public Works will put across several amendments so that we allay the fears that Members of this honourable House have raised.

I would like to reply to a few of these things. There is the question of ownership of land, transfer of these houses that will be built on public land and how they will be transferred from public to private land. One of the amendments I will move tomorrow is a provision that all the transfers of land from public to private will follow the Land Act. There is also an issue about penalties, in terms of the time when these levies will be remitted to the relevant authority. We will also propose an amendment, so that they are in line with the Tax Procedures Act. The fines or penalties that shall accrue as a result of late disbursement of these funds will follow the rest of the taxes, as enshrined in the Tax Procedures Act.

One of the key amendments that we have also proposed is that we have created a Fund. Instead of trying to reinvent the wheel and implement the Affordable Housing Programme, the Bill proposes to use existing structures of governance including county governments, NHC, State Department for Housing, Urban Planning and Public Works and other private entities that can be involved. The money is collected as levies by KRA, taken into the Fund and then it is disbursed to respective agencies which will implement the Affordable Housing Programme. Once the houses are complete, they will be transferred to the Fund which will distribute them to Kenyans.

The issue about whether to buy or rent has also been addressed in the amendments I will move tomorrow. They provide that these affordable houses will be available whether you want to buy or rent. The 10 per cent deposit proposed in the Bill is one of the things that we have proposed to delete tomorrow during the Committee of the whole House. We listened to Kenyans who said 10 per cent proposed deposit is too punitive. It might not be affordable to majority of hustlers who want to be involved in this programme.

Lastly, there was fear that these houses would be taken by the rich at the expense of the people who should benefit from affordable housing. Therefore, we will also propose to have one identification card and KRA pin for one house, so that people do not take advantage of this particular Programme to invest at the expense of the hustlers who are benefiting from it. We have also defined clearly what is an affordable house. Most importantly, one of the things that came out from affordable housing public participation is the need for institutional housing. We have a majority of the civil servants who are contributors to this kitty like police officers, teachers, Kenya Defence Forces (KDF), lecturers and students' accommodation.

We are proposing to include an additional amendment to include institutional housing in affordable housing. For example, the Technical University of Kenya has a population of almost 20,000 students. However, the number of hostels they have, as an institution, is less than 500. This means slums mushroom around universities. If you go to Kenyatta University, students live in KM. If you go to the University of Nairobi, there is a slum around it. There are slums around all institutions of higher learning. Therefore, the Bill will propose to have a particular provision and percentage going to institutional housing, especially targeting our civil servants, teachers, police officers and most importantly, our students so that they can live near where they school, and have a conducive place to learn and acquire knowledge without going through slums and being mugged at night when going home. There is also the risk of their rental houses being locked and staying out of school.

With those many remarks, Hon. Speaker, I beg to support this Bill. During the Committee of the whole House, the joint committees will propose an array of amendments to safeguard some of the things the Members, especially from the Majority Party's side, have raised.

Hon. Speaker: Order, Hon. Members.

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

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. In replying, allow me to first thank all the Members who have contributed.

This debate began last Thursday. I want to dissuade the fear by Hon. Otiende Amollo that this Bill is being rushed. We were here up to 7 p.m., and very many Members contributed. I sat here pensively listening to all the contributions by the Members. I remember Hon. (Eng) Mwengi asked how a person earning Ksh20,000 will afford to save and buy a house worth Ksh2.5 million. A straight answer is in the Bill. I am certain Hon. (Eng) Mwengi has not read the Bill. Clause 2(2)(a) of the Bill is quite explicit that social housing units will target people whose monthly income is below Ksh20,000. I heard the Leader of the Minority Party asking the same question on how mama *mboga* or a bodaboda rider will afford to buy a house. These are the people being targeted with social housing.

Hon. Otiende Amollo has contributed this afternoon and asked a pertinent question on whether this Bill is about affordable ownership of houses or affordable rentals. The straight answer is that it is about affordable ownership of houses. Millions of new homeowners will be created out of this Bill and not just rentals.

A number of those opposing this Bill have vested interests in rental units in this country. They fear that affordable ownership of houses by Kenyans might jeopardise their rental units. I want to assure landlords like many of us here, including Hon. Junet and I, that we are not threatened in any way by this Bill. The housing gap in this country is so huge that we do not need to fear anybody.

Hon. Jared Okello (Nyando, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. Okello what is out of order? Order, Leader of Majority Party.

Hon. Jared Okello (Nyando, ODM): Thank you very much, Hon Speaker. The Leader of the Majority Party understands that all of us in this House know how to read. First, the heading is Affordable Housing Bill, 2023 and if we go to the...

Hon. Speaker: What is out of order?

Hon. Jared Okello (Nyando, ODM): Hon. Speaker, I want this to be clear, the heading talks about a framework for access to affordable housing. There is no indication of ownership. That is the confusion we are having. Are we talking about affordable rentals, which could as well be part of this or affordable ownership of a house? Hon. Speaker, ownership is not indicated here.

Hon. Speaker: Order, Hon. Okello.

Hon. Jared Okello (Nyando, ODM): Unless you are going to move more amendments...

Hon. Speaker: Order, Hon. Okello. You are debating and not raising a point of order.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. You know, reading English and interpreting what is written are two different things.

Moving on, Hon. Oundo in his submission asked what mechanisms will be used to collect money from many of his constituents who are *chang'aa* brewers? I think this is the same question that Hon. Opiyo Wandayi was asking, on the mechanisms to collect the money as directed by the court. It is, indeed, true as Hon. Otiende Amollo has submitted, that the court said we should not be levying this tax on a certain section of Kenyans.

Therefore, in curing this problem, a provision was created for us to use the Tax Procedures Act, as stipulated by the Chairperson of the Departmental Committee on Finance and National Planning, so as to collect from every Kenyan who is earning an income. Whether you are a farmer or *chang'aa* brewer - Hon. Oundo, it is brewers not *chang'aa* brewers because this is an illegitimate trade. I do not know whether there is a way of collecting taxes from illegitimate trade.

Any person who is involved in legitimate earning of an income shall be obligated to pay this under the Tax Procedures Act. There are fears as Hon. John Mbadi has said that KRA

will harass people. The KRA is a tax collector and not an agent for harassing Kenyans. They will collect the taxes that are due in the manner provided in law.

Finally, I think you addressed the objection which Hon. Junet or somebody else raised at the beginning of this debate. There was a question on the memorandum of objects and reasons for this Bill. Hon. Speaker, you put it so well that the memorandum is a storyline describing what the proposer of the Bill thinks. When we were formulating this Bill, as a proposer, it was my thinking that it will not affect county governments. It was a money Bill designed to collect taxes. I have since been informed and guided by the Speaker after consulting with the Speaker of the Senate that this Bill concerns counties. I am certain if and when the House dispenses with this Bill, it will certainly be on its way to the Senate. I have been in consultation with the Leader of the Majority Party in the Senate and they are waiting for it.

Hon. TJ Kajwang' (Ruaraka, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Order, Leader of the Majority Party. Yes, Hon. Kajwang'.

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Speaker, the Leader of the Majority Party has raised a very interesting issue. As a House, we need to investigate on how Bills are done and published. If a Bill is styled to not concern counties and thereafter the proposer discovers that, indeed, it concerns counties, should it be printed afresh and published or debated in the manner in which it appears? This raises a legitimate...

Hon. Speaker: Order, Hon. Kajwang'. I will cut you there. The matter you are raising was raised by your leader; the Leader of the Minority Party. He prosecuted it very effectively and the Chair ruled on it.

One, that the Speaker of this House and the Speaker of the Senate are satisfied and concur that this Bill concerns counties. Two, whatever is in the memorandum is something that will not find itself in the body of the law, when we pass it. Three, that at the Committee stage, you can amend anything including the memorandum. Also, expunge any offending words that tend to indicate either impliedly or expressly that the Bill does not concern counties because it does. It was agreed by both sides that this Bill concerns counties and from here, it will go to the Senate. If you were here when Hon. Wandayi was contributing, you would not have raised that point of order.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I was hoping you would give Hon. TJ Kajwang' the same response that you gave to Hon. Nyikal that he is also suffering from being absent from the House.

Hon. Speaker: Yes.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, this matter was, indeed, canvassed and you made a very reasoned ruling and directed that if anybody desires to amend the memorandum or my storyline of what the Bill is all about, they are at liberty to do so when it comes to the Third Reading.

Hon. Speaker, in conclusion, Hon. Eng. Mwengi spoke about Clause 38 on voluntary savings to an extent he confused this with voluntary contributions into the Fund. The voluntary savings referred to in Clause 38 refer to savings towards contributing a deposit. The Chairperson of the Departmental Committee on Finance and National Planning has ably spoken on the provision of a 10 per cent deposit. I remember when the units in Bondeni, Nakuru County, were advertised, Kenyans raised that particular question on how many people can afford Ksh100,000. The Chairperson has indicated that in their report, they have proposed an amendment to remove the provision of 10 per cent deposit during the Third Reading. When one is renting a house, you are required to raise one month rent and two months deposit; that is pay an equivalent of three months' rent. Probably, this is something to be considered by the people selling these houses under the Fund, with the removal of the 10 per cent deposit.

Hon. Speaker, with those remarks, let me conclude by saying that this Bill is not just about a levy on houses. As I submitted when moving, this Bill is about provision of jobs for

millions of our youth who are languishing back in our constituencies without jobs. I plead with all of you to vote for this Bill. By voting for this Bill, Hon. Members, you will be voting for jobs.

I will wait to see how many of us here will vote against jobs for Kenyans; jobs for Kenyans, and jobs for your constituencies. This Bill is nothing other than about jobs. Jobs! Jobs! Jobs! Jobs for your constituencies. Vote for jobs. Vote for employment. Vote for home owners; vote for jobs creation; vote for wealth creation; vote for a new Kenya.

I submit and I reply, Hon. Speaker.

(Loud consultations)

The Speaker: Order! Order! Hon. Members on both sides of the House, you are totally out of order for turning the Floor of the House to a rally situation.

Hon. Members, I will now put the Question.

(Question put and agreed to)

(Several Members rose in their places)

(Loud consultations)

Order, Hon. Members, take your seats. You have the requisite number.

(Loud consultations)

Order! Order Hon. Members. You have claimed a Division; you have the requisite number.

Before we ring the bell, allow me to acknowledge, in the Speaker's Gallery, the presence of students from Solian Girls High School from Eldama Ravine in Baringo. We can now ring the Division Bell for five minutes.

(Loud consultations)

Order, Hon. Members. The Division Bell will be rung for five minutes.

(The Division Bell was rung)

DIVISION

(Question put and the House divided)

(Loud consultations)

Order, Hon. Members. Those Members on your feet, take your seats.

Order, Hon. Members! Those on your feet, freeze. Those near their seats, get seated.

Hon. Members, the Division Bell is over. I will now invite the Whips to submit the names of their tellers.

Tellers of the Ayes: Hon. (Dr) Robert Pukose and Hon. Ruku GK.

Tellers of the Noes: Hon. Wanami Wamboka and Hon. Anthony Kibagendi.

(The Speaker consulted the Clerk)

Close the Bar.

(Members stood in their places)

Hon. Members, order! Take your seats.

I want you to observe decorum and decent conduct in the House. Your Standing Orders stipulate very clearly that when voting is going on, you observe silence in the chamber. No movement from one place to another.

I would have loved us to have electronic voting, but I am told some of you do not have your cards. I want to advise Members that going to the future, it saves a lot of our time if we do electronic voting. In my 10 years in the Senate, all our voting was electronic and it was seamless. And even when you vote electronically, it appears on the screen and you can tell who is voting in whatever manner. So, going into the future, Clerk make sure that the electronic gadgets are working. This vote would have taken five minutes, but now it is probably going to take one hour.

I want to direct that if the Hon. Speaker notices you walking up and down during the voting, your vote will be nullified. Maintain silence and remain in your place so that we have an orderly House. Before this, we have had votes that have degenerated into something I do not want to describe. If I see you walking around, it does not matter who you are. Even if you are in the leadership, I will nullify your vote. Let us start through roll call voting. Remain where you are, vote when you are called out.

For avoidance of doubt, I will now put the Question.

(Question put and the House divided)

Tellers of the Ayes: Hon. (Dr.) Robert Pukose and Hon. GK Ruku.

Tellers of the Noes: Hon. Wanami Wamboka and Hon. Antony Kibagendi.

(Voting in progress)

(Hon. Peter Kaluma stood in the gangway)

Hon. Speaker: Hon. Kaluma, take your seat.

(Voting in progress)

(Hon. Agnes Montaine walked to Hon. Rebecca Tonkei's seat)

Hon. Speaker: Order! Hon. Agnes Pareiyo, can you take your seat, or I will nullify your vote. If I see you walking around again, your vote will be nullified.

(Loud consultations)

(Voting in progress)

(Loud consultations)

Hon. Speaker: Order! Order, Hon. Members. The Member has already voted. Please carry on.

(Loud consultations)

Go on.

(Voting in progress)

(Vote counting in progress)

(Several Members stood up in their places)

Hon. Speaker: Order, Hon. Members. Those on their feet, take your seats.

(Hon. David Kiplagat stood along the gangways)

Hon. DK, take your seat. The Tellers may move forward and announce the results to Hon. Speaker.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Speaker, these are the results of the Division. The Ayes have 141 votes and Noes have 58 votes.

(Applause)

RESULTS

AYES

- | | |
|------------------------------|----------------------------|
| 1. Hon. Samwel Chepkonga | 23. Hon. Wakili Muriu |
| 2. Hon. Benjamin Lang'at | 24. Hon. GG Kagombe |
| 3. Hon. Marianne Kitany | 25. Hon. Martha Wangari |
| 4. Hon. Irene Njoki | 26. Hon. Charles Gimose |
| 5. Hon. Joshua Kandie | 27. Hon. Julius M'anaiba |
| 6. Hon. Joseph Makilap | 28. Hon. Abdi Ali Abdi |
| 7. Hon. Nelson Koech | 29. Hon. Bernard Shinali |
| 8. Hon. Alfah Miruka | 30. Hon. George Koimhuri |
| 9. Hon. Linet Chepkorir | 31. Hon. Leah Sankaire |
| 10. Hon. Kibet Komingoi | 32. Hon. Yusuf Hassan |
| 11. Hon. Mugambi Rindikiri | 33. Hon. Peter Kihungi |
| 12. Hon. Moses Kirima | 34. Hon. Fabian Muli |
| 13. Hon. Paul Biego | 35. Hon. Adams Korir |
| 14. Hon. Musa Sirma | 36. Hon. Julius Rutto |
| 15. Hon. Adan Keynan | 37. Hon. Njuguna Kawanjiku |
| 16. Hon. Caroline Ng'elechei | 38. Hon. Ann Wamuratha |
| 17. Hon. Mejjadonk Gathiru | 39. Hon. Mwengi Mutuse |
| 18. Hon. Pamela Njeru | 40. Hon. Joseph Munyoro |
| 19. Hon. Josses Lelmengit | 41. Hon. Kimani Ichung'wah |
| 20. Hon. Johana Kipyegon | 42. Hon. Owen Baya |
| 21. Hon. (Dr) Robert Pukose | 43. Hon. Bisau Kakai |
| 22. Hon. Dekow Mohamed | 44. Hon. Gonzi Rai |

45. Hon. Kwenya Thuku
46. Hon. Joseph Cherorot
47. Hon. Hilary Kosgei
48. Hon. Njeri Maina
49. Hon. Joseph Gitari
50. Hon. Nimrod Mbai
51. Hon. Japheth Nyakundi
52. Hon. Joseph Tonui
53. Hon. Maisori Kemero
54. Hon. Ferdinand Wanyonyi
55. Hon. Abdirahman Mohamed
56. Hon. Jane Kagiri
57. Hon. Mwangi Kiunjuri
58. Hon. Wachira Karani
59. Hon. Ruweida Mohamed
60. Hon. Stanley Muthama
61. Hon. Kahangara Mburu
62. Hon. Protus Akujah
63. Hon. Chiforomodo Mangale
64. Hon. Caleb Mule
65. Hon. Malulu Injendi
66. Hon. Abdul Haro
67. Hon. Gitonga Mukunji
68. Hon. Mary Njoroge
69. Hon. Kangogo Bowen
70. Hon. Timothy Kipchumba
71. Hon. Naomi Waqo
72. Hon. Edwin Gichuki
73. Hon. Eric Kahugu
74. Hon. Kassim Tandaza
75. Hon. Ruku GK
76. Hon. (Eng.) Nebart Muriuki
77. Hon. Elizabeth Kailemia
78. Hon. Kiborek Reuben
79. Hon. Phylis Bartoo
80. Hon. Kuria Kimani
81. Hon. Abraham Kirwa
82. Hon. Betty Maina
83. Hon. Mary Maingi
84. Hon. Liza Chelule
85. Hon. David Gikaria
86. Hon. Rebecca Tonkei
87. Hon. Agnes Mantaine
88. Hon. Kitilai Ntutu
89. Hon. Gabriel Tongoyo
90. Hon. Emmanuel Wangwe
91. Hon. George Gachagua
92. Hon. George Kariuki
93. Hon. Charity Chepkwony
94. Hon. Joash Nyamoko
95. Hon. Mohamed Ali
96. Hon. Jerusha Momanyi
97. Hon. Faith Gitau
98. Hon. Duncan Mathenge
99. Hon. Michael Muchira
100. Hon. Michael Wainaina
101. Hon. Paul Chebor
102. Hon. Kamande Mwafrika
103. Hon. Simon King'ara
104. Hon. Muchangi Karemba
105. Hon. Clement Sloya
106. Hon. Ali Raso
107. Hon. Pauline Lenguris
108. Hon. Jackson Lekumontare
109. Hon. Fred Ikana
110. Hon. Justice Kemei
111. Hon. John Koyi
112. Hon. Francis Sigei
113. Hon. (Dr) Shadrack Mwiti
114. Hon. Silvanus Osoro
115. Hon. David Kiplagat
116. Hon. Caroli Omondi
117. Hon. Samuel Gachobe
118. Hon. Haika Mizighi
119. Hon. Amina Dika
120. Hon. Mary Emaase
121. Hon. George Murugara
122. Hon. Susan Ngugi
123. Hon. Alice Ng'ang'a
124. Hon. (Dr) John K. Mutunga
125. Hon. Julius Melly
126. Hon. John Chikati
127. Hon. Lillian Siyoi
128. Hon. Cecilia A. Ngitit
129. Hon. Nicholas Ng'ikor
130. Hon. Daniel Nanok
131. Hon. David Ochieng'
132. Hon. Ernest Kivai
133. Hon. Adagala Beatrice
134. Hon. Aden Mohammed
135. Hon. Abdisirat Khalif
136. Hon. Sabina Chege
137. Hon. Suleka Harun
138. Hon. Dorothy Muthoni
139. Hon. Joseph Wainaina
140. Hon. (Dr) Jackson Kosgei
141. Hon. Abubakar Talib

NOES

- | | |
|-----------------------------|--------------------------------|
| 1. Hon. Samuel Atandi | 30. Hon. Dick Oyugi |
| 2. Hon. Walter Owino | 31. Hon. Joyce Kamene |
| 3. Hon. Patrick Osero | 32. Hon. Suzanne Kiamba |
| 4. Hon. Raphael Wanjala | 33. Hon. Hussein Weytan |
| 5. Hon. Wanami Wamboka | 34. Hon. Geoffrey Odanga |
| 6. Hon. Catherine Omanyo | 35. Hon. Peter Nabulindo |
| 7. Hon. Nicholas Mwale | 36. Hon. Stephen Mule |
| 8. Hon. Maero Oyula | 37. Hon. Patrick Makau |
| 9. Hon. Julius Mawathe | 38. Hon. Fatuma Mohammed |
| 10. Hon. Mark Mwenje | 39. Hon. Zamzam Mohammed |
| 11. Hon. (Dr) Ojiambo Oundo | 40. Hon. James K'Oyoo |
| 12. Hon. Peter Kaluma | 41. Hon. Mohamed Machele |
| 13. Hon. Eve Obara | 42. Hon. Charles Nguna |
| 14. Hon. Kakuta Maimai | 43. Hon. Jared Okello |
| 15. Hon. Elsie Muhanda | 44. Hon. (Dr) Otiende Amollo |
| 16. Hon. Paul Katana | 45. Hon. TJ Kajwang' |
| 17. Hon. Adipo Okuome | 46. Hon. Caleb Amisi |
| 18. Hon. Charles Ong'ondo | 47. Hon. (Dr) James Nyikal |
| 19. Hon. Robert Mbui | 48. Hon. (Dr) Christine Ombaka |
| 20. Hon. Peter Orero | 49. Hon. Junet Mohamed |
| 21. Hon. Gertrude Mwanyanje | 50. Hon. Peter Masara |
| 22. Hon. Joshua Oron | 51. Hon. John Namoit |
| 23. Hon. Rozaah Buyu | 52. Hon. Opiyo Wandayi |
| 24. Hon. Irene Kasalu | 53. Hon. Khamis Chome |
| 25. Hon. Edith Nyenze | 54. Hon. Fatuma Jehow |
| 26. Hon. Antony Kibagendi | 55. Hon. Mohammed Adow |
| 27. Hon. Fatuma Masito | 56. Hon. Danson Mwashako |
| 28. Hon. Mishi Mboko | 57. Hon. Robert Ngu |
| 29. Hon. Innocent Mugabe | 58. Hon. John Mbadi |

Hon. Speaker: Order, Hon. Members.

(Hon. Antony Kibagendi consulted along the gangway)

(Loud consultations)

Hon. Kibagendi, take your seat. Order, Hon. Members. I now wish to announce the results of the voting to the House. These are the results of the Division:

Ayes – 141

Noes – 58

Abstention – 0

Total votes – 199

The Ayes have it.

(Question carried by 141 votes to 58)

(Applause)

(Hon. Raphael Wanjala consulted loudly)

Hon. Speaker: Order, Hon Wanjala. Before we conclude today's business on this Bill, I would like to thank all Members for your decorum. Apart from the errant Member for Budalangi, the rest of the Members observed absolute decorum. Hon. Wanjala, you are supposed to be an elder to your colleagues here.

(Laughter)

You cannot sit there and shout at the top of your voice, contrary to Standing Order 76. Next time, be an example to your young colleagues. It pays to do that.

(Applause)

Order, Hon. Members. Clerk-at-the-Table, you may proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: You cannot ask for a point of order, Hon. Oundo. You know the rules. You are a second term. We are still in Division. We have not finished.

Go ahead, Clerk-at-the-Table.

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

Hon. Speaker: You may now open the Bar.

(Hon. Opiyo Wandayi spoke off the record)

Is it on the Division? The voting is over. Okay.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much, Hon. Speaker. I join you in thanking Members for conducting themselves...

(Loud consultations)

Hon. Speaker: Hon. Members who are leaving the Chamber, the next Order is a Motion on the Report of the National Dialogue Committee. Go on, Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, I wish to join you in commending the House for undertaking a seamless voting exercise on this Bill. However, I take note of the fact that its Third Reading is lined up tomorrow, Wednesday, at 2.30 p.m. I plead with you that, bearing in mind the enormous number of possible amendments from Members on this very contested Bill, you consider giving us more time in terms of arranging the Order Paper. This will ensure that Members will get the opportunity to hand in their proposed amendments. Where there are similar or related amendments, we can undertake the winnowing process in line with the Standing Orders.

The feeling of most Members is that the timing of 2.30 p.m. tomorrow is too soon for these processes to be undertaken and completed. Although I sit on the House Business Committee (HBC), I plead with you to try to re-arrange the Order Paper. We can use a Sitting on Thursday to process the Third Reading of this contentious or controversial Bill.

Hon. Speaker, I submit.

Hon. Speaker: Hon. Ichung'wah.

(Loud consultations)

Order, Hon. Members. The House is still in session.

(Hon. Sabina Chege and several other Members stood along the gangways)

Order, Hon. Members. Hon. Sabina Chege and your team, take your seats or go to wherever you are going.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I have listened to the Leader of the Minority Party. I am glad because he asserts that he is a Member of the HBC. I can also confirm that he attended the HBC meeting over lunch hour. These are some of the issues that he should have transacted there, but he did not raise them. The Order Paper had already been published by the time we were in the HBC meeting. There was an indication of the business lined up for debate tomorrow in the morning and afternoon sittings. I have listened to the issues raised since this debate began last week. I am also aware that quite a number of Members have been discussing with the Chairman of the Committee and proposed various amendments. I know there are also a number of Members who have already filed their proposed amendments.

It is now 5.00 p.m. We have up to tomorrow before the Third Reading of the Bill. Occasionally, the Hon. Speaker allows Members to file amendments on the Floor, and they are considered in the afternoon. If anybody wants to file amendments over lunch hour, the Office of the Clerk can publish a Supplementary Order Paper.

Hon. Speaker, I prevail upon you that we transact business as approved by the House Business Committee. Since it was within the rights of the Leader of the Minority Party to propose that change within the House Business Committee before approval of the business of the week. Otherwise, we are now on the verge of re-transacting the business that was before the House Business Committee in plenary, which will not set a very good precedent.

Hon. Speaker, I prefer we give Hon. Members up to tomorrow at 1.00 p.m. to file their amendments, especially those absent on Thursday and today. I have checked with the Clerk's Office, and some Members have already filed their amendments. Once the Order Paper is published, should anybody want to file their amendments, we will give them up to tomorrow at 1.00 p.m. Hon. Speaker, then we will publish a Supplementary Order Paper with your approval. Otherwise, I strongly oppose delaying this business beyond the time agreed upon by the House Business Committee.

Hon. Speaker: Hon. Wandayi and his colleague, the Leader of the Majority Party, sit in the House Business Committee and know what we passed. However, in accordance with our Standing Orders, I direct any Member who has amendments to file, and the deadline is tomorrow at noon. Once all the amendments are filed, the Clerk's Office will be directed to prepare a Supplementary Order Paper to accommodate them. If the weight of the amendments is such that they need a winnowing process, I will consult both of you to see what we need to do. Otherwise, the matter will remain in the Order Paper of tomorrow afternoon for consideration in the Committee of the whole House.

Next Order.

MOTION

Hon. Speaker: Hon. Members, Order No.9 is a Report, and it will be debated in accordance with the Motions we passed on the management of our time. It is allocated two-and-a-half hours, and the Leader of the Majority Party and the Minority Party will have 10

minutes each. Any other Member speaking has five minutes, depending on the nature of interest and how repetitious you are in your contributions.

The House Business Committee agreed that we may reduce the time to three minutes per Hon. Member. But as it is, you passed that a Motion of this nature will be allocated two-and-a-half hours, and the Leader of the Majority Party and the Minority Party will have 10 minutes each and five minutes for each contributor.

Leader of the Majority party, I call upon you to move the Motion. Already, I can see names on the screen. If they are not for this Motion, wipe them out and log in afresh to give everybody a fair chance to contribute.

Leader of the Majority Party.

ADOPTION OF REPORT OF THE NATIONAL DIALOGUE COMMITTEE

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I beg to move the adoption of the National Dialogue Committee Report or what was christened NADCO. This Report came...

Sorry, Hon. Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the National Dialogue Committee, laid on the Table of the House on Thursday, 7th December 2023.

This Report culminated from a long process that began with the Bi-Partisan talks co-chaired by Hon. Murugara and Hon. Otiende Amollo. Let me take this opportunity to thank these two Members and those of the Bi-Partisan team that formed the basis of our talks. We benefitted immensely from the work these two gentlemen had begun.

Also, allow me to take this opportunity to thank Hon. Kalonzo Musyoka, my Co-Chairperson and Leader of the delegation from the Azimio Coalition, ably assisted by the Leader of the Minority Party. Also, I want to thank the other Members of the Committee, including my Deputy, Hon. Cecily Mbarire; the Governor for Embu County, Hon. Aaron Cheruiyot, Hon. Hassan Omar, Hon. Eugene Wamalwa, Hon. Amina Munyazi and as I had mentioned earlier the Leader of the Minority Party, Hon. Opiyo Wandayi.

NADCO considered all the five issues we had agreed upon. As you will remember, many of us had other issues besides the five. We framed the five thematic areas on electoral justice and related matters, which were outstanding constitutional matters, fidelity to political parties and coalitions, the law on multi-party democracy, entrenching of funds into the Constitution, and the establishment and entrenchment of State offices. Hon. Members, will see from the Report many recommendations that were made on each of those issues. I do not want to delve into all the recommendations that came out of the Report, which is very bulky.

Hon. Members, if you will remember, we also factored in memoranda and submissions from many Kenyans. We listened to very many people who submitted about 258 written memoranda to the Committee. Sixty stakeholders appeared before us, and we listened to over 704 persons. This tells you that this Report factored in views from many Kenyans nationwide.

Hon. Speaker, we also have proposals on legislative or statutory instruments that emanated from this Report. We have a total of nine legislative instruments or proposals, which we shall submit to Parliament for publication upon the adoption of this Report. The Independent Electoral and Boundaries Commission (IEBC) and electoral justice and reforms are key among these legislative proposals. There are a number of legislative proposals beginning with the reconstitution of the IEBC Panel. We propose to amend the IEBC Act, 2011, to provide that the selection panel be reconstituted.

As you will remember, about two or three weeks ago, the court tried to cure the lacuna that exists in the law we have. As it is today, the Panel has no timelines and can take forever. Therefore, the amendment, besides reconstituting the IEBC Panel and growing the membership

from seven to nine, will ensure a cross-section of views and interest groups accommodated within it. We are also creating a timeline, and the Panel will now be required to finalise the exercise within 90 days. From the day the Panel is appointed, they must complete the work and submit nominees to the President. Thereafter, they shall stand dissolved.

We have also allowed both Houses of Parliament, using a simple majority, the latitude to extend timelines for this Panel should they need more time than the 90 days provided for under the new Act if we enact the legislative proposal to amend the IEBC Act, 2011. It is also noteworthy that the Committee has recommended a transitional clause that provides that the existing selection panel will cease to exist immediately on the Act's commencement date. But any person working in that Panel is eligible to be re-nominated by any of the nominating bodies. For instance, the Political Parties Liaison Committee, which had two nominees, will now have three nominees under the new Panel. Any of the nominees that were under that selection panel could be re-nominated by the Political Parties Liaison Committee, or the one under the Parliamentary Service Commission (PSC) can be re-nominated. The Law Society of Kenya (LSK) can re-nominate the same people if they so desire.

Among other critical changes is a recommendation by the Committee to amend Article 89 of the Constitution on delimitation of boundaries. The courts have also pronounced themselves on delimitation of boundaries and we had a statutory deadline that lapses at the end of March, which is next month. Under these circumstances, it is therefore not practical to delimit boundaries within a few weeks of the adoption of this Report. We are proposing that Article 89 of the Constitution be amended to provide for extension of the period for review of the constituency boundaries by Independent Electoral and Boundaries Commission (IEBC) where, as is the case now, the review of the names and boundaries of the constituencies is not completed within the time stipulated under Article 89 (2) of the Constitution. We will also be bringing those amendments.

On the audit of the 2022 Presidential Election, we engaged and agreed to evaluate all our presidential and election processes in line with the constitutional provisions. We agreed that we shall not be reviewing since the presidential election was settled and it is now beyond us. It was settled by the Supreme Court but we shall be evaluating the 2022 electoral process. This will ensure that in future elections, beginning with the 2027 elections, Kenyans are certain that the entire electoral process, from the registration of voters to tallying and announcement of the winners of all electoral positions is credible. In our Report, we have created a mechanism where within 21 days of its adoption, we will have a panel that will identify one or two firms to conduct an evaluation of the last elections with a view of improving the systems. Our Constitution provides that after every election, the IEBC is mandated to ensure that they have a system that evaluates the electoral process to make it more efficient and credible.

On outstanding constitutional matters, there are issues that touch on the two-thirds gender rule. I know that many female Members of Parliament have been very keen on this issue. I am aware that there was a ministerial working team on this aspect. We recommended that the multisectoral working group on the realisation of the two-thirds gender rule under the Ministry of Public Service, Gender and Affirmative Action, finalises its work, recommends a framework for the implementation of the two-thirds gender principle and submits its report to Parliament for consideration.

I had an engagement this afternoon with Hon. Sabina Chege, the Jubilee Party leader, who has been very keen in pursuing this matter. She has indicated that following the meeting we had yesterday between our parliamentary group and the Cabinet in Naivasha, the Ministry of Public Service, Gender and Affirmative Action has indicated to our female Members of Parliament that they have concluded this and have a report ready. We will engage with the Cabinet Secretary to relay that report so that as we adopt this NADCO Report, we can have the

report by the multisectoral team form part of the legislative proposals. We will be engaging with the Cabinet Secretary, Hon. Aisha, to have that ready.

Hon. Speaker, due to the critical role NG-CDF and National Government Affirmative Action Fund (NGAAF) and the Senate Oversight Fund play, we recommended that they be entrenched in our Constitution, more importantly, entrenching the Ward Development Fund to ensure that all our Members of County Assembly (MCAs) have access to a Ward Development Fund. No MCA will have to kneel before a Governor to access the Ward Development Funds. We also recommended that the Fund be established by Statute in accordance to Article 207(4) (b) of the Constitution. This will ensure that our ward representatives are able to carry out their role of oversight of governors without anyone cajoling or intimidating them that they will miss out on development funds for their wards. Upon adoption of this Report and enactment of the requisite legislative proposals, MCAs will have development funds allocated to their respective wards.

On the establishment and entrenchment of state offices, we agreed to the establishment of the Office of the Leader of Official Opposition and that of the Prime Cabinet Secretary. I believe that since those within the Azimio la Umoja–One Kenya Coalition Party are now the official opposition, they will agree on who will take over that position. I wish them all the best in that endeavour.

Hon. Speaker, the cost of living is one of the matters that we dealt with at length. There were many proposals that were submitted to us by many stakeholders. As I said while moving the Affordable Housing Bill, on the question on how to help our economy recover, we have an opportunity for aggressive investment in huge infrastructural projects. We engaged with economists of repute. This includes Society for International Development (SID) that submitted to the Committee that after World War II, even developed countries like the Federal Republic of Germany had an aggressive investment in huge infrastructural projects to help the economy recover. Those of us who subscribe to the Kenya Kwanza Manifesto submit before NADCO that part of that endeavour is this housing agenda. I am glad that even our colleagues in the Azimio la Umoja–One Kenya Coalition Party, including the former Prime Minister, agree that housing is an agenda that is critical to our Republic at this particular time. Additionally, there were many good proposals by the Azimio la Umoja–One Kenya Coalition Party. In fact, we were able to adopt 90 per cent of what they submitted before NADCO, including some of the levies that touch on the cost of fuel in the country.

We also had points of divergence on principle. We respectfully agreed that some of their proposals touched on the Azimio la Umoja–One Kenya Coalition Party Manifesto, especially on consumption subsidies. We were able to push our case and agree that on the question on consumer subsidies, they allow the Government of the day to implement the manifesto they sold to the people of Kenya. Our manifesto had nothing to do with consumer subsidies but had everything to do with production subsidies. I am glad that today, months after the very heated engagement that we had at NADCO, including some like Hon. Eugene Wamalwa who pretended to walk away in the last minute... I say ‘pretending’ because he was part of the engagements in NADCO up to the very last meeting on Friday before the actual signing. When he excused himself to travel to Kinshasa, he had indicated that he would come back to sign the Report the day after. I thank all the Members of NADCO because they all signed except Hon. Eugene Wamalwa.

On the question of prices of *unga*, I am glad that today as we engage in this Report, no one, not even my colleagues in Azimio-La-Umoja-One Kenya Alliance, refers to the cost of *unga* when they talk about the cost of living. I am glad that now they know that production subsidies work; this is what we have been saying all along. It is a proven theory in economics that production subsidies give better and more lasting results than consumption subsidies. Yesterday, someone posted in one of the groups that one of the *unga* brands was retailing at

Ksh114. This was possible without consumption subsidies. Courtesy of the subsidised fertiliser, patriotic farmers have produced millions of bags that they would not have had they not accessed the subsidised fertiliser. One year and a half ago, the price of a bag of fertiliser was Ksh7,000. Today the subsidised bag costs Ksh2,500. This has resulted in a reduction of the cost of living in terms of the price of *unga*.

I am glad that today our friends who donned *sufurias* on their heads, their *sufurias* are very busy with *unga* at Ksh114. Some of the most expensive brands of *unga* are retailing at Ksh140 from a price of Ksh278.

Hon. Speaker, without belabouring the points, because this Report has been discussed even in public forums, I plead with all of us to adopt it as a product of a fruitful bipartisan engagement. The spirit of NADCO was to ensure that we shall never fight...

Hon. TJ Kajwang' (Ruaraka, ODM): On a point of order.

Hon. Speaker: What is your point of order, Hon. Kajwang'?

Hon. TJ Kajwang' (Ruaraka, ODM): Hon. Speaker, the Leader of the Majority Party is about to wind up, but did you hear him say that the cost of *unga* has reduced? Which shops does he go to where the cost of *unga* has been reduced to Ksh114? Perhaps I am buying from different shops.

Hon. Speaker: First of all, this is not question time.

(Laughter)

You are prosecuting your point of order wrongly. You are asking questions instead of asking whether he is in order to say what he is saying.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I was careful not to mention brands because I am not in the business of promoting brands. Hon. Ruku shared a photo of one of the brands retailing in a supermarket in Nairobi at Ksh114. Hon. Ruku can share that photo with Hon. TJ.

In conclusion, this NADCO process was informed by the desire of all Kenyans to engage in politics devoid of violence. I am glad that we transacted business in NADCO in a very civil manner and in the spirit of give and take. Hon. Opiyo will bear me witness that even the most difficult questions in NADCO were dealt with civilly without throwing words at each other. The foundation of the NADCO was the spirit of dialogue. It was indicative that Kenyans do not desire to engage in violence even on matters of cost of living. Going forward, we shall talk to each other and resolve all issues of concern to us in an amicable manner through dialogue.

I see my time is over. I plead with all of us to support and adopt this Report so that the House will be seized of the legislative proposals that have far-reaching effects especially those that touch on our electoral process, challenges that bedevil the IEBC and delimitation of boundaries.

With those many remarks, I beg to move and request, Hon. Opiyo Wandayi, the NADCO Deputy Delegation Leader of the Azimio Coalition, to second.

Hon. Ruku GK (Mbeere North, DP): On a point of order.

Hon. Speaker: Yes, Hon. Ruku, what is out of order?

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Speaker. It is good to inform Hon. Kajwang'...

Hon. Speaker: You are out of order. Order. He is not on the Floor.

Hon. Ruku GK (Mbeere North, DP): Mr. Speaker...

Hon. Speaker: Order. Cross over and tell him that quietly.

Hon. Wandayi, you may proceed.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, I wish that our colleagues would learn the rules of the House to avoid taking us round in circles or treating us to unnecessary shenanigans.

I second the Motion for the adoption of the NADCO Report. The establishment of the NADCO team was as a result of very painful experiences that the country was going through, following the August 2022 General Elections and the immense suffering that Kenyans were going through as a result of the skyrocketing cost of living. Those two issues took hundreds—if not thousands of Kenyans—to the streets across the country. The country was tottering on the brink of total collapse of governance and, indeed lawlessness. Therefore, we must thank the initiators of the NADCO process, Hon. Raila Odinga and President William Ruto. Also, we cannot forget to immensely thank the Former President of Nigeria, Hon. Olusegun Obasanjo, for the efforts to ensure that both parties saw the sense to come to the table.

Hon. Speaker, the NADCO process was guided by the spirit of give and take, just like in any other negotiation process. As the Azimio Coalition, we had a raft of issues that we had placed on the table. Similarly, the Kenya Kwanza Coalition had its issues. At the end of the day, we harmonised these issues and developed a framework of engagement which guided our negotiations to the end. I am happy that in the face of enormous challenges and serious differences in opinion, we arrived at specific recommendations touching on specific thematic areas that were condensed in this Report before us today.

I want to summarise my points because 10 minutes is too short. Some of the takeaways in the Report are as follows. One is the roadmap towards reconstitution of the IEBC. The second one is the governance of political parties and their management. There is the issue of audit of the Elections. We have agreed on this matter to establish within 21 days, upon the adoption of this report, a panel consisting of three persons from each side to develop the Terms of Reference (TORs) that will guide this audit process. I want to leave it to that panel to establish these TORs.

We must also talk about the Ward Development Fund but more importantly, the matter of the increase of the allocation of the national revenues to the counties from the current minimum of 15 to 20 per cent. Those are some of the takeaways.

Back to the question of the IEBC, I keep saying time and again that elections in this country, just like it is in this part of the world, is a matter of life and death, believe me or not. Therefore, the body that is to be charged with the responsibility of managing elections must be, like Caesar's wife, beyond reproach and enjoy the confidence of the wider majority of the populace. It must enjoy the confidence of the key players in the electoral process. That is what informed the NADCO recommendation to restructure the IEBC, restart the process of appointing the IEBC commissioners, recommend specific amendments to the Elections Act, the IEBC Act and indeed the Constitution.

We inadequately resolved that never again should the country go back to where it was few weeks or so before the establishment of the NADCO. That never again should we have a situation where the IEBC would be split down the middle at the critical moment of announcing the results of presidential elections. It was never the intention of the framers of our Constitution, and indeed Kenyans when they adopted this Constitution in 2010, that a body charged with the onerous responsibility of managing elections would be split in the middle at the critical stage of announcing presidential election results. The raft of recommendations in this report are, among other things, aimed at curing that very serious problem that has come to be associated with Kenya only.

The issue of the not more than two-third gender principle has been adequately captured in the report. It was our view in NADCO that since the time was not adequate and there was a multisectoral working group dealing with that issue, we give it time to complete its work and compile a report which would be treated as part of the NADCO... Within the letter and the

spirit of NADCO, that report would be part of the NADCO report. I want to join Hon. Ichung'wah in urging that group, which I had a chance of meeting yesterday... They came calling to my office and I had a very fruitful engagement with them. I urged them to fast-track the process and submit their report with the proposed instruments to this House even as we proceed with this process of implementing NADCO recommendations.

There are some issues that the Committee, in its wisdom, recommended that they be referred to the two Principals: Hon. William Ruto and Hon. Raila Amolo Odinga.

(Loud consultations)

One of the issues that we agreed should be referred to the two Principals is the matter of the Cherera Four; the four IEBC commissioners that differed in opinion with the other three commissioners. It was in the wisdom of the Committee that that matter be referred to the two Principals to perhaps pursue a settlement outside the court process. We also agreed that the matter of violence against the public by the police and police killings be referred to the Principals with a view to establishing a system of undertaking thorough investigations and holding accountable whoever is responsible.

Hon. Speaker: One minute.

Hon. Opiyo Wandayi (Ugunja, ODM): In a nutshell, as I conclude, given that the document we are discussing today, the NADCO report is a negotiated and consensus document, our understanding and position is that such a document is not open to any form of amendment. That principle also applies equally to the attendant instruments: The proposed legislative amendments to statutes and the Constitution.

With those many remarks, I second and urge my colleagues to adopt this report in totality and allow the country to move forward in one accord. Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Leader of the Minority Party.

(Question proposed)

Hon. Caroli Omondi.

Hon. Caroli Omondi (Suba North, ODM): Thank you very much, Hon. Speaker. I had the opportunity to make both a personal presentation to this Committee and a group presentation by 27 other Members of Parliament. I would like to talk about three things. I have gone through the report and must thank the Committee for, at least, recording and acknowledging our presentation as 27 Members of Parliament who called for the creation of 10 additional counties based on the original Kilifi Draft and other instruments that preceded the enactment of the Constitution of Kenya, 2010. However, I have noted that there are several glaring misrepresentations of what the position of the Constitution is in relation to the way new counties are established.

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

[The Temporary Speaker (Hon. Martha Wangari) took the Chair]

You will agree, Hon. Temporary Speaker, that the IEBC has completely no role in the review and delimitation of county boundaries. This is a preserve for this National Assembly under Article 188 of the Constitution which provides that the boundaries of a county may be altered only by a resolution recommended by an independent commission set up for that purpose by Parliament; and passed by the National Assembly, with the support of at least two-thirds of all of the members of the Assembly; and the Senate, with the support of at least two-

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thirds of all of the county delegations. When I read the report in paragraph 201 f, g, h and i, where they made a statement, I realised that the establishment of new counties requires a referendum because such an act would interfere with the territory of Kenya. Nothing would be further from the truth.

I have looked at Articles 5 and 6 of the Constitution which clearly define what the territory of Kenya is. A territory of a country is defined by reference to external boundaries of the neighbouring countries not by what the boundaries are within the county, which is where the boundaries for counties are.

In my view, it will be wrong to adopt the Report without any amendment with such a glaring misrepresentation. That is not what the law says. They are also saying that we need a referendum, but that is not the correct position. A referendum is clearly defined under Articles 255 and 256 of the Constitution. You can only go to a referendum when you are dealing with counties; if you want to change the objects, principles and structure of devolved units. In this regard, creating new counties does not interfere with objects under Article 174, principles under Article 175 and the structure under Article 176. The Structure is simply that there shall be a county government for each county consisting of a county assembly and a county executive. There is no other structure; so it is wrong. I think we need to amend some of these resolutions and have accuracy in the Report. Even though it is a product of negotiated settlement, we cannot allow it to be adopted with such misrepresentations.

Secondly, I made a presentation on party discipline as well as registration of new political parties. My presentation has not been covered here. I would like it to go on record that if you read the Chapters of this Report on party discipline, there is a lot of confusion on whether we are a presidential or a parliamentary system. And if we are a parliamentary system, which one are we? The presentation here is a situation of elections of political parties and not of individuals who are elected by individual mandate from the people.

We should look at what happens in pure presidential systems which is the system of governance that we have in this country. We need to adopt mechanisms that encourage party discipline within a presidential system. We cannot be importing practices and norms of parliamentary systems into a presidential system without understanding what they are. I am trying to say this: in a parliamentary system, if you are elected as an individual in that party, there are certain freedoms and independents that you enjoy. If the party is elected and it nominates you on the basis like in South Africa, there are certain limitations that you have. In a presidential system, you have a direct mandate from the people and a voice to vote as you wish in this House, only taking account of the interest of your people. That is what happens in America and all the other jurisdictions with presidential systems. That is where we should go.

Finally, because of the bad manners of many people in the Republic of Kenya and the problems that we are having, I proposed that it is essential to institute nationhood science so as to promote the values and principles under Article 10. I have not seen it captured in the Report. However, I want it to go to the records of this House that I strongly feel that we should introduce civic education, entrepreneurship and other things that will inculcate the national values and principles under Article 10 of the Constitution in our young ones before they get spoilt and mess up our country.

With those remarks, I will be moving some amendments on the recommendations of the Report.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. The next chance goes to the Member for Marsabit County, Hon. Waqo.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this very important debate on the Report of the National

Dialogue Committee. I also take this opportunity to congratulate the Committee Members who sacrificed their time and came up with this Report that will guide us into a better nation.

Hon. Temporary Speaker, they spent time to receive memorandums from different Kenyans. When the Leader of the Majority Party was moving the Motion, he said that 60 stakeholders appeared before the Committee. This shows that Kenyans have a lot of interest in this exercise that they fully participated in. He again told us that nine legislative proposals have been developed from their Report. It clearly shows that they gave this exercise a lot of attention and the legislative proposals will capture the needs of the country and guide us into a better nation.

The issue of IEBC seems to have been given a lot of attention. Reconstituting it is a major thing. We are going into the second year after the General Elections and we have a lot of gaps. We need the IEBC Commissioners to come into office and start their work so that we can take care of the past mess. We need to fill the gaps. There are many MCAs and Members of Parliament who have gone to be with the Lord. Once the IEBC is reconstituted, they need to immediately get to work. The earlier we do it, the better it is for our nation.

The Leader of the Majority Party also mentioned that this august House has the mandate to extend time in case the Panel needs more time. The Panel is expected to complete their work within 90 days, but if that is not achievable, then we have the mandate to add them more days. However, it is my prayer that we will conclude this matter as soon as possible so that Kenyans can get the services they need from the IEBC.

Hon. Temporary Speaker, delimitation of boundaries is an issue of interest to many of us. We understand that the period is also coming to an end. It is my prayer that we will come up with some proposals that will help us since many counties, wards and areas have been suffering from this challenge. We should embark on marking the boundaries early enough so as to help our nation and allow people to co-exist and know their areas.

One of the important things that has been covered is the Ward Development Fund, which is a big encouragement to all our Members of County Assembly (MCAs). Once we approve this, they will work freely without any challenges, and without having to please governors or county executives. They will be empowered. Many of them are currently unable to accomplish what they intend to do in their wards because they do not have funds. I want to tell the MCAs that when these funds will be released, established and implementation takes place, they would be held accountable. They should also conduct enough public participation for the wards to benefit and to empower those who elected them.

With those few remarks, I support the Report. It is my prayer that we will all participate in this debate.

Thank you.

The Temporary Speaker (Hon. Martha Wangari): Hon. John Mbadi.

Hon. John Mbadi (Nominated, ODM): Thank you, Hon. Temporary Speaker. As I support this Report of the National Dialogue Committee, I want to mention a few things.

Firstly, for a discussion or dialogue of this nature to be there, it certainly has to be preceded by some kind or form of crisis. We had a crisis as has been ably talked about by our Leader of the Minority Party. I have been around from 15th January 2008. I have been in this Chamber for more than 16 years, and every time, from the 10th Parliament, when we had post-election violence, we have kept on using these same words and terminologies that have been used by both leaders today: never again will this country experience the kind of violence. This is becoming rhetoric. As a country, we must ask ourselves a fundamental question: why is it that after every election we always have a crisis in this country? We need to address that question. Looking at this Report, I am afraid to say that we still fear and gloss over issues. We have not addressed the main issue, which is the system of Government. It is the biggest problem and the challenge that we are facing as a country.

Hon. Temporary Speaker, some people call it winner takes it all, and others call it the feeling and sense of exclusivity and inclusivity. We need to ask ourselves why some Kenyans feel that they belong to this country more than others, especially when elections are conducted.

Looking at this Report, I think we are not solving this problem. If we have decided that the presidential system is not working for us, why not go the whole hog – the parliamentary system? Why create systems that are difficult to understand like the one of the Office of the Opposition Leader when we have a presidential system? How would it work? Let us not pretend and lie to ourselves that we are solving this problem. We are not. I am afraid to say that after five years, we will be back to the same discussions.

On the issue of electoral management and the team tasked with the responsibility to manage our election, the truth is that in this country, nobody is neutral. All of us vote; at least those who want to. Even the Bishops if given a chance, they would. So, why do we pretend yet we know we are in a divided society? This country is almost split fifty-fifty. For us to have confidence in the IEBC, let us bite the bullet and say that those who are in the Majority and Minority sides should each bring a certain number of commissioners to preside over the election. We will, thereafter, look at where to get the Chairman. We can even appeal to our brothers. Let us not talk about sovereignty if we cannot manage it. Let us accept and ask our partners and friends across the continent to give us someone. If Hon. Obasanjo of Nigeria can come all the way to negotiate and mediate the same way the late Secretary-General of the UN, Amb. Kofi Annan did, why not accept that we cannot trust anyone of us to Chair our electoral commission and produce good results? Let us go that route and have someone from out there to preside over the elections in Kenya.

(Hon. Owen Baya spoke off the record)

Finally, is the issue of cost of living. My friend, those are opinions. Wait for your time. Who can help this Member of Parliament? My last comment, if you allow me, is on the cost of living. Let us not pretend and cheat ourselves that it has gone down. It is only food driven inflation which has gone down because we have had good rains. It has nothing to do with inputs. If rains fail for a season in this country, we will go back to where we were. Whenever we have good rains in this country, we have good harvest and the cost of food would generally go down.

(Hon. Owen Baya rose on a point of order)

The Temporary Speaker (Hon. Martha Wangari): Hon. Owen Baya, what is out of order?

Hon. John Mbadi (Nominated, ODM): Hon. Baya has no point of order.

The Temporary Speaker (Hon. Martha Wangari): Hon. Mbadi, take your seat! Hon. Owen is on a point of order.

Hon. Owen Baya (Kilifi North, UDA): I have a point of order on relevance and truthfulness of information. When a ranking Member like Hon. John Mbadi stands here and says that the cost of living has not gone down... I would like him to think like an economist and not an accountant. Hon. John Mbadi needs to know that when the Dollar goes down, the cost of production, export, and import also goes down which then translates to real money in the pockets of people.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Owen Baya. That sounds like information. Hon. Mbadi, complete your contribution.

(Hon. Ruku GK rose on a point of order)

The Temporary Speaker (Hon. Martha Wangari): What is out of order? There is no one on the Floor. Hon. Ruku, nobody is out of order. Hon. Mbadi, please, conclude.

Hon. John Mbadi (Nominated, ODM): As I conclude, when you hear the Deputy Leader of the Majority Party talking about the Dollar going down, what does he really mean? Talk about things that make sense. Which Dollar is going down and which Shilling is going up?

(Hon. Owen Baya spoke off the record)

I am relevant. I was talking about the NADCO Report. It is Hon. Owen Baya who has brought the Dollar issue which is not in the Report. The cost of living has not gone down. It will not go down given the way this Government is managing our economy. If rains fail for one season, we would be worse off than we were last year. Let us not cheat ourselves. Let us address the issue of the cost of living with clear minds and professionalism. Let us bring technical people who understand how systems work, and not academicians like Dr. David Ndi.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): The next chance goes to the Member for Tigania West, Hon. John Mutunga.

Hon. (Dr) John K. Mutunga (Tigania West, UDA: Thank you, Hon. Temporary Speaker. I would like to pick it up from where Hon. Mbadi has left.

If we had negotiated from the beginning, we would never have got to where we are now. What has been happening in this country is that after stiff political competition we continue with the same competition even in this House. The spirit of NADCO was good and needs to be emulated. Perhaps, if we also stuck to speaking and telling Kenyans the truth as guided by Article 35(2) of the Constitution, we would take this nation very far. Sometimes you hear some Members saying that the Housing Levy or the Affordable Housing Programme is not benefiting people in the Azimio Coalition. Today, Hon. Caroli Omondi confirmed that the first phase of the Affordable Housing Programme has already kicked off in his constituency. It is unfortunate that some Members are saying that that only happens in the constituencies where Government is represented, which is not true. Let us stick to the truth and stop telling Kenyans lies.

Having said that, let me thank the Committee for the good work that they have done. The Committee has brought out issues that need to be scrutinised with sober minds. They brought out issues that have to do with the IEBC. I do not need to belabour that point but on the cost of living, they brought out key proposals like reduction of the cost of travel by half, reduction of the Daily Subsistence Allowance (DSA) by 30 per cent, and merging of some of the institutions. These are proposals that need to be looked into. Sometimes we overspend on things that do not matter.

On the creation of the Office of the Prime Minister and that of the Leader of Opposition, I believe if we had an Office of the Leader of Opposition, we would have more organised opposition leadership in this country. We would not be having chaotic situations where people just emotionally get to the streets. We should be fast-tracking legislative reforms that seek to harmonise the business of Senate and the National Assembly. We should not be taking each other to court. Those are some of the things that we should have done a long time ago. We are one nation and we should speak to each other in order to come up with ways of doing business.

The issue of fighting corruption has been articulated in this Report. It is one of the thorny issues in this country that needs to be dealt with. They have given clear proposals on how to do it like entrenching the NG-CDF, NGAAF and the Senate Oversight Fund. I will be bringing a proposal that instead of having the Ward Development Fund being recognised at the

legislative level, it should be entrenched in the Constitution so that we do not have Members of the County Assembly being elected yet they cannot be assisted. As it were, they do not have an equal opportunity to participate in development.

The amendments proposed for IEBC are critical and good. First of all, we need to make sure that competitiveness is embraced. People need to understand Information Communication and Technology (ICT) and the issues of finance. Do not take anybody to IEBC because the person is good, a friend, or responsive to, probably, what you consider important.

There is one proposal that I want to talk about for a minute. The amendment to Article 138 of the Constitution will create clarity on the role of the other Members of the IEBC in terms of the pronouncement of the winner presidential candidate when there is a contest. That aspect needs to be relooked. Remember, there was so much loose talk with regard to numbers when it came to announcing the winner presidential candidate. As a country, we can do better if we talk to each other and not at each other. In this House, we keep fighting instead of debating and creating laws that would help this country. As a House, NADCO has given us the direction to follow.

I support the adoption of the Report. Thank you.

The Temporary Speaker (Hon. Martha Wangari): Member for Moiben.

Hon. Phylis Bartoo (Moiben, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity, once again, to contribute to this debate on NADCO. I congratulate members of the Committee for taking time and spending sleepless nights to come up with this very beautiful Report. What I like about it is that after it was conceptualised it involved the two sides of the political divide: Government and Opposition.

I also want to thank the President, Dr William Samoei Ruto, for accepting that NADCO be formed. He won the elections but decided that the country is more important than an individual. So, there was need to sit together and come up with reforms which will take Kenya forward.

Particularly, I am impressed by the reconstitution of the IEBC Panel. This animal, IEBC, has been a thorn in the flesh for a very long time. We have had issues with our elections over and over. I hope this time round we shall have both sides agreeing and coming up with names of individuals who have the interest of Kenya at heart.

Most important in the Report, is the Two-Thirds Gender Rule. In our country, this problem has been spoken about over and over. Year in, year out nothing has been agreed on. In this Report, it is very clear that the Two-Thirds Gender Rule will be addressed once and for all. I hope going forward, it will be concluded and we will have both genders well represented in every institution in our country.

Also, the issue of having NG-CDF entrenched in our Constitution is very important. This Fund is an important element in our country because it has transformed very many lives. It has helped us in building schools, courts of law, and many other things. It will even get better when we bring in the Ward Development Fund. That way, we will not have Members of the County Assembly being at the mercy of governors. This is a very good way forward and it also includes the Senate Oversight Fund. So, every institution shall be independent and able to carry out its duties with sufficient funds.

The issue of the Office of the Leader of the Official Opposition and the Prime Cabinet Secretary being entrenched in the Constitution is also very relevant. It is so that after every election we do not have to fight over issues. We will have the President and the Leader of the Official Opposition. This will be very important because the Opposition will stand alone and carry out the oversight role in a very straightforward manner, while the Government continues to rule.

Hon. Temporary Speaker, my time is up. On behalf of the people of Moiben Constituency I thank you for this opportunity.

The Temporary Speaker (Hon. Martha Wangari): Member for Rarieda Constituency.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Speaker. I support this Motion of adoption of the Report. In the words of Rt Hon. Raila Amolo Odinga, the Report may not be perfect, but it is work in progress worth supporting. So, I support it.

It is important to note two areas which I think are the most urgent. I will not cover the rest. One, under Article 89(2), the window we were given for re-constitution and re-examination of the boundaries of constituencies expires this month, that is, the eight to 12-year window. It is extremely important that we adopt this Report and then move the necessary constitutional amendments, which I suggest should be the first stand-alone constitutional amendment to extend this period. Perhaps, not so much as to tie to a year but a period. Instead of eight years to 12 years, we could say 10 years to 17 years. This way, we will have resolved the mischief that the Report is trying to resolve without getting into the quagmire we might be in if we try to do this before the next election.

Second, is the audit of the 2022 General Election. Most people fear this because they think we will be re-examining and re-visiting the declaration of results of who won and who did not. This is far from it. Article 81(2) of our Constitution is very clear. Every election, not just for the President, must be transparent, accountable, and efficient. Those three words ought to be demonstrated at any time and every Kenyan wants to see how it was done. This will bring settlement not just for the past but for the future, in terms of elections as we move forward.

I know that this kind of Report requires goodwill, and for us to move we will require it. I am not quite sure why we have taken four months since 25th November to table this Report. I do not know whether that is consistent with goodwill. However, having been in the first process, I know that we were beleaguered by absence of goodwill at certain stages. I urge that if we are to move forward, there must be goodwill.

Contrary to what some people think, this Report is actually not inconsistent with the judgement that was issued by the High Court just a fortnight ago. Indeed, in that judgement, the judge correctly observed that an issue like constitution of the panel is a political question. This should be left to politicians under the political doctrines question. The judge found it necessary to come to that judgement because the process was delaying. Had we started this immediately the Report was out, we would probably have forestalled that kind of decision although nothing is lost because the judge said that this should be done within 90 days.

The Report is also recommending that this should be done within 90 days. It is possible for those 90 days to coincide if there is goodwill. If there was goodwill, it is possible for the two principals who initiated the process to have a situation where there is consensus and discussion in terms of the names that will be recommended. That way, when the proposed names of the IEBC Commissioners come here, we will not end up voting and having confrontations as we do sometimes.

Having said that, there are areas that will require more careful navigation. This does not mean that we do not adopt the Report. As we adopt it, we will require more careful navigation. First, is whether we require a referendum. My casual glance of the Report suggests that we will in four different areas. Second, is this thing of recommending a Senate of seven years. That will require us to really re-examine a number of things. Third, is the idea of a staggered election. There is a host of reasons why there is a general election on the same day. If we are to interfere with this, we have to navigate very careful.

Last is the question of the Leader of Official Opposition and the Office of the Prime Cabinet Secretary. We will have to re-examine our Government structure. This is because the Report does not go that far. It does not say whether these offices are to be in this House and what role they will play. That was left for us.

Hon. Temporary Speaker, I support with the caution that we need to start thinking more in terms of giving intention to the Report. Thank you very much.

The Temporary Speaker (Hon. Martha Wangari): Member for Sigowet/Soin Constituency, Hon. Justice.

Hon. Justice Kemei (Sigowet/Soin, UDA): Thank you very much, Hon. Temporary Speaker, for the opportunity to contribute to this very important Report. First and foremost, I want to go on record that I support the Report because when we are given the nine legislative proposals, we should be in a position to cure at least two or three major issues that have always brought contention and polarisation. The one that comes to mind is electoral justice. When shall we get it right so that when we hold elections, we do not resort to any other means to sort out our grievances apart from what is provided in the Constitution?

I do not want to speak to all the issues, but I will single out just three. We have constantly created and recreated the IEBC. However, it has never provided us with the confidence that elections are truly reliable and represent the interests of the people. Even if we create another IEBC yet the systems, structures and people in that institution do not do what is right, it will be an exercise in futility. When those legislative proposals are tabled, we should critically look at the structures and systems of the IEBC. Let us also look at the methodologies of conducting elections.

We must also have ethical people manning the IEBC. I am opposed to the idea of principals of political parties being given the honours of appointing members of the selection panel that is charged with the formation of the IEBC. Let us agree on who will be on the selection panel and leave that responsibility to people who can give us the right men and women to man the IEBC.

The Ward Development Fund reminds me of the late President Moi who introduced the idea of District Focus for Rural Development (DFRD), which was a system of devolution. We want to decentralise operations as much as possible under devolution. When we include the NG-CDF and the Ward Development Fund in the Constitution, we are giving greater responsibility to the lowest level possible in the management of our resources. I support that.

Finally, I want to speak on the issue of corruption. We lose a lot of money because of corruption. We are told that we lose up to Ksh800 billion a year in some quarters through corruption. We must, once and for all, slay that dragon which has held us back. We are looking forward to legislative proposals that will slay the dragon of corruption so that the resources that we generate benefit our people.

With those remarks, I beg to support the Report and look forward to the legislative proposals that will effect it.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Member for Kirinyaga County.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Report of NADCO. The rationale behind it was so that we can have a conversation on the way forward in regard to pertinent matters that concern all of us devoid of party positions and ideologies.

I have skimmed through the Report and a few issues piqued my interest. The first issue is the entrenchment of the Ward Development Fund. It is time we gave legitimacy to the office of the MCA. This will enable them to have independence from the County Executive. We have often seen push and pull in the division of resources. Most MCAs who sometimes find themselves on the wrong side of County Executives are not able to launch any project for their people. These people have been elected by their various wards to ensure that they cater for them and represent their interests.

The Two-Thirds Gender Rule is of concern to me. It is worth noting that the Leader of the Minority Party has pronounced himself that anything that will be discussed by the multi-sectoral working group regarding the Two-Thirds Gender Rule and any recommendations about the same will be adopted as part of the NADCO Report.

One of the issues the Committee was supposed to resolve is the issue of giving effect to the Two-Thirds Gender Rule. Through Article 27(8) of the Constitution of Kenya 2010, only this House has the authority to ensure that we have provided for legislation to give effect to the Rule. We have had back and forth discussions on how to implement the same. It can only enrich the conversation and ensure that what is brought forth to this Floor is something that will be looking to cater for the interest of Kenyans in representation.

I am alive to the recommendations to extend the time for the delimitation of boundaries. We all know that this was coming up and the time was lapsing due to issues at hand, given that we do not have commissioners for the IEBC. I can see my colleague nodding in agreement. You can see that the Report is a consensus on all sides of the divide. It is important to note that the extension of time will allow for a proper review of boundaries so that we can see whether this House can protect constituencies that had been protected in the law that is lapsing.

As I conclude, I also note that the Election Offences (Amendment) Bill proposes to introduce an offence for any officer who conducts or holds an election in a polling station or centre that is not gazetted.

I support the Report. Thank you.

The Temporary Speaker (Hon. Martha Wangari): The Member for Mombasa County.

Hon. Zamzam Mohammed (Mombasa County, ODM): Ahsante sana, Mhe. Spika wa Muda, kwa kunipa fursa nami nitoe sauti yangu kuhusu Ripoti hii ya uwiano ambayo imetolewa.

Kwanza, ninapongeza wenzangu. Nimeona wengi walitoa matakwa mengi kuhusu pesa zinazofaa kuelekezwa kwa MCAs wetu. Ni dhahiri kuwa MCAs wetu wamekuwa wakihangaika sana. Wengine wanapewa pesa; wengine hawapewi. Itasaidia sana kukiwekwa sheria kuwa MCAs wapewe pesa za kufanya miradi kule mashinani. Jambo lingine ambalo nitaliangazia ni la walemavu, ijapokuwa sijui kama litapewa kipaumbele. Sikuliona katika yale maamuzi ya mwisho. Walemavu siku zote huwa wameachwa nyuma na ingekuwa vizuri kama wangukuwa na mgao wao wenyewe ambao utawawezesha kupanga mambo yao bila kushughulisha watu wengine tofauti. Walemavu wanahangaika kwa mambo mengi sana katika taifa hili na wanahitaji usaidizi. Ikiwa wataingewa mgao wao, itawasaidia sana.

Jambo lingine lililogusiwa ni la IEBC. Katika uchaguzi uliopita, tuliona mambo yalivyokuwa. Ilionekana wazi kuwa uzito wa makamishna wanne unashinda wa makamishna watatu. Wakati huo ilikuwa vigumu sana kuelewa vipi uzito wa makamishna watatu unashinda wa wanne. Ikiwa mambo hayo yanaweza kuangaliwa vizuri na yapigwe msasa, tutajua makamishna wa IEBC wanapewa uzito gani ili tuelewe ni kwa sababu gani wale makamishna watatu walipewa uzito mkubwa kuliko wale wanne. Jambo hili lipigwe msasa ili mambo haya yasirejelewe.

Jambo lingine ni la sheria ya thuluthi mbili kuhusu jinsia. Ningependa akina mama wa Bunge hili tulisukume kwa pamoja. Hata dada yetu Waziri, Mhe. Aisha Jumwa, alisukume kwa haraka jambo hili la sheria ya thuluthi mbili kuhusu jinsia. Akina mama wanahitaji nafasi za kutosha za uongozi kama inavyo sema Katiba. Ningependa kumweleza Waziri wetu, Aisha Jumwa, ailete sheria hiyo haraka ili iingizwe ndani ili mambo ya akina mama yaangaliwe kisawasawa.

Sisi kama viongozi kutoka pwani, tulililia Kamati hii iangalie mipaka yetu ambayo huingiliwa na watu wa sehemu za Garissa na ukambani ili iweze kulindwa. Naona limegusiwa kwenye Ripoti. Ripoti hii ikichukuliwa kwa uzito, sehemu zetu za pwani zitapata ulinzi na tutabaki na amani katika sehemu zetu. Jambo lingine tuliloliomba ni kuwa *constituencies* tulizonazo zisipunguzwe. Kulikuwa na tetesi kuwa zitapunguzwa. Idadi yetu imeongezeka. Tunaomba kuwa, badala ya kupunguza, waongeze *constituencies* zingine katika sehemu zetu. Tutashukuru.

Wengi wamezungumza na wakasema kuwa, mpaka sasa, gharama ya maisha iko juu sana. Sisi sote ni Wakenya. Tunapozungumza si eti tunachukiana. Tunataka gharama ya maisha irudi chini na mwananchi mnyonge kule chini aweze kukidhi matakwa yake bila uzito. Unga haijashuka bei kama alivyosema mwenzangu. Tusukume wakulima. Mbolea ilikuja bure na wakulima wakauziwa. Wakulima wapewe mbolea bure. Kwa sababu mazao yameongezeka, wakulima wakipewa mbolea bure, mazao yao yatazidi kuongezeka na uchumi wetu utapanda juu.

Ninaipongeza Ripoti hii na kama Mama Mombasa, ninasema ni Ripoti nzuri ambayo ikitiliwa maanani tutasonga mbele kama Kenya moja.

Asante.

The Temporary Speaker (Hon. Martha Wangari): Member for Buuri, Hon. Mugambi.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Speaker for this opportunity. From the outset, I take this opportunity to commend the Committee. It has given us a good foundation for development of our political economics in this country. I have two issues to comment on. One is the cost of living.

What I expected from this Report was apportionment of the revenue that is collected and goes towards productivity. There is money which comes from the national Government that is supposed to address the cost of living. Money is also given to the counties which goes towards addressing the cost of living. Sectors like water and agriculture have direct impacts on the cost of living. However, when we talk about it... According to this Report, all the missiles are focused on the national Government which I believe is not fair. That is why I have said this Report should have gone deeper and apportioned what the two levels of government are supposed to do in addressing the cost of living. It is a subset of very many factors.

The two are not the only ones because we have nature. There is no way we can address food production without addressing rain patterns in this country. That is where I differ with my senior, Hon. Mbadi. If the rain fails, we will go back to the old story. I want us to challenge ourselves. When it is dry, the national Government and county governments need to be ready. They should allocate more money to generate more water so that our productivity can be constant. All in all, the Report is good but let us be real. Let the Movers of this Motion be real to themselves. It was not a very good intention to bring this issue of the cost of living because it is a diverse topic which cannot really be put on paper. There are very many factors that come into play. The international community has a direct impact on what Kenya does. When you are talking about the cost of living, this is a factor that also needs to be considered.

There is also the issue of delineation. This Report falls short of addressing the real criteria and re-defining what the constituencies and counties need to follow so that they can be given status as such. This Report did not examine that. The only aspect that was brought out was marginalisation. I believe that there are very many other factors that this Report should have addressed on delineation.

This Report is a bit biased because it does not address the issue of hardship areas. There are very many areas in this country which are not defined as hardship areas. I thought that aspect should have been brought into this Report. Some counties, constituencies, and wards have been given hardship status, while others have not. This goes towards determination of the resources that need to be allocated to them.

Many Kenyans have lost faith in the IEBC because it is riddled with a lot of problems. How many Kenyans vote? That is a basic question which has not been answered or asked in this Report. It is only an average of 60 per cent of Kenyans. What goes on with the other 40 per cent? Who addresses why they do not vote? I thought this Report would bring out properly why 40 per cent of Kenyans do not vote. This is very important. How are their issues being addressed? Why have they lost faith in voting and the IEBC?

The Temporary Speaker (Hon. Martha Wangari): Your time is up. Hon. Jackson Kosgei.

Hon (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Temporary Speaker. At the outset, as I take the Floor, I support this Report and congratulate the National Dialogue Committee for the work well done. Allow me to quote from a statement made by George Washington who was a General in the army, and the first President of the United States of America (USA). In 1779 in a constitutional conference, he made a statement and I wish to quote: “Let us raise a standard to which the wise and honest can repent. The rest is in the hands of God.”

I take this opportunity to congratulate this Committee and, more so, the two principals, that is, His Excellency the President of our Republic, William Samoei Ruto and the former Rt. Hon. Prime Minister, Raila Odinga. They agreed, as a political divide, to provide an opportunity for Kenyans to re-look into our Constitution and areas in the country that need improvement.

First, this is important for the unity of this country because we have been experiencing suspicion every electoral cycle. We want to look into this and understand why Kenyans disagree in every election. Second, is the issue of IEBC and we want to have an electoral commission that can be trusted by both sides in any given election.

I also want to appreciate an honourable lady Member who spoke a few minutes ago before me. She said that the Report did not clearly speak to the needs of persons living with disabilities in this country. I am sure, as we progress with the analytical discussions and deliberations in this Report, we will look into the matter. I represent the interest group and I do not want to have persons with disabilities lumped up in an amorphous group called ‘the special group’. This must come out very clear so that their issues can be addressed uniquely.

For many years, I have been travelling in and out of this country. I have been having very insensitive experiences at our point of entry. For example, at Jomo Kenyatta International Airport (JKIA), a person living with disability and having total dependency on assistive devices, gets it rough. We do not have an ample lift and the one which is there is too far away, especially when the plane is parked far from the bridge. This needs to be included in this Report so that it can speak to the legislations domiciled in various Acts.

Finally, this is a moment to correct unsatisfactory areas in our Constitution. I appeal to all of us to support because a bipartisan Bill will be coming up which will make it easier for us to address the needs of Kenyans.

Hon. Temporary Speaker, again, I support the Report. Thank you.

Hon. Peter Kihungi (Kangema, UDA): Thank you, Hon. Temporary Speaker. I stand to support the Committee’s Report.

I wish to say that this was the best moment for this country because it was one of the best decisions made by the two principals. This country had come from a very difficult time of COVID-19 pandemic and immediately after there was the general election. Therefore, we needed sober minds that were thinking about our nation and not dividing it according to voting patterns. I know we might discuss this Report depending on our sides of support during the general election. The most important thing is that this Report will bring Kenyans together so they can decide the best way forward for this country. Elections in this country is very emotive and out of this Report, the best thing we can do is to come up with a team or a system of election that we can all agree on.

Hon. Temporary Speaker...

The Temporary Speaker (Hon. Martha Wangari): Order Member for Kangema. The next time this Motion comes up, you will have a balance of four minutes. You will have the first opportunity to speak if you will be in the House.

ADJOURNMENT

The Temporary Speaker (Hon. Martha Wangari): Hon. Members, the time being 7.00 p.m., this House stands adjourned until tomorrow, Wednesday, 21st February 2024 at 9.30 a.m.

The House rose at 7.00 p.m.

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