



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Tuesday, 27th 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, there is no quorum. Ring the Quorum Bell.

(The Quorum Bell was rung)

Hon. Speaker: Hon. Members, we now have a quorum to transact business. Clerk.

(Hon. John Makali walked into the Chamber)

Hon. Makali, take the nearest seat. Hon. Members, I have a Communication to make.

COMMUNICATION FROM THE CHAIR

IMPLEMENTATION OF THE TWO-THIRDS GENDER PRINCIPLE

Hon. Speaker: Hon. Members, I wish to notify you that I am in receipt of the Report of the Multi-Sectoral Working Group on the Realisation of the Two-Thirds Gender Principle as submitted by the Cabinet Secretary, Ministry of Gender, Culture, the Arts and Heritage, Hon. Aisha Jumwa. The Report is scheduled for tabling by the Leader of the Majority Party today. As you are aware, the Multi-Sectoral Working Group was appointed by His Excellency the President to develop and recommend a framework for the implementation of the two-thirds gender principle as provided for in Articles 27(8) and 81(b) of the Constitution.

I have had a chance to peruse the Report of the Multi-Sectoral Working Group and I have observed that it recommends constitutional amendments to provide for gender top-up through party lists. This is akin to the practice obtaining in our county assemblies. The Multi-Sectoral Working Group has also recommended that the Elections Act, 2011, be amended to provide for submission of party lists that comply with the two-thirds gender principle. Further, the Report recommends that the Political Parties Act, 2011, be amended to provide for the establishment of the Women Inclusion and Political Participation Fund for purposes of financing education and training, mentorship and capacity building, including support for women seeking elective positions.

Additionally, the Multi-Sectoral Working Group has recommended the enactment of equality law and legislation to implement Article 100 of the Constitution. Further, the Working Group has also made a raft of recommendations that require administrative action aimed at achieving gender equality and empowerment of women.

It is notable that the Report of the Multi-Sectoral Working Group comes at an opportune time as you will recall that last week this House adopted the Report of the National Dialogue Committee (NADCO). On the issue of the two-thirds gender principle, the Committee

recommended that the Multi-Sectoral Working Group on the Realisation of the Two-Thirds Gender Principle finalise its work, and recommend a framework of implementation of the two-thirds gender principle and submit its report to Parliament for consideration.

Further, as you may be aware, last week, the leadership of both Houses of Parliament held a meeting with the Cabinet Secretary for Gender, Culture, the Arts and Heritage, and the Multi-Sectoral Working Group. During the meeting, the commitment of Parliament towards ensuring the implementation of the two-thirds gender principle was reiterated and reaffirmed. The Rt. Hon. Speaker of the Senate and I also met the Cabinet Secretary and the Working Group, during which we advised the Working Group to expeditiously finalise its work and forward its report to Parliament for consideration. Subsequently, the Multi-Sectoral Working Group, having concluded its Report, the ball is now in the court of this House and the Senate to consider the Report.

It is on this background that I now wish to bring to the attention of the House of the Report, together with the annexed legislative instruments. As I stated earlier, the Report is scheduled for tabling by the Leader of the Majority Party today. Upon tabling, the Report shall stand committed to the Departmental Committee on Justice and Legal Affairs for consideration and appropriate action, at the earliest available opportunity. Additionally, noting the centrality of this Report towards ensuring the implementation of the two-thirds gender principle, I advise that the House Business Committee prioritise the consideration of the Report.

The House is accordingly guided.

(Several Members walked into the Chamber.)

Hon. Members, take your seats. Next order.

MESSAGES

Hon. Speaker: Hon. Members, I have some messages to relay.

(Several Members walked in the isles)

Hon. Members, take the nearest seats. I have two messages from the Senate.

ADOPTION OF THE REPORT OF THE NATIONAL DIALOGUE COMMITTEE

Hon. Speaker: Hon. Members, pursuant to Standing Order 41(1) of the National Assembly Standing Orders, I wish to report to the House that I have received two Messages regarding the adoption of the Report of the National Dialogue Committee and approval of the Mediated Version of the County Governments Additional Allocations Bill (National Assembly Bill No. 23 of 2023).

The first Message conveys that the Senate, by a resolution passed on Wednesday, 21st February 2024, adopted the Report of the National Dialogue Committee. Members will recall that on the same day, this House also approved the said Report, thereby concluding the bicameral consideration of the Report.

As you may further recall, the National Dialogue Committee was approved vide concurrent resolutions passed by the National Assembly and the Senate on Wednesday, 16th August 2023 and Tuesday, 29th August 2023, respectively. The mandate of the Committee was to facilitate dialogue and consensus building and to recommend appropriate constitutional, legal and policy reforms on issues of concern to the people of Kenya. I take cognisance of the

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fact that some of the Committee's recommendations require legislative action by Parliament. In this regard, the Speaker of the Senate and I will be reaching out to the leadership of the Majority and Minority Parties in both Houses for a meeting. The meeting is to chart the way forward on areas within the purview of Parliament.

APPROVAL OF THE MEDIATED VERSION OF THE COUNTY
GOVERNMENTS ADDITIONAL ALLOCATIONS BILL, 2023

Hon. Members, the second Message conveys that on Thursday, 22nd February 2024, the Senate considered and approved the mediated version of the County Governments Additional Allocations Bill (National Assembly Bill No. 23 of 2023). Members will recall that on Wednesday, 21st February 2024, this House adopted the Report of the Mediation Committee on the Bill, consequent to which it approved the said version of the Bill as proposed by the Committee.

The approval of the mediated version of the Bill by the Senate concludes the bicameral consideration of the Bill. In this regard and in accordance with the provisions of Article 113(3) of the Constitution, I will proceed to present the Bill to His Excellency the President for assent.

The House is accordingly guided.

Thank you.

(Several Members walked into the Chamber.)

Take the nearest seats. I have another message, Hon. Members.

PASSAGE OF SEVEN SENATE BILLS

Hon. Speaker: Hon. Members, pursuant to Standing Order 41(1) of the National Assembly Standing Orders, I wish to report to the House that I have received seven messages from the Senate regarding the passage of the following Senate Bills—

1. The Equalisation Fund Appropriations Bill (Senate Bill No.30 of 2023).
2. The County Licensing (Uniform Procedure) Bill (Senate Bill No.9 of 2022).
3. The Agricultural and Livestock Extension Services Bill (Senate Bill No.12 of 2022).
4. The Mung Beans Bill (Senate Bill No.13 of 2022).
5. The Start-Up Bill (Senate Bill No.14 of 2022).
6. The Persons with Disabilities Bill (Senate Bill No.7 of 2023).
7. The Kenyan Sign Language Bill (Senate Bill No.9 of 2023).

Hon. Members, the first Message conveys that on Wednesday, 21st February 2024, the Senate considered and passed the Equalisation Fund Appropriations Bill (Senate Bill No. 30 of 2023), with amendments. The Bill, which was published vide *Kenya Gazette* Supplement No. 113 of 20th July 2023, seeks to authorise the issue of a sum of money out of the Equalisation Fund and its application towards the service of the year ending 30th June 2024 and to appropriate that sum for certain public basic services.

The second Message conveys that on Wednesday, 21st February 2024, the Senate considered and passed the County Licensing (Uniform Procedure) Bill (Senate Bill No. 9 of 2022), with amendments. The Bill was published vide *Kenya Gazette* Supplement No. 196 of 29th November 2022, and seeks to establish standard uniform procedures for licensing by county governments.

The Third Message conveys that on Wednesday, 21st February 2024, the Senate considered and passed the Agricultural and Livestock Extension Services Bill (Senate Bill No.

12 of 2022) with amendments. The Bill, which was published vide Kenya Gazette Supplement No. 205 of 30th December 2022, seeks to provide for a framework for agricultural and livestock extension services and to establish the Agricultural and Extension Service.

Hon. Members, in the Fourth Message, the Senate conveys that on Wednesday, 21st February 2024, it considered and passed the Mung Beans Bill (Senate Bill No. 13 of 2022) with amendments. The Bill was published vide Kenya Gazette Supplement No. 206 of 30th December 2022 to provide for the development, regulation and promotion of the mung beans sector.

Hon. Members, the Fifth Message conveys that on Wednesday, 21st February 2024, the Senate considered and passed the Start-Up Bill (Senate Bill No. 14 of 2022) with amendments. The Bill was published vide Kenya Gazette Supplement No. 207 of 30th December 2022. The Bill seeks to provide a framework to encourage growth and sustainable technological development, new entrepreneurship employment and to create a more favourable environment for innovation to attract Kenyan talents and capital.

The Sixth Message conveys that on Wednesday, 21st February 2024, the Senate considered and passed the Persons with Disabilities Bill (Senate Bill No. 7 of 2023) with amendments. The said Bill was published vide Kenya Gazette Supplement No. 16 of 20th February 2023, and seeks to provide for the institutional framework for protecting, promoting, and monitoring the rights of persons with disabilities, and to provide incentives and reliefs to give effect to Article 54 of the Constitution.

The Seventh Message conveys that on Wednesday, 21st February 2024, the Senate considered and passed the Kenyan Sign Language Bill (Senate Bill No. 9 of 2023) with amendments. The Bill, which was published vide Kenya Gazette Supplement No. 21 of 28th February 2023, seeks to give effect to Article 7(3) (b) of the Constitution relating to the promotion and development of the use of Kenyan Sign Language, to provide for the inclusion of sign language in education curriculum, and to provide for the use of sign language in legal proceedings.

Having passed the Seven Bills, the Senate now seeks concurrence of the National Assembly pursuant to the provisions of Article 110(4) of the Constitution and Standing Orders 46(1) and 161 of the Senate Standing Orders.

(Several Members walked into the Chamber)

Hon. Members, take the nearest seat. The Message is not over. Avoid greeting your colleagues. Hon. Mbadi, is that the nearest seat?

(Laughter)

Hon. Members, further to seeking concurrence of this House, the Speaker of the Senate has also notified that pursuant to the provisions of Standing Order 162 of the Senate Standing Orders, the sponsors of the following Senate Bills have designated co-sponsors in the National Assembly:

1. Sen. Crystal Asige, MP, being the sponsor of the Persons with Disabilities Bill (Senate Bill No. 7 of 2023) and the Kenyan Sign Language Bill (Senate Bill No. 9 of 2023), has nominated Hon. Millie Odhiambo-Mabona, CBS, MP as the co-sponsor of the two Bills;
2. Sen. Crystal Asige, further, being the sponsor of the Start-Up Bill (Senate Bill No. 14 of 2022), has nominated Hon. Irene Mayaka, MP, as the co-sponsor of the Bill; and,

3. Sen. Enock Kiio Wambua, MP, being the sponsor of the Mung Beans Bill (Senate Bill No. 13 of 2022), has nominated Hon. Paul Nzengu, MP, to co-sponsor the Bill in the National Assembly.

Hon. Members, whereas Sen. Asige has designated Hon. Millie to co-sponsor the Persons with Disabilities Bill (Senate Bill No. 7 of 2023), I am aware of a prior agreement between the National Assembly Leader of the Majority Party and the Leader of the Majority Party in the Senate on the marshalling for consideration of the said Bill in this House. For the record, the two Leaders agreed that the Bill would be sponsored by the Majority Party once it gets to the National Assembly. This is to ensure that the Bill is prioritised and considered in an expedited manner since it is largely informed by a similar Bill in the National Assembly that emanated from the Executive. In this case, Hon. Millie will only co-sponsor the Kenyan Sign Language Bill, 2023.

Hon. Members, designation of co-sponsors of Senate Bills in this House corresponds with the provisions of Standing Order 143(1)(b) of the National Assembly Standing Orders. In this regard, the designated Members of the National Assembly will assume the role of co-sponsor of the respective Bill and shall be responsible for marshalling their consideration in the National Assembly.

Hon. Members, in order for the House to commence consideration of the Bills, I have directed the Clerk to list the Bills for First Reading tomorrow, Wednesday, 28th February 2024. Thereafter, the Bills will stand committed to the following respective Committees:

1. The Equalization Fund Appropriation Bill (Senate Bill No.30 of 2023) to the Budget and Appropriations Committee;
2. The County Licensing (Uniform Procedure) Bill (Senate Bill No.9 of 2022) and the Start-Up Bill (Senate Bill No. 14 of 2022) to the Departmental Committee on Trade, Industry and Co-operatives;
3. The Agricultural and Livestock Extension Services Bill (Senate Bill No.12 of 2022) and the Mung Beans Bill (Senate Bill No.13 of 2022) to the Departmental Committee on Agriculture and Livestock;
4. The Persons with Disabilities Bill (Senate Bill No.7 of 2023) to the Departmental Committee on Social Protection; and,
5. The Kenyan Sign Language Bill (Senate Bill No. 9 of 2023) to the Departmental Committee on Education.

The Committees are encouraged to prioritise the Bills in their agenda and report to the House as soon as practicable to enable it to proceed with the next stages of the Bills.

The House is accordingly guided. Next Order.

PETITIONS

Hon. Speaker: Member for Nyali, Hon. Mohamed Ali, you have a Petition.

PROLIFERATION OF LGBTQ PERSONS IN KENYA

Hon. Mohamed Ali (Nyali, UDA): Hon. Speaker, I would like to present a Petition regarding the proliferation of Lesbians, Gay, Bisexuals, Trans-gender and Queer (LGBTQ) in the country.

I, the undersigned, on behalf of the citizens of Kenya, representing Muslim and Christian religious leaders and organisations, non-governmental organisations and individuals; draw the attention of the House to the following:

THAT, over the past decade, the Lesbians, Gay, Bisexuals, Trans-gender and Queer (LGBTQ) community members and representatives have consistently made

efforts to challenge in various courts laws that prohibit homosexuality and other acts deemed unnatural;

THAT, those meticulously planned and financially supported endeavours are also prevalent in numerous African countries such as Uganda, Botswana, Zimbabwe, Namibia, and several others;

THAT, representatives and community members claim that their rights and freedoms have been infringed upon due to discrimination based on sexual orientation and gender identity;

THAT, the Supreme Court in Non- Governmental Organisations Co-ordination Board VEG and 5 others overstretched its mandate in holding that the right to equality before the law would not be advanced if people were denied the right not to be discriminated based on their sexual orientation;

THAT, this judgement sets the pace for legalisation of same sex unions in Kenya and will have a drastic negative impact on the family unit;

THAT, the infiltration of LGBTQ agenda in books and study materials through subtle depiction of same gender relationships within the Kenyan and international school curricula is a matter of concern;

THAT, there have been concerted efforts from foreign non-state actors through financial lobbying to effect changes to the Penal Code in order to decriminalise acts that have been decriminalised such as homosexuality;

THAT, the Constitution in the preamble recognises the ultimate authority of God as the source of objective moral laws, and Article 119 of the Constitution allows every person to petition Parliament to consider any matter within its authority, including among other issues the protection of family life and society as a whole;

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

Therefore, your humble Petitioners pray that the National Assembly, through the Public Petitions Committee;

1. Intervenes with a view to have the Ministry of Interior and National Administration strictly enforce the provisions of the Penal Code Act, CAP 63, particularly sections 162, 163 and 165, that prohibit homosexuality in the country.
2. Investigates into the possibility of approved curriculum or content by the Ministry of Education through the Kenya Institute of Curriculum Development as regards to LGBTQ in the country.
3. Recommends consideration and fast-tracking of the Family Protection Bill, 2023, into law.
4. Makes any other orders or directions that it deems fit in the circumstances of the matter.

And your Petitioners will ever pray.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Mohamed. Under the Standing Orders, there is always room for Members to make comments if they wish.

(A Member spoke off the record)

The matter on National Dialogue Committee was a Communication from the Chair. Are you afraid of the LGBTQ? I commit the Petition to the Public Petitions Committee, which should expeditiously handle it and bring back a report within the specified period within the Constitution.

I want to reiterate what I had said earlier; that too many petitions are queuing in this Committee. We need to have some expeditious disposal of petitions, including this one by the Member for Nyali.

Next Order.

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. Report to Parliament on all new loans contracted by Government of Kenya from 1st September, 2023 to 31st January 2024 from the National Treasury and Economic Planning.
2. Implementation of the Constitutional two-thirds gender principle and implementation of the MSWG Report from Ministry of Gender, Culture, the Arts and Heritage.
3. Audit Review of the Arrears to farmers and salary arrears and other emoluments in the five state owned sugar companies from the National Treasury.
4. Audit Review of debt portfolio of the out-grower companies of government owned sugar companies from the National Treasury.
5. Reports of the Auditor-General and Financial Statements for the Year ended 30th June 2023, and the certificates therein in respect of:
 - (a) Parliamentary Car Loan Scheme Fund;
 - (b) The National Treasury;
 - (c) Nairobi Metropolitan Area Transport Authority (NETFUND);
 - (d) National Environment Trust Fund;
 - (e) Women Enterprise Fund;
 - (f) State Department for Transport;
 - (g) State Department for Roads;
 - (h) State Department for Internal Security and National Administration;
 - (i) State Department for Energy;
 - (j) State Department for Petroleum;
 - (k) State Department for Water and Sanitation;
 - (l) State Department for Irrigation;
 - (m) Judicial Service Commission;
 - (n) Ministry of Defence;
 - (o) Consolidated Fund Services – Pension and Gratuities - the National Treasury;
 - (p) Office of the Deputy President;
 - (q) Commission on Administrative Justice;
 - (r) Kenya Italy Debt for Development Programme – State Department for Water and Sanitation;
 - (s) Sports, Arts and Social Development Fund;
 - (t) Revenue Statements;
 - (u) Petroleum Training Levy Fund; and,
 - (v) National Police Service.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Waqo. Chairperson, Departmental Committee on Agriculture and Livestock.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Second Report of the Departmental Committee on Agriculture and Livestock on the inquiry into the Maize Flour Subsidy Programme for the Financial Year 2022/2023.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Dr Mutunga. Next Order.

NOTICES OF MOTIONS

Hon. Speaker: Chairperson, Departmental Committee on Agriculture and Livestock.

ADOPTION OF SECOND REPORT ON THE INQUIRY INTO THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FY 2022/2023

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Second Report of the Departmental Committee on Agriculture and Livestock on the inquiry into the Maize Flour Subsidy Programme for the Financial Year 2022/2023, laid on the Table of the House on Tuesday, 27th February 2024.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Kabuchai.

REVIEW OF THE ELIGIBILITY AGE FOR ENROLMENT OF OLDER PERSONS TO THE INUA JAMII CASH TRANSFER PROGRAMME

Hon. Majimbo Kalasinga (Kabuchai, FORD): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that Article 57 of the Constitution obligates the State to take measures to secure the rights of older persons to live in dignity and receive reasonable care and assistance from the State; noting that, to actualise the provisions of Article 57 of the Constitution, the Government rolled out the Inua Jamii Cash Transfer Programme in 2015 in order to provide regular and predictable cash transfers to older persons aged 70 years and above who are not receiving Civil Service Pensions; appreciating the success that the Programme has recorded in alleviating poverty and suffering among older persons of the society since its inception; noting that, the Government's commitment to progressively, net about 2.5 million more vulnerable and under-privileged members of the society to the Programme in the next two years; concerned that, the eligibility for enrolment of older members of the society to the Inua Jamii programme is pegged at attainment of the age of 70 years; noting that, Article 260 of the Constitution defines an older member of society as one who has attained the age of 60 years; concerned that, restricting eligibility for enrolment to the Inua Jamii programme to the attainment of 70 years is discriminatory to the older persons of society and negates the principles of the Constitution that entitles them to receive reasonable care and assistance from the State; now therefore, this House urges the National Government, through the Ministry of Labour and Social Protection, to revise the eligibility age for enrolment of older persons of society to the Inua Jamii Programme from 70 to 60 years in line with Article 260 of the Constitution.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Public Investments Committee (PIC) on Commercial Affairs and Energy. Who is the Chairperson? Hon. Waqo? Ah! Hon. Pkosing.

Hon. David Pkosing (Pokot South, KUP): The PIC sits on this side, Hon. Speaker.

Hon. Speaker: Go ahead.

ADOPTION OF REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF SELECTED STATE CORPORATIONS

Hon. David Pkosing (Pokot South, KUP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Investments Committee on Commercial Affairs and Energy on its examination of the reports of the Auditor-General on the Financial Statements of Selected State Corporations, laid on the Table of the House on Wednesday, 6th December 2023.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Pkosing. Next Order.

Hon. Opiyo Wandayi (Ugunja, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Opiyo Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much, Hon. Speaker. I was just agonising and, perhaps, this is the right time to raise this issue.

Hon. Speaker: What issue?

Hon. Opiyo Wandayi (Ugunja, ODM): The issue of the Budget Policy Statement (BPS) which, in my view, is relevant and, perhaps, you can give guidance.

Hon. Speaker: Can I finish with the Chairperson the Departmental Committee on Administration and Internal Security first?

Hon. Opiyo Wandayi (Ugunja, ODM): Most obliged.

QUESTIONS AND STATEMENTS

Hon. Speaker: Chairperson, Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Yes, Hon. Speaker.

Hon. Speaker: Hon. Njeri Maina, that is your statement being responded to.

(Hon. Njeri Maina consulted with Hon. Martha Wangari)

You better pay attention.

STATEMENT

DEATH OF PERSONS AFTER CONSUMPTION OF ILLICIT BREW IN KIRINYAGA COUNTY

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. I am glad that the Member is in the House. I want to respond as follows:

The Member of Parliament for Kirinyaga County, Hon. Jane Njeri Maina, requested for a statement regarding the deaths that occurred in her county after consumption of illicit brews. The Member particularly sort to be informed of:

1. The status of investigations into the deaths and whether the owners of the outlets from where the brew was obtained have been apprehended and prosecuted.

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2. Measures taken by the Government to ensure strict compliance with the Alcoholic Drinks Control Act, 2010; and,
3. Effective implementation of the Alcohol Policy in regions mostly affected by consumption of illicit brews.

On 6th February 2024, a total of 17 persons lost their lives after consumption of the illicit brews in Kangai Village, Mwea West Sub-County, Kirinyaga County. Fifteen of the people who lost their lives took the illicit brew at *California Bar*, while the other two drunk at *Coconut Bar*. Investigations were commenced immediately and indicated that the illicit brews were exhibits held at Kiamaciri Police Station in an exhibit store, but were later stolen by police officers and sold to the main suspect, Mr John Muriithi Karaya, before the incident. The 13 survivors of the illicit brew were traced, their statements recorded, and were issued with P3 forms.

A total of eight suspects, including the four police officers who were accused of stealing the illicit brew exhibits, have been arrested in connection with the illicit brews' deaths. They are:

1. Mr Kennedy Mugambi, No.2355532.
2. PC Francis Muteiya, No.113662.
3. PC Brian Kariuki, No. 124739.
4. PC Allan Kayo, No.125028.
5. Mr Anthony Mutheiya.
6. Mr John Muriithi Karaya.
7. Ms Lydia Wanjiru Mbogote.
8. Ms Jane Wambui Muriuki.

Hon. Speaker, detectives are in pursuit of other suspects who are at large. All eight suspects were produced before the court on miscellaneous application and the court issued orders to detain them in different police stations within the county with the case mention being on 7th March 2024 at Baricho Law Courts. The completion of the cases and filing is almost complete, and the same would be forwarded to the Director of Public Prosecutions (DPP) for perusal and advice. The owners of the outlet from where the brew was obtained have been apprehended and prosecuted.

Hon. Speaker, the following three owners of *California Bar* outlet have been arrested and are being held at Sagana and Kiamaciri police stations:

1. Mr John Muriithi Karaya.
2. Ms Lydia Wanjiru Mbogotho.
3. Ms Jane Wanjiri Muriuki.

However, the owner of the *Coconut Bar* is still at large and efforts have been intensified to arrest him together with other suspects.

Hon. Speaker, the Ministry of Interior and National Administration, in collaboration with the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) and other key stakeholders, have taken the following measures, among others, to ensure strict compliance with the Alcoholic Drinks Control Act and the effective implementation of the Alcoholic Policies in the country:

1. Sensitisation and awareness programmes targeting members of the public on dangers of alcoholic consumption and the importance of purchasing certified alcoholic drinks. Such forums include local *barazas*, social meetings, school programmes and sporting activities.
2. Continued surveillance, seizure and destruction of illicit brews by the National Government administration officers
3. Conducting regular rapid response initiatives targeting illicit and counterfeit alcohol.

4. The Multi-Agency enforcement operation to check on compliance to laid-out regulations and crack down to close alcoholic outlets near institutions of learning.
5. Sensitisation programmes targeting entertainers through the Bar Owners Association.
6. Liaison with the county government to ensure that alcoholic drinks are only sold in licensed premises.

The NACADA developed a national guideline for the prevention and management of alcohol and drug abuse in basic learning Institutions. They are meant to guide teachers and parents on incidence management to assist in the identification of those who are using drugs, in possession of drugs, and the management of students. They also target support staff who have been named in several locations for their role in prevention of substance use and maintaining a drug free environment.

All bars within Kirinyaga County were closed and a multi-agency team comprising of the security committees at both county and sub-county levels, county government officials, NACADA, the Kenya Bureau of Standards (KEBS), the Kenya Revenue Authority (KRA) and the Anti-Counterfeit Authority deployed to ensure compliance. The multi-agency team inspected and vetted all liquor outlets and those who have complied with the Act have been allowed to operate.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Njeri.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, can I add something?

Hon. Speaker: Yes. Go ahead.

(Hon. Kiborek and Hon. Pkosing consulted at the Gangways)

Order, Hon. Kiborek and Hon. Pkosing.

Hon. Gabriel Tongoyo (Narok West, UDA): That is the Cabinet Secretary's response to the request for a statement by Kirinyaga Woman Representative. I want to reiterate that they were painful deaths that did not only happen in Kirinyaga, but elsewhere too. In my own county, for example, as late as yesterday, I got a report of about two deaths attributed to the consumption of illicit brews. These issues and many others should trigger a conversation. We appreciate the current efforts that are being made by the Deputy President on matters of illicit brews, drugs and substance abuse. We have sufficient laws to help the country curb the menace but, as I said earlier, when this came up, we realised that we have a few gaps in the law that we should discuss as a House. When this issue came up, we had a few gaps in the law. As a House, we should discuss and see how to cure them.

Hon. Speaker, with regard to importation and export of illicit brews, the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA), which is a critical player, is not admitted in the portal. If they are admitted and become the first approver, they can trace the ethanol volumes in the country. The Fourth Schedule of the Constitution, 2010 moved the function of licensing to the counties so NACADA has no role. If only we can harmonise roles and allow NACADA to be secretary to the District Licensing Committee, it will ensure that some funds are ring-fenced and made available to educate the public on the effect of the same.

There is a bigger problem. We have been in conversation with NACADA. They said majority of this ethanol comes from Tanzania and Uganda because their tariffs are not standardised. There is no excise duty in Tanzania. It is half in Uganda. This makes it easier for the dealers of this ethanol to bring it into the country. This is a conversation we should have to

ensure there are standard tariffs across the East African bloc, so that we can control the influx of ethanol in the country.

As I conclude, control of ethanol and substance abuse should be a concerted effort by all of us and majority of the stakeholders. We had a conversation with both the Kenya Bureau of Standards (KEBS) and officials from NACADA. When ethanol is imported into the country, it comes as a commercial product for production of spirits and sanitisers. However, rogue suppliers divert it for human consumption. Maybe, we should also bring a conversation on whether it can be denatured, so that it becomes bitter and not used for consumption.

(Loud consultations)

That is my response. I am really sorry to the Member of Parliament.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Njeri. Order, Hon. Members. The conversations are too loud.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Speaker. I would like to thank the Chairman of the Departmental Committee for the very detailed response in regard to the deaths that happened in Kirinyaga County. I have a follow up question. I would like to know something.

There were more than 1,200 crates that went missing. I would like to know whether they have been located or what is the status of the same? I have seen the response at part “(ix)” indicates that there was a vetting process that was done in conjunction with the county governments and other national agencies allowing the operation of bars. How many of them have been allowed to operate after the vetting process? I commend the Member for raising the issue of....

Hon. Speaker: Hon. Chairman, I hope you are listening to the questions which are being raised.

Hon. Njeri Maina (Kirinyaga County, UDA): I am commending him for raising the issue of introduction of a chemical that is mixed with ethanol without changing its industrial components and use of the same. I believe the Committee should take it up, so that we can legislate at the national level. It will ensure we protect and contain the importation of ethanol and second-generation alcohol.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Gichugu. Can you give him a microphone?

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Speaker. Let me comment on this matter and appreciate the response by the Chair. Although it is Kirinyaga County that was hit this time, it is a national problem. One of the areas that should be followed to the letter is the regulation of ethanol or methanol, so that it can be traced from the source. Whoever is found in the country holding illegal products, then very stern action should be taken against them.

As legislators from Kirinyaga County, we are condoling with the affected families. We are ready to support His Excellency the Deputy President in wiping out all the illicit brews from our county and make it a working one, going forward. As a legislator, I support every other effort made towards eradicating illicit brew not only in Kirinyaga but in the entire country.

Hon. Speaker: Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Speaker.

Hon. Speaker: Hon. Wandayi, hold on. Let me give the opportunity to Hon. Oundo first. I know your issue is different.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Speaker. Let me join my colleagues from Kirinyaga County to condole with the families who lost their loved ones.

I direct my comments to the Chair of the Committee. There is no protocol, regulations, or rules on how to handle exhibits. Members of the public died because they consumed expired exhibits. Illicit or illegally imported alcohol ends up with police officers as exhibit and they sell it. The illicit alcohol finds its way into the market causing untold harm to Kenyans. I encourage the Committee to seriously have a thorough discussion with police officers and relevant security organs to draw up protocols on how to handle exhibits. How long should we keep them? Who has access to the key or the store where they are kept? When we do this, we will stem consumption of harmful products.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, my issue is clearly straightforward. I seek some guidance from you, especially taking into consideration the very clear provisions of our Constitution.

This House has a central role in the budget-making process which is not ceremonial. The framers of the Constitution and, indeed, Kenyans, generally, did not envisage a situation where the National Assembly of the Republic of Kenya would turn out to be a mere rubber stamp in the budget-making process. I want to take you to Article 95(4)(a) and (b) of the Constitution which says:

“The National Assembly —

- (a) determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve;
- (b) appropriates funds for expenditure by the national government and other national State organs.”

Hon. Speaker, as we speak, the Budget Policy Statement (BPS), which was tabled in this House last week, is undergoing an examination process. However, what is coming out is becoming a trend which has to be nipped in the bud if the authority of this House is to be restored. The Committees of Parliament, especially Departmental Committees, are being turned into mere bystanders, if not conveyor belts of the wishes of the Executive. As a matter of fact, what the Constitution requires... I have spoken to several chairpersons and they are very desperate. I will not name them but they are extremely helpless.

What the Constitution envisages is that the national Government will simply bring proposals. Even if there is some global ceiling from the National Treasury, it has to be in consultation with Parliament. The proposals are supposed to be subjected to Departmental Committees, which advise the Budget and Appropriations Committee.

It was never envisaged that the Executive would come with a fixed mind and dictate to Departmental Committees and the Budget and Appropriations Committee on the very crucial matter of budget-making process. I want to plead with my sister, Hon. Naomi Waqo, to be patient and to avoid interfering with my thought process.

Hon. Speaker, I am raising this early in the day so that you can provide clear guidance in line with the Constitution and relevant statutes, especially the Public Finance Management (PFM) Act. As we speak, some ministries have already declared the manner in which monies will be allocated to them. So, they can perform specific functions, roles, or purposes which Parliament will only be a rubber stamp.

Hon. Speaker, without belabouring the point, please, give guidance on this matter so that everybody else gets to understand that this House does not have a mere ceremonial role or duty in the budget-making process; rather it is a House with the primary powers of making the Budget. I submit.

Hon. Speaker: Majority side, I want a Government respondent to that. Hon. Naomi Waqo, are you turning this House into a rubber stamp?

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Speaker. It is unfortunate that the Leader of the Minority Party is saying this great House, him being part of it, has been turned into a rubber stamp. This is because we passed the Finance Bill last year and he was among those who passed it. Today, he is accusing Members of Parliament for becoming rubber stamps, which is not our role. We are here to legislate and represent our people in the best way possible. He has said our Government is dictating but the role of Government is to guide the nation and bring development through the Executive and not to dictate. I just hope the Leader of the Minority Party has not passed a wrong message to the people.

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Milemba. Order! Hon. TJ Kajwang'. You cannot conduct yourself like that.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. The matter raised by Leader of the Minority Party is very serious. As a follower of all the issues that concern budget-making and legislation, I am quick to say that should not happen. I am aware that a number of Committees have been meeting including the one I belong to, that is, the Public Debt and Privatisation Committee. We have been scrutinising lots of matters concerning the Budget.

I want to believe that other Committees, more so the Budget and Appropriations Committee are thoroughly doing the same without getting direction from any particular field; whether a Cabinet Secretary or a Member of the Executive. This is because, as he has quoted correctly, the mandate of this House is to make the Budget and appropriate money to various areas and ministries. Therefore, it calls upon those in leadership like chairpersons... He almost sounded like a whistle-blower. I do not know if he has more information, for instance, about the Committees being intimidated by other authorities to pass the Budget. If he does, he should tell us so that the leadership of Parliament can protect and speak to those chairpersons.

I was unable to take his matter with great seriousness because he was not clear in indicating that is what is happening here. I stand with what he said that this House appropriates money. As I finish, he needs to give more information on whether we have such cases happening in committees of this House so that we can intervene.

Hon. Speaker: Hon. Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Speaker. I apologise because I do not have my card. I have listened to the concern raised by the Leader of the Minority Party and to a great extent, it is not correct.

One, we know very well that the Budget Policy Statement (BPS) emanates from the Executive stating how much money is available so that Parliament can appropriate it. Two, ceilings have to be given because the policy surrounding appropriation of money is from the Executive. That is why ceilings are recommended. Once this comes, the purpose of the House and Committees is to look at what is proposed. This is why we do stakeholder engagement with Ministries, Departments and Agencies (MDAs) who inform us of recommended ceilings and request the Committees to make appropriate recommendations to the House.

For the Justice and Legal Affairs Committee, we have about 12 MDAs which come to us. We have the Budget Policy Statement and ceilings but we listen to them. Today, we are signing a report recommending to the Budget and Appropriations Committee that the ceilings given are not sufficient for those MDAs. We have made alterations and we are not being coerced or forced by anyone to write that report in any particular form. Therefore, what Hon. Wandayi has said is not correct, unless there are other Committees where there has been such intimidation.

Thank you, Hon. Speaker. I totally disagree with the statement.

Hon. Speaker: Order, Hon. Members! There is no debate on this matter. Member for Ugunja, the distinguished Leader of the Minority Party has raised some very serious allegations without an iota of evidence. I expected the distinguished Member to name a chairperson of a committee protesting of being intimidated on a certain day by a Member of the Executive who came to railroad the committee to do this-and-that.

There is no evidence whatsoever. So, what the Hon. Member has said is just in keeping with his role as an Opposition Leader. He has every right to raise any manner of issues that he wants to keep the House busy. This is not a matter worth debating. I can assure you, Hon. Wandayi, that as long as I am your Speaker, this House cannot and will not be turned into a rubber stamp. I want to encourage you that in the event you see any such traits, attempts, or even intentions to turn the House into a rubber stamp, the Office of the Speaker is open to you. If any of the chairpersons of the committees is intimidated, again, the Speaker is here to protect you. The law and the Constitution also protect you in the discharge of your duties and responsibilities. So, let the matter rest there. Hon. Wandayi has brought absolutely no matter to continue to discuss.

Before we call the next Order, Hon. Members, allow me to recognise a delegation of staff from the United Republic of Tanzania seated in the Speaker's Gallery. The delegation comprises two members of staff drawn from the Legal Services Division of the National Assembly of Tanzania. They are welcome to observe the proceedings of the National Assembly of Kenya. On my behalf and yours, we welcome them to the House of Parliament.

Next Order.

MOTIONS

RATIFICATION OF THE AGREEMENT ON THE ESTABLISHMENT OF THE INTERNATIONAL VACCINES INSTITUTE

THAT, this House adopts the Report of the Departmental Committee on Health on its consideration of the Agreement on the Establishment of the International Vaccine Institute (IVI), laid on the Table of the House on Tuesday, 5th December 2023, and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of the Agreement on the Establishment of the International Vaccine Institute (IVI).

(Moved by Hon (Dr) Robert Pukose on 22.2.2024)

(Debate concluded on 22.2.2024)

(Question put and agreed to)

ADOPTION OF REPORT ON THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT MINISTRIES, DEPARTMENTS AND AGENCIES FOR FY 2020/2021

THAT, this House adopts the Report of the Public Accounts Committee on its examination of the Report of the Auditor-General on the Financial Statements for the National Government Ministries, Departments and Agencies for the Financial Year 2020/2021, laid on the Table of the House on Thursday, 30th November 2023.

(Moved by Hon. John Mbadi on 22.2.2024)

(Resumption of debate adjourned on 22.2.2024)

Hon. Speaker: Who was on the Floor?

(The Speaker consulted the Clerk)

Okay. There was nobody on the Floor, and I am told there is an amendment which I approved to be moved by Hon. Mwengi Mutuse. Thereafter, the amendment will have to be debated and voted on. If it is procedural and agreed by the Committee we can, after moving and seconding, propose and put the Question so that we go to the main Report.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Thank you, Hon. Speaker, we are moving an amendment to our Report that was tabled before this House on Thursday, 30th November 2023. Before I move the amendment, I would like to apprise Members of this House that the Report that we tabled indicated a figure which after scrutiny we realised was erroneous in terms of the total shareable revenue. As you know, Hon. Speaker, Public Accounts Committee reports serve not only for accountability purposes but also, under Article 203(3) of the Constitution, as the basis for which the national and county governments share revenue at the start of the financial year for budgeting purposes. For clarity...

Hon. Speaker: Hon. Mutuse, you are debating.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): No, I just wanted to apprise Members so that I read.

Hon. Speaker: You do not have to. Move your amendment.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Thank you. With your guidance, I now read.

Hon. Speaker, on behalf of the Chairman, Hon. Mbadi, I beg to move:

THAT, this House adopts the Report of the Public Accounts Committee on its Examination of the Report of Auditor General on the Financial Statements for the National Government Ministries, Departments and Agencies for the Financial Year 2020/2021, laid on the Table of the House on 30th November 2023, subject to deletion of Paragraph 30 under General Observations and Recommendations on Page XX of the Report and substitution therefor with the following:

“Statement on Audited Accounts of Revenue for the period ending 30th June 2021

During the 2020/2021 Financial Year, total revenue recorded under various revenue statements as received by the National Government amounted to Ksh1,713,642,981,513 representing a decrease of Ksh17,349,712,351 or about 1 per cent when compared to actual collections of Ksh1,730,992,693,864 realized in the year 2019/2020 as tabulated below, and whose source is the Kenya National Audit Office:

DETAILS	2020/21 Receipts	Actual	2019/20 Receipts	Actual	Increase/Decrease (Ksh)	Increase/Decrease (%)
Recurrent Revenue	1,626,801,249,470		1,673,714,909,446		-46,913,659,976.00	-2.8%
o/w Sharable Revenue	1,570,562,945,014		1,578,035,418,992		- 7,472,473,978.00	-0.5%
GIPE	56,238,304,456		95,679,490,454		- 39,441,185,998.00	-41.2%
Development Revenue	86,841,732,043		57,277,784,418		29,563,947,625.00	51.6%
Total	1,713,642,981,513		1,730,992,693,864		- 17,349,712,351.00	-1.0%

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

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

The total revenue of Ksh1,713,642,981,513 for the year 2020/2021 comprised Ksh1,570,562,945,014 as sharable revenue, Ksh56,238,304,456 as receipts from Government Investments and Public Enterprises, and Ksh86,841,732,043 relating to development revenue. However, the total sharable revenue of Ksh1,570,562,945,014 reported in the 2020/21 Financial Year differs by Ksh7,472,473,978 with the revenue receipts of Ksh1,578,035,418,992 in the 2019/20 Financial Year.

Therefore, the Committee recommends that the total nationally collected revenue amount of Ksh1,570,562,945,014 forms the basis of sharing of revenue between the national and county governments as contemplated in Article 203(3) of the Constitution”.

Hon. Deputy Speaker, I move and request Hon. Oundo to second.

Hon. Deputy Speaker: Hon. Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Deputy Speaker. I rise to second the Motion as presented on the Floor of the House by my colleague, Hon. Mutuse. I want to draw the attention of the people of Kenya to Article 203(3), which indicates clearly that the shareable revenue will be based on the recently approved national accounts by the National Assembly. So, it is critically important that once this Motion is passed and the Report is adopted, the next line of sharing will be based on these audited accounts.

With those few remarks, I second.

(Question of the amendment proposed)

Hon. Deputy Speaker: Yes, Hon. Mbadi.

Hon. John Mbadi (Nominated, ODM): Thank you, Hon. Deputy Speaker. I thought I would take a minute just to make it simpler. My colleague Hon. Mutuse, a renowned lawyer in this country, has done justice to this amendment and so has Hon. (Dr) Oundo who is my diligent Member of the Committee.

Allow me explain to Members in a few words what this amendment seeks to do. Hon. Deputy Speaker, we are required by the Constitution to divide revenue between national and county governments every year. That should be based on ordinary revenue collected, audited and approved. The last audited and approved accounts are the ones that are used. That is why we are passing this Motion to make that revenue available. What was wrong in the report which we are trying to correct? This is something that we engaged our minds about. We realised that we have been making this mistake all these years. The mistake is that under non-tax revenues, we have been double-accounting for the same amount. We have been including the same amount twice in our reports. We were almost repeating the same mistake.

Sometimes, State corporations take loans from the Government. They pay back with interest. When that money is received, it is usually paid to an entity which is called Government Investment and Public Enterprises (GIPE). Once that money is received by GIPE, it is recorded as revenue. When that money is transferred in full to the Exchequer, it is again recorded as income. Thus, the same amount is recorded as income when it is received by GIPE and when it is transferred to the Exchequer, it is again recorded. What we are doing with this amendment is very simple: we are removing this double entry so that we do not inflate Government ordinary revenue which is to the tune of Ksh56 billion. It is so that we have the correct amount of money which is received by Government to be used as the amount for sharing our revenue between the national and the county government, vertically. That is the essence of this amendment. I hope I have been a bit clearer to the Members.

Thank you, I support.

Hon. Deputy Speaker: Hon. Members, before we continue with the contributions, allow me to recognise students seated in the Public Gallery. They are from Bishop Alexander Muge Girls High School, from Kwanza Constituency in Trans Nzoia County.

The Hon. Member for Kwanza, Hon. Ferdinand Wanyonyi, I will allow you to contribute to this debate as you welcome the school from your constituency.

Hon. Ferdinand Wanyonyi (Kwanza, FORD - K): Hon. Deputy Speaker, thank you very much. I take this opportunity to welcome the school which is in my constituency. Those who are in here, please, welcome to the Sitting. This is where we make the rules. I hope and pray that one of you will aspire to be a Member of Parliament in future. On behalf of the Hon. Speaker and Members of Parliament, I welcome you to this Sitting.

Thank you very much.

Hon. Deputy Speaker: Let us have the Member for Navakholo, Hon. Emanuel Wangwe. Your card is still there.

(Hon. Emanuel Wangwe spoke off the record)

Okay. Let us have the Hon. Member for Saboti, Hon. Caleb Luyai.

(Hon. Caleb Amisi Spoke off the record)

He seconded? Okay. If you have spoken you can pull out your card. Hon. Adan Haji, Member for Mandera East. He has pulled out his card.

It seems that on this particular proposed amendment... Maybe I should just put the Question.

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

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

(Resumption of debate on Motion as amended)

Hon. Deputy Speaker: Hon. Members, we can resume debate of the Motion as amended.

(Question of the Motion as amended proposed)

Hon. Victor Koech of Chepalungu Constituency.

Hon. Victor Koech (Chepalungu, CCM): Thank you, Hon. Deputy Speaker. Having looked around and seeing the mood of this House, I stand under Standing Order 95, to request that the Mover be called upon to reply.

Hon. Deputy Speaker: Thank you. Where is the Mover to reply? Who is the Mover?

Hon. John Mbadi (Nominated, ODM): Thank you, Hon. Deputy Speaker. In replying, I do not want to say much. When I was moving the Motion, I took a lot of time. I actually took close to one hour moving it.

I want to thank Members of this House who have contributed to this Motion, including those who did not have the opportunity to contribute. Your contributions are highly appreciated. I sat here through Thursday evening. A number of Members expressed their

displeasure with the budgetary process in this country and the way we misuse Budget. It is important that this House takes note of that. We are the budget-making institution. We should not be complaining. I say so because we are complaining to ourselves.

Something else that I wanted to talk about regards one of the Members. He talked about signing of contracts. Signing of the commercial contracts involves the State departments. Financial contracts are exclusively done by the National Treasury. You will agree with me that we have had challenges in the way contracts are executed in this country. We even go ahead to put some provisions which make this country lose a lot of money in the contracts. That if there is delay in payments, they will be paid 3 per cent above Central Bank rates. That is completely unrealistic. Sometimes we even sign contracts for projects and commit Government and yet we have not acquired land.

This Committee has already recommended that the Office of the Attorney General, which is the legal Government advisor should be involved in signing of contracts. There is no reason why financial contracts are only signed with the involvement of the National Treasury and yet we have a full legal department headed by Attorney-General, State Counsel and all other legal staff that we have.

Finally, we have already asked that we strengthen the Office of the Auditor-General. That is something that I want to repeat because Members spoke to it. If we want prudent financial management and usage of taxpayers' money in this country in a way that is going to ensure value for money, efficiency and effectiveness, then we must, at minimum, enhance not just the budgets, but also the Office of the Auditor-General by automating it. That way, we get real time audit reports.

Finally, one of us spoke to the idea that he expected more scandals to be unearthed. We need to appreciate that the Public Accounts Committee (PAC) does not operate in a vacuum. We examine accounts as presented to us by the Auditor-General. If the Auditor-General has not brought to us those so-called earth-shaking scandals, we cannot manufacture them. However, if you keenly read this Report, you will see that there are many financial irregularities, many of which we have recommended for investigation by the Ethics and Anti-Corruption Commission (EACC).

The most important thing from our perspective as the Committee is not to chase and look for thieves. We look at and review the systems in place so that we deter theft going forward. That is the main responsibility of an oversight committee. Our work is not to look for people who have stolen money or to be vindictive. That is not our role. However, if we find that people have stolen money, we are objective and we ensure to recommend their prosecution. We have done so in our Report.

With those many remarks, I beg to reply.

Hon. Deputy Speaker: What is it, Hon. Milemba?

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. I rise under Standing Order 53(3) to request that the putting of the Question on this matter be deferred to a later date.

Hon. Deputy Speaker: Alright! That is acceptable. Thank you, Hon. Omboko.

(Putting of the Question deferred)

Let us move to the next Order.

ADOPTION OF REPORT ON NON-COMPLIANT
STATE CORPORATIONS

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 23 Non-Compliant State Corporations, laid on the Table of the House on Wednesday, 23rd August 2023.

(Moved by Hon. Emmanuel Wangwe on 22.2.2024)

(Resumption of debate interrupted on 22.2.2024)

Hon. Deputy Speaker: I have been told that from the records, Hon. Emanuel Wangwe was moving the Motion and he had a balance of 40 minutes.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Deputy Speaker. Indeed, it is true, and it was mentioned and pronounced by the then Speaker that I had a balance of 40 minutes, which I want to consume.

To bring my colleagues who were not there up to speed, this Report of the Public Investments Committee talks about 23 State corporations, which are duly incorporated, but for one reason or another, they have failed to comply with the provisions of governance and statutes in our country.

Allow me to proceed, especially having gone through the generalities of the observations that we made as a Committee. I would like to remind my colleagues of a few issues that we were looking at when it came to those 23 State corporations. We noted various issues. One of them was lack of autonomy in budgeting, appropriation and budgetary allocations. I had already highlighted those issues but in the interest of bringing my colleagues up to speed, I will emphasise them again.

The other issue that contributed to non-compliance by those 23 State corporations was lack of accountability in terms of public funds, and failure to prepare and submit financial statements to the Auditor-General. Those 23 State corporations enjoy public resources, but they do not submit their books of accounts; neither do they prepare financial statements for audit nor audit their statements.

We also observed that they failed to prepare and submit statements for unspent money repaid to the national Exchequer account. Despite having received resources, those organisations failed to submit statements for unspent amounts. That means that they would just spend whatever amount and let the rest go.

The other issue that we noted as a Committee was that the parent ministries failed to operationalise the State corporations. Some of the 23 State corporations are not failing due to their own shortcomings, but because parent ministries failed to recognise them and give them the life that they required.

We also observed that those State corporations lacked substantive accounting officers. This is a substantive issue. Every State corporation must have a substantive accounting officer.

The State corporations also failed to keep financial and accounting records that comply with the Public Finance Management Act. We realised that despite the fact that some of those corporations kept books of accounts, they did not meet the threshold of the Public Finance Management Act, 2012.

Finally, we also observed weak governance whereby some State corporations are operating without a substantive board of directors and accounting officers, who are the chief executive officers (CEOs). It was also observed that in a majority of the State corporations, the CEOs or managing directors, who could also be called registrars, were serving in an acting capacity, or staff or officers were being seconded from various ministries.

I would now like to go to the recommendations by the Committee on the way forward. The Committee had various general and specific recommendations. I want to read through the general recommendations before I take the House through the specific recommendations.

1. Within three months after tabling and adoption of this Report, the Cabinet Secretary and accounting officers of line ministries for State corporations established by an Act of Parliament or legal notice, which continue to operate as directorates within the said parent ministries or State departments, should take the necessary steps to accord them the semi-autonomy depicted in the establishing statutes.
2. Within three months after tabling and adoption of this Report, the Attorney-General and Cabinet Secretaries of line ministries for State corporations established by an Executive Order, which continue to operate as directorates within the said parent ministries or State departments, should initiate the necessary legal steps to develop a legal framework to accord them the semi-autonomy depicted in the Executive Order.
3. State corporations that rely on the national Exchequer for financial support should be funded through grants rather than budgetary line items. Further, upon tabling and adoption of this Report, State corporations that are not operationalised should be operationalised and granted their autonomy status. In addition, the Cabinet Secretary in charge, in consultation with the Attorney-General, should initiate the process of repealing the respective Acts of Parliament or relevant statutes establishing them, where it is felt that the statutes have been overtaken by events and are no longer applicable like in the case of the Animal Technicians Council.
4. Upon tabling and adoption of this Report, State corporations that are managed by their sister corporations should be granted semi-autonomous status.
5. Within three months after tabling and adoption of this Report, the Cabinet Secretary in charge, in consultation with the Attorney-General, should initiate the amendment process for State corporations established to offer services that conflict or are similar to those of sister corporations that are established by the same Act, or to merge them.

I now want to take the House through the specific glaring observations for a few State corporations. I will begin with the Mathari National Teaching and Referral Hospital.

The Committee observed that despite being established as a body corporate with an envisaged financial and administrative autonomy by Legal Notice No.165 of 2020 and the State Corporations Act, the hospital still operates as a Department in the Ministry of Health.

The second observation that came out very glaringly was that the CEO, despite being appointed, does not account for the Appropriations-in-Aid. That is in contravention of Section 68 of the Public Finance Management Act of 2012 and Section 16 of Legal Notice No.165 of 2020.

In addition to those two observations, we had a last one. We observed that the Principal Secretary who appeared before the Committee confirmed ceding the hospital to operate as a Semi-Autonomous Government Agency (SAGA) and allocating grants to the hospital in the current financial year. On appearing before us, the Principal Secretary confirmed going to implement the State corporation as established.

Therefore, we have recommended—

For Mathari National Teaching and Referral Hospital:

1. That Parliament reprimands the Cabinet Secretary of the Ministry of Health for failing to grant autonomy in the hospital's operations and financial independence.

This lies in the observation that the hospital was receiving resources and not held to account.

2. That Parliament reprimands the Cabinet Secretary for the National Treasury for failure to appoint an accounting officer for the hospital in line with Article 226(1)(b) of the Constitution and Section 67(3) of the Public Finance Management Act.

The second corporation is the Clinical Officers Council. The Committee observed two issues.

1. The Clinical Officers Council was established as a body corporate by the Clinical Officers (Training, Registration and Licensing) Act of 2017, with an envisaged financial and administrative autonomy.
2. Since 2017, the accounting officer of the council failed to prepare financial statements and accounts of the monies received from the public and, thereafter, submitting them to the Auditor-General for audit, in contravention of Section 68 (2)(k) of the Public Finance Management Act of 2012.

If I may highlight the issue of failing to account for all the resources, the entire amount covering the 23 State corporations amounts to Ksh3.972 billion. The Committee recommends that:

1. The Accounting Officer shall prepare outstanding financial statements of the council since inception and submit them to the Auditor-General for audit.
2. The Auditor-General shall audit and report to Parliament in accordance with Article 229 of the Constitution and the Public Audit Act of 2015.
3. The Registrar of the Clinical Officers Council must at all times comply with legal provisions relating to accounts and audit in accordance with Section 68 of the Public Finance Management Act of 2012 and Section 29 of the Clinical Officers (Training, Registration and Licensing) Act of 2017.
4. Within three months upon the tabling and adoption of this Report, the Ethics and Anti-Corruption Commission should investigate the matter of the Clinical Officers Council outsourcing private auditors, which is contrary to Section 23 of the Public Audit Act of 2015. This is with a view to ascertain any loss of public funds, including audit fees paid to the private auditors. Subsequently, the Office of the Director of Public Prosecutions is to prefer appropriate charges.

The corporation chose to invite private auditors to carry out the audit function, against the State Corporations Act and against the various establishing laws of the land.

On the Counsellors and Psychologists Board, the Committee observed as follows:

1. The Counsellors and Psychologists Act of 2014 established the Counsellors and Psychologists Board as a body corporate, with an envisaged financial and administrative autonomy. The Counsellors and Psychologists Board was appointed on 5th August 2022, despite the Counsellors and Psychologist Act of 2014 coming into force on 18th August 2014.

That is quite a period from the time the organisation was incorporated.

2. The Counsellors and Psychologists Board was in breach of Section 43 of the Counsellors and Psychologists Act of 2014, which requires the board to keep proper books and records of accounts of the income, expenditure and assets of the board, and submit its accounts to the Auditor-General for audit.

For the organisation to have failed to do those two cardinal roles which they have been given the powers, the Committee recommends as follows:

1. The Registrar of the Counsellors and Psychologists Board must at all times comply with legal provisions relating to accounts and audit in accordance with Section 68 of the Public Finance Management Act of 2012, and Section 43.

2. Within three months upon tabling and adoption of this Report and after the financial statements are submitted for audit, the Auditor-General should audit and report to Parliament on the Appropriations-in-Aid and any other monies received or collected by the entity in form of grants.

That organisation receives grants, Appropriations-in-Aid and has extension of resources from the exchequer on direct note. However, they do not keep their books of accounts; neither do they keep records.

Finally, we looked at the Public Health Officers and Technicians Council. The following observations were made:

1. The Public Health Officers and Technicians Council was established as a body corporate by the Public Health Officers (Training, Registration and Licensing) Act of 2013.
2. The Ministry failed to comply with appointing a substantive board of the Public Health Officers and Technicians Council when the Act came into force on 18th September 2013.
3. Since 2017, the Accounting Officer of the Council failed to prepare financial statements and accounts of the monies received as Appropriations-in-Aid and thereafter submitting to the Auditor-General for audit. This is in contravention of Section 68 (2)(k) of the Public Finance Management Act of 2012.

Our recommendations are as follows:

1. Parliament reprimands the Cabinet Secretary in charge of health for failing to monitor the financial performance of the Public Health Officers and Technicians Council in line with Section 88 of the Public Finance Management Act of 2012.
2. The Accounting Officer shall prepare the outstanding financial statements of the council since inception and submit them to the Auditor-General for audit.
3. The Auditor-General shall audit and report to Parliament in accordance with Article 229 of the Constitution and the Public Finance Management Act 2015.
4. Within three months upon tabling and adoption of this Report, the Ethics and Anti-Corruption Commission should investigate the matter of the Public Health Officers and Technicians Council outsourcing private auditors contrary to Section 23 of the Public Finance Management Act of 2015. This is to ascertain any loss of public funds, including audit fees paid to the private auditors. Subsequently, the Office of the Director of Public Prosecution should prefer appropriate charges.

Out of 23 organisations, you will realise that we only recommended the investigation of three. Those three chose and appointed auditors to review accounts, and went outside the laws provided for the organisations. The three organisations are Mathari Teaching and Referral Hospital, the Clinical Officers Council and the Health Officers and Technicians Council. This is on the basis that they received resources, and chose to invite private auditors to carry out the audit although they were getting resources both from Appropriations-in-Aid, grants and the exchequer and, expressly or upon invitation, failed to comply with the Office of the Auditor-General.

Hon. Deputy Speaker, I beg to move and ask the Vice Chairman of the Committee, Hon. Caleb Amisi, to second.

Hon. Deputy Speaker: Hon. Caleb Amisi.

Hon. Caleb Amisi (Saboti, ODM): Thank you, Hon. Deputy Speaker. I also thank our Chairman of the Public Investments Committee on Social Services, Administration and Agriculture

Hon. Deputy Speaker, I second the Report of the Auditor-General on 23 non-compliant State corporations. I would like to appreciate the work of this House in digging into areas in

the management of our public institutions and trying to pass bills that eventually become Acts of Parliament, which later establishes a number of those semi-autonomous Government agencies. They are called semi-autonomous because they enjoy some autonomy in areas of finance administration. In trying to assess the working of those agencies in this Committee, we found out a lot of deficiencies in terms of financial management, administration and, in some cases, non-existence of agencies that were established by an Act of Parliament. Some were established by legal notice, executive orders and other means.

Hon. Deputy Speaker, there are some glaring deficiencies like the lack of autonomy in budgeting, appropriation and budget control. Some of those very crucial roles are still being managed by the parent ministries and yet, they are agencies that have fully fledged staffing with a CEO in some cases and registrars and managing director or director-general in others.

There is also the lack of accountability of public funds and failure to prepare and submit financial statements to the Auditor-General for audit. There is a blatant refusal, either by ignorance or choice. The public officers holding those offices have not surrendered their financial statements before the auditing office to be examined according to the law of the land and according to the Public Finance Management (PFM) Act 2012. Therefore, we could not find audited financial records from those agencies for many years that they have been in operation which, of course, is against the PFM Act 2012.

Hon. Deputy Speaker, there is also failure to prepare and submit statements for unspent money repaid into the national exchequer account. This is a provision of Section 45 (1) and (2) of the PFM Act 2012, that provides that:

- (1) An appropriation that has not been spent at the end of the financial year for which it was appropriated shall lapse immediately at the end of that financial year.
- (2) Subject to any other legislation where, at the end of a financial year, a national Government entity is holding appropriated money that was withdrawn from the National Exchequer Account but has not been spent, it shall repay the unspent money into the National Exchequer Account and shall prepare and submit a statement of the same to the Controller of Budget, responsibilities of the Cabinet Secretary and functions of the national Government with respect to grants and loans

This has not been the case in most of those Semi-Autonomous Government Agencies (SAGAs). There is also failure by the parent ministries to operationalise the State corporations. This is either by default or choice. When you meet officers or CEOs of a SAGA and then you meet the Principal Secretary or the Cabinet Secretary of a Ministry, the CEO of a SAGA appears both as a CEO and as an officer of the ministry. When you have a meeting with the CEO and you later call the Principal Secretary to come and answer questions in regard to that SAGA, he is still accompanied by the same CEO. Meaning, that the CEO is still an officer of that ministry. Those SAGAs have become a conduit for plunder of public resources. They are acquired. As much as some of them are legal, they are moribund. They exist on paper but in the ministry circles, it appears that they are used to plunder public resources.

In the same regard, Hon. Deputy Speaker, some of them are used as an exit point or an exit route for public officers who are about to retire, or for non-performers to find them a haven to hide. There is no proper transition of officers of those SAGAs from being seconded from the parent ministries and the proper operationalisation of some of them.

There are also State Corporations that lacks substantive accounting officers. Some of those State officers are basically managed by one person: The CEO, who is also a record keeper, a watchman, a sweeper and a cook, among other roles. You will not find an accountant or other officers with distinct roles as required by such State departments. One person performs

almost all the roles. This means that those agencies were established to help ministries either hide their deficiency, inefficiency or use the ministry's properties to manage their own affairs.

There are State Departments that have failed to keep financial and accounting records that comply with the PFM Act 2012. Even those that exist in terms of staffing, operationalisation and an office, do not do proper book keeping. They do not even know what books of account and financial records are and yet, they receive money from the exchequer and consume public funds through Appropriations-in-Aid and all the other funds that belong to the public. They have clear weak governance structures and they are not properly structured financially and administratively. Therefore, they lack basic structures that are supposed to ensure proper management of public resources and giving the public value for money.

Hon. Deputy Speaker, I could go on and on but, just like my Chairman has mentioned, a number of them like Mathari, a very old historical institution, is still under the management of the parent ministry - Ministry of Health. It does not procure for itself and, therefore, it has to seek the authority of the Principal Secretary of the Ministry. That, of course, has a bearing to the day-to-day operation of that very important institution.

I urge the House to support this very important Report by the Public Investments Committee on Social Services, Administration and Agriculture that sat and deliberated on it. We met each of those agencies and parent ministries. The recommendations, if followed, are going to make some of those SAGAs operate properly. In some cases, we suggest that some of them must be rendered useless and a way of closing them be found to safeguard public resources that are continuously being embezzled on a daily basis.

Hon. Deputy Speaker, I beg to second.

(Question proposed)

Hon. Deputy Speaker: Members may contribute. Member for Nandi Hills, Hon. Bernard Kitur.

Hon. Bernard Kitur (Nandi Hills, UDA): Thank you very much, Hon. Deputy Speaker, for giving me the opportunity to contribute to this Report that has been tabled in the House. I thank the Chairman and the Committee for the well-done Report. I participated in the Committee that did this Report and, indeed, it was a great commitment, having examined the 23 Government agencies regarding their operations and books of accounts. As the Chairman and the Vice-Chairman have rightly mentioned, we observed several issues and made recommendations that will help in the future on how public funds are utilised by those institutions.

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

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

Generally, one of the things that we noted was the lack of autonomy in budgeting, appropriation and budget control. We noticed that a couple of State agencies did not have line budgets. They either depended on the parent Ministry or one agency was overseeing another, which then becomes a conduit, sometimes, of corruption. About 16 of the 23 agencies were not able to account for the Ksh3.9 billion that was appropriated to them. Worse off, some did not have any audited books of their accounts. Some of the recommendations that we have made are so punitive that they should compel every Government agency that has been appropriated public funds to account for the same.

We also noted that there were several agencies that did not have boards or where the Chief Executive Officers (CEOs) had been in acting capacity for a very long time. That did not

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give the CEOs complete autonomy to run those agencies independently. Therefore, part of the recommendations that we have made is that the agencies that do not have Boards must have them within three months. Those which have had their CEOs acting for a very long time with no apparent reason need to have the CEOs confirmed. We also noted that there are accounting officers who have been seconded from the mother Ministries to those organisations. The organisations do not have substantive officers that can be tasked to account. It is our wish that this House adopt this Report because we took a lot of time and went in-depth to look at every way in which we can assist those SAGAs to operate.

Lastly, it will be noteworthy to mention some of the agencies that exist through an Act of Parliament, but are non-existent. Some were established through Presidential Executive Orders, but they are non-existent, or they only exist on paper but not physically. Sometimes, some of them have even been appropriated funds. As we have said in our Report, such agencies must be closed down so that public funds are not wasted. I request this House to support and adopt this Report to make those agencies accountable and those that are non-existent be scrapped out so that we have a better country for ourselves.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. The next to speak on this is Hon. Nicholas Ng'ikor.

Hon. Nicholas Ng'ikor (Turkana East, JP): Thank you, Hon. Temporary Speaker, for giving me this chance. I rise to support the Report as tabled. I thank the Committee for the long hours they took while going through the reports on the 23 non-compliant State agencies. I also thank the Office of the Auditor-General for bringing out the concerns on the 23 State agencies to our Committee. What we saw when we invited those agencies one by one is not something that can be left to continue in this country. The reports we received from them were not guided by any law. About 16 of the agencies spent about Ksh4 billion in different years and yet, none of them reported on the accounts or forwarded any financial statements to the Office of the Auditor-General for audit. None of them! There are so many State agencies that are receiving taxpayers' money through their parent Ministries but, instead, of using it as guided by the law, they use it and do not want to account for it. Some of them are like briefcase Non-Governmental Organisations (NGOs), self-help groups or women groups, which operate without being liable for audit at any given time. It was embarrassing for the agencies to express some of their issues to do with the money they received from their parent Ministries.

Article 226 of the Constitution gives clear information that any State agency which receives taxpayers' money is supposed to forward their books for audit to the Office of the Auditor-General. None of those 23 had done it for the years they had been operating. It is good that when such agencies are formed, their roles and mandates must be clear to guide them on the use of public resources they receive, for those resources to go to the right people and do the right work for the people of this country. When we were going through those reports, we found that the Ministries are also reluctant to follow up on the money which we approve in this House every financial year for every Ministry. They give money to those agencies but do not follow it up. It is our recommendation that this House has to have laws on how we can follow-up on that money. It is like we just budget this money for those Ministries and agencies to use it the way they want.

As we were investigating those agencies, we found out that staff from the parent ministries are the ones running them. I do not know the law that gives them that mandate. This is because you cannot be an employee somewhere and, at the same time, be working for another institution unless you have been seconded to that institution. We interrogated them by asking for proof of being Chief Executive Officers (CEOs), but there were no documents that were tabled to support the same. They were just running the agencies for the sake of it because the money comes from the same Ministry.

We saw many things. We are kindly requesting this House to support and approve this Report so that we can allow the concerned bodies to go ahead and see what can be done to those organisations. I call upon all the Members present to support and pass this Report because of the money that has been wasted over the years by those organisations.

With those remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Phylis Bartoo. Hon. Tindi Mwale.

Hon. Phylis Bartoo (Moiben, UDA): Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): I am sorry! I had not seen that the professor is in the House.

Hon. Phylis Bartoo (Moiben, UDA): Hon. Temporary Speaker, I had not prepared to speak on the Motion. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Proceed, Member for Butere.

Hon. Nicholas Mwale (Butere, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Report of the Auditor-General on the 23 non-compliant state corporations as presented by the Public Investments Committee on Social Services, Administration and Agriculture. Being a member of another watchdog Committee – I am the Vice-Chairperson of the Public Accounts Committee – and having read the Report and listened to the Members of the Committee, I want to reiterate that for us to end corruption and increase efficiency in delivery of Government services, it is imperative that the officers managing the 23 parastatals are held to account for them to clearly explain why they are not compliant with the law.

I would like to give my reasons for supporting the Report. Firstly, in my view, the moment a corporation lacks books of account, it should not even exist. This is because it cannot file tax returns or gauge its performance. That is why those corporations, which lack books of account, should not be allowed to operate in this Republic. Secondly, I do not understand how those agencies lack permanent staff. There is no way acting staff can have the authority, as per the Companies Act, to manage the corporations and carry out its functions properly. I also noted lack of commitment from those parastatals to follow up the money that had been lost, as stated by my colleagues and inscribed in the Report.

There is also an issue of secondment of officers from the mother ministry. An officer who is seconded from the mother ministry will have difficulty knowing the clear functions, vision and mission of a parastatal.

For efficiency and to end corruption in Government operations, I support the Report.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Ferdinand Wanyonyi.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you very much, Hon. Temporary Speaker, for giving me this opportunity. First, we need to do something about corruption in this country. As clearly elaborated by the Chairman of this Committee, there is a lot of corruption in our agencies. At one point, some hospital land was grabbed and when it came to validating the records, the clinic hired a private auditor to find out what happened. Once we approve this Report, we will request the Government to move with speed to investigate those grabbed lands. There is also such a case in Nakuru.

This should be investigated in broad daylight because there is a lot of corruption in some of the clinics as noted by the team that went round. I want to support this Report without repeating what the Chairman has said. Once the report is adopted, within three months, we will ask the Ethics and Anti-Corruption Commission and the Directorate of Criminal Investigations (DCI) to move with speed to investigate corruption in some of those medical clinics.

With those few remarks, I ask Members to support this Report as the Committee took time to come up with it.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. I support the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the Report of the Auditor General on non-compliant State corporations. We are now starting to reap the benefits of splitting the Public Accounts Committee into various sub-committees. When it was one big Committee, it did not have the time or energy to dig deep into the so-called smaller matters like this one. At this rate, the country is going to be seized of the issues that are ailing some of those State corporations and Ministries, Departments and Agencies (MDAs).

Secondly, the Report brings out a very fundamental issue. We have passed several Bills and created very many small organs, councils or committees to operationalise them. Those organs are probably too many and too small, and their mandates are not very clear. The Cabinet Secretary responsible for operationalising the particular Acts of Parliament simply ignores them knowing that there are no negative or adverse consequences on the management or operationalization of the Acts. This implores us to ask ourselves how we should prepare our Bills. How do we make our laws? How do we operationalise our laws? In many instances, you find me, you and Hon. (Dr.) Nyikal in the Committee of the whole House pointing out those funny things. However, since we do not have the numbers, nobody takes note of our views and the matter comes back to embarrass everybody who is responsible for the operationalisation of those Acts.

Hon. Temporary Speaker, allow me to pick two particular agencies that are mentioned here. Let me declare from the word ‘go’ that Numbers 18 and 19 – the Estate Agents Registration Board, which is on Page 9 of the Report, and the Valuers Registration Board – are both professional bodies that register members in the learned profession. I am a senior member of a professional body and I have authority to speak about them. The structure and architecture of the boards of the two substantive Acts are an appendage of the Principal Secretary. Looking at the sources, for example, the Estate Agency Act, Section 27 reads:

‘The Minister may, with the consent of the Treasury, out of moneys provided by Parliament –

(a) make to the Board such grants as may be necessary to enable it to discharge its functions under this Act;

“(b) pay remunerations and travelling and other allowances to members of the Board other than the members who are public officers in receipt of a salary.”

(c) make such other payments as may be necessary to give effect to the provisions of this Act.

Hon. Temporary Speaker, the import of the Act is that those boards were never meant to be independent boards, but desks in the Principal Secretaries’ offices. Their job is to register the relevant professionals who pay registration fee, which is taken to be part of the Appropriations-in-Aid of the respective departments. It is important that the Committee is seized of this matter. They need to re-look at the architecture of those registration boards and see how they can be made independent and accountable. This is because they would simply say that they received grants and accounted for them to the parent ministry or the principal secretary for that particular purpose.

There are some agents that are established by ambiguous executive orders. When you establish an organ by an executive order, such organ is neither permanent nor an independent body. It can be de-registered or dis-established by an executive order at any point. Naturally, I imagine that they would account for their revenue through the respective departments. I commend the Committee for bringing out very salient issues that have never been part and parcel of debate in this country. The burden moves to the Committee on Implementation.

Hon. Speaker, I do not know whether you sit in the House Business Committee (HBC) or the Speaker's Panel, but it is extremely important that you prevail upon the Committee on Implementation, whose Chairperson is none other than my neighbour and brother-in-law from Budalang'i; that, within every six months or so, they table their reports so that we are able to track what they have done in respect of the various reports that have been adopted by this House.

This Report has juicy and important recommendations that should not be allowed to just lie there. If there is a way of doing so, we could process this Report before we finalise the budget-making process so that there can be a recommendation to the effect that any State corporation or body established by an executive order, or anybody authorised by law to operationalise the Act, should not have funds disbursed to them unless and until they have addressed the anomalies that are raised by this Committee. Parliament will start having teeth. Parliament will remain as one. As it is, many members of the public think that we have no teeth to bite, and that we just come here to take the money and go home.

Mathare Hospital houses people of different dispositions, but that does not give them an excuse for not following the Public Finance Management Act and other relevant Acts. For those whose funds were disbursed but did not utilise them or return them to the National Treasury, there can be no other way. I urge this Committee and the Committee on Implementation to prevail upon the Semi-Autonomous Government Agencies (SAGAs) to return the money. If they do not, interest should accrue from the day they were supposed to return the funds, but did not do so. The principal amount plus the accrued interest should be netted off for any future disbursement. Those responsible should hence be prosecuted as the law requires.

With those remarks, I support the Report.

Hon. Timothy Kipchumba (Marakwet West, Independent): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Toroitich?

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Temporary Speaker, I rise pursuant to Standing Order 95 to request that the Mover be called upon to reply.

(Hon. T.J. Kajwang' spoke off the record)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. T.J. A Member has moved that the Mover be called upon to reply under Standing Order 95. Is that the mood of the House?

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

The *Noes* have it and, therefore, the debate continues. Next is Hon. Koech, Member for Chepalungu. Is he in the House?

Hon. Victor Koech (Chepalungu, CCM): I am in the House, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Kajwang', what is your point of order?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Speaker, these are moments that we learn. Members come here and claim to be rising under Standing Order 95. Under this Order, you have to give reasons. You do not just rise in your place, assume the Speaker's powers and decide that the mood of the House is such that the Mover should be called upon to reply. The Speaker should find you dilatory and hold you out of order for wanting to

frustrate the discussions in the Chamber. Those are instance where we learn some of these things for those of us who are too lazy to read the Standing Orders and understand them.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. T.J. But the matter you are raising has been overtaken by events. The debate is continuing.

Next is Hon. Koech.

Hon. Victor Koech (Chepalungu, CCM): Thank you, Hon. Temporary Speaker. As my colleague, Hon. Oundo, has indicated, it was necessary for PAC to be split into several audit committees. The Chairperson of the Committee, together with its Members, investigated the operations of the listed State corporations and came up with the Report that is before this Honourable House.

I support this particular Motion having considered, read and listened to the Chairperson of the Committee. He has indicated in the Report that there are 23 State corporations that have not complied with the Public Finance Management Act by not submitting their financial reports to the Auditor-General.

In the observations, the Report indicates that the same State corporations continue to exist in the parent ministry while at the same they are established under different Semi-Autonomous Government Agencies (SAGAs). I was told that executive orders had been given to establish them. This led to failure by the cabinet secretaries of the parent ministries to appoint substantive accounting officers and directors for the said State corporations. That means, as a country, we are treading on very dangerous grounds. It is time we took Government business seriously. This House should take the mandate given to it by the people very seriously. We should oversee the Executive.

This Report should be forwarded to the relevant authorities for the observations contained therein to be acted upon. This will ensure that the people who have gone against the law are handed over to the relevant authorities so that Kenyans can get justice.

With those remarks, I support the Motion.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Cynthia Muge.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to add my voice to the debate on the Motion on the Reports of the Auditor-General on the 23 non-compliant state corporations.

The purpose of the Report is to ensure that those State corporations are audited to ensure that they improve the way they conduct their operations. This Report highlights the plight of several State corporations. There are glaring concerns in this Report. The listed SAGAs do not comply with the requirements of the Public Finance Management Act. Financial reports have proven to be very interesting.

As stated in this Report, some of those SAGAs have been operating without substantive Boards of Management. Some of them do not even have accounting officers. That is clear a pointer as to what should be expected at the end of every financial year. Looking at the State corporations listed here, I note with concern that the Tobacco Control Board does not have an accounting officer. I am privileged to sit in the Departmental Committee on Health that oversees it. Looking at the amount of money allocated to that State corporation, which does not submit its financial records for audit since it does not have an accounting officer, it tells you how we lose public funds. This Government has an objective of fighting corruption. This Report is a very good pointer as to how it must be fought. The issue of Mathari National Teaching and Referral Hospital has come up several times in the Departmental Committee on Health. The facility is micro-managed by the mother ministry, which makes one wonder how it is supposed to survive and make its financial reports.

As the Committee has proposed, those State corporations should be given their semi-autonomous status, so that they operate in a good way. If those recommendations are implemented, we will make a step towards in dealing with corruption. It is interesting to live

at a time when the audit reports that are released lately are very sensational. One looks at them and wonders what kind of picture they paint. I appreciate the Committee for looking at the operations of those State corporations thoroughly and coming up with the recommendations that are contained in this Report. The Committee has provided timelines within which specific actions should be taken. By the end of three months, certain actions or sanctions should be done or placed on whoever has failed in his duty.

I appreciate the Committee and this House's wisdom in splitting the original PIC into three sector-based committees. They have a lot of work to do. They look at real things that deal with Kenyan's money. I urge Members to support this Report to ensure that we restore sanity in this country and stop corruption through prudent financial reporting after prudent use of public financial resources.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Beatrice Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to support this Report and appreciate the Committee for a job well done. The Auditor-General has just released her Report. She has challenged Parliament and the country. If we want to appreciate ourselves and come out of the risks that we are facing arising from debt distress, we must deal with all the existing institutions.

The Committee has observed that the budgets of certain public institutions are not known, and that those institutions do not even submit their books of accounts to the Auditor-General for audit. We have a serious loophole in terms of monies that are being spent. That is what the Auditor-General has talked about. As we carry out audits, it is necessary to see some of the projects on which money has been spent. She tried doing this by visiting 10 of them. When she went for public participation, she asked citizens about the projects. They told her that they had not seen them. For example, the Department of Refugee Services deals with refugees. They have donations and grants amounting to Ksh30 billion. The Government also supports them. However, they do not have a financial statement report that analyses how they spend the money. With corruption in this country, it is so easy for the Department to use the grants and mismanage the monies that are allocated to them.

Therefore, the first thing we must do is to ask those institutions to prepare and submit their financial reports. As they do so, I wish the ministries that have been brought into question can also submit their audit reports to this House. As we make the Budget, this will make it easy. It will also ensure that Kenyans do not blame Parliament that we were given power to ensure that we divide the country's purse equitably and yet, we have such scenarios where they believe we are not keen on itemising our Budget to know which money goes to certain projects.

Another issue concerns boards. There are institutions in this country where ministries second board members every other time. Today, a board member is sent, next week and the week after different people are sent. When you look at the register at the end of the year, you wonder who to follow-up with for an explanation on what happened in January. This is because there is no institutional memory. Yet, they are paid *per diems* and move around doing things without a trace of what is happening. When the board is questioned, everyone says they were sent by the Principal Secretary and assigned other work.

I request the principal secretaries, who are the accounting officers, to ensure that when they second an officer to a certain board, they remain there for at least six months so that by the time they leave, they are held accountable and responsible for any queries that may arise. Other issues we must look into are the reporting systems and gaps in our governance structure. We also need to look into Article 223 of the Constitution, which everyone out there complains is being misused. As Parliament, we should request the Executive if they wish to use Article 223 of the Constitution to first bring proposals for our approval. If it is an emergency, they can use the Contingency Fund instead of the Consolidated Fund.

As I finalise, I want to remind this House about the fire in Embakasi East Constituency. That issue is with the Directorate of Criminal Investigation (DCI). I know the county Government is responsible and they should send their officers to sit together with the DCI so that they can finalise the report. This will enable the victims to be assisted. When we talk about auditing, there are so many things, including those done in a bad way.

It is important for us to support the Chairperson of the Budget and Appropriations Committee and his team together with all other Chairpersons for the work they are doing. We need to come up with a budget that will assist the country and which everyone understands. But, more importantly, it should be itemised.

(Hon. Silvanus Osoro beckoned Hon. Beatrice Elachi)

I can see the Majority Party Whip telling me to finish. Thank you! I have finished.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Peter Kihungi.

Hon. Peter Kihungi (Kangema, UDA): Thank you, Hon. Temporary Speaker. I support the Report of the Committee.

There are SAGAs which are working, especially those under ministries with activities; but others are just using Government money. My prayer is that we revisit some of those parastatals and look at those that are adding value. If we realise that certain parastatals are just consuming Government money at such a time when we are suffering and trying to make ends meet for this country, we must find a way of abolishing them. That way, we can have SAGAs that add value to ministries.

I support. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Passaris.

Hon. Esther Passaris (Nairobi City County, ODM): Thank you, Hon. Temporary Speaker. First, I commend the Public Investments Committee on Social Services, Administration and Agriculture, for coming up with this Report of the Auditor-General, on the 23 non-compliant State Corporations.

We require compliance under Article 226 of the Constitution for accountability because it is taxpayers' money that is used to run those institutions. Highlighting 23 out of 400 State corporations for not providing audited accounts shows a failure. We have not devolved our SAGAs to independent units. For example, Mathari National Teaching and Referral Hospital has been a State corporation since 2020 but, up to now, it is being micromanaged by the Ministry of Health. This is a disservice to the people of Nairobi and Kenya. That hospital deals with mental health and is completely under-staffed. According to my data, the hospital requires over 1,416 staff but, right now, they have only 366. At the same time, a lot of commodities are missing in the hospital, the reason being that procurement is done by the Ministry of Health.

In the Ksh1.6 billion that is unaccounted for, we are just looking at the SAGA, but the Ministry of Health is the one that is holding the finances and human resources despite the fact that the hospital has a Board of Directors and a Chief Executive Officer (CEO). We have been told that the Kenya Society of Physiotherapists (KSP) has, for many years, never filed any financial reports. With the many accidents we have and Persons with Disabilities (PWDs) requiring physiotherapy, it is really a concern. I think the reason why they are not auditing is because the funds are kept at the Ministry of Health and diverted to other more pressing issues.

An example of an institution that is autonomous is Kenyatta University Teaching, Research and Referral Hospital (KUTRRH). It is independent. It has its own Board of Directors. It has its own money and it makes its budget. We can ask for their audited reports but to ask for audited reports from entities that do not control their own resources and expenditure is a problem. In that case, if budgets are made at the Executive level, we will never achieve universal health care.

Therefore, it is important to scrutinise and ask ourselves – as we talk about devolution and bringing services down to the grassroots – whether we can also look at the Executive devolving entities. In Nairobi, we have Mathari National Teaching and Referral Hospital and the National Spinal Injury Referral Hospital. They should be made autonomous so that they can have budgets, employ their own staff, pay for their expenses and be held accountable.

I think it is important that the Ethics and Anti-Corruption Commission (EACC) looks very strictly into the Ksh1.6 billion. This is because in the health sector, we cannot afford to have monies unaccounted for. I commend the Public Investments Committee on Social Services, Administration and Agriculture for coming up with this Report and highlighting the 23 State corporations that are non-compliant. I know that the Executive is holding them to ransom and not allowing them to grow. Mathari National Teaching and Referral Hospital and the National Spinal Injury Referral Hospital should be left alone to run their own affairs so that they can provide the much-needed services in spinal injuries and mental health.

With those remarks, I support.

Hon. Phylis Bartoo (Moiben, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Who is on a point of order? Professor, what is your point of order?

Hon. Phylis Bartoo (Moiben, UDA): Hon. Temporary Speaker, pursuant to Standing Order 95, and reading the mood of the House, I request that we call upon the Mover to reply.

Hon. Members: Yes!

The Temporary Speaker (Hon. Omboko Milemba): Sometimes, it becomes mechanical for the Speaker to respond to your point of orders. Therefore, a Member has, for the second time, risen up in her place requesting that we call upon the Mover to reply.

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

We, therefore, call the Mover to reply.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Temporary Speaker. Allow me to appreciate my colleagues who have spoken on this Report. They have raised two pertinent issues, one being the objectivity of the Committee to fight corruption. It has been clearly stated that if this Report is implemented, the Government of the day shall benefit from the ills of what happened before. That is very important. It is incumbent upon the Government to make use of this Report to correct where things did not work well for the previous one.

Second and lastly, are the benefits of splitting the original PIC into three sectoral PICs. I thank my colleagues for bringing it up. Indeed, that is a good observation. When we work that way, we will help the Government to achieve its objectives as we perform our roles. We are the watchdogs who should see what is happening behind the scenes.

With those remarks, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, we will defer the putting of the Question.

Hon. Victor Koech (Chepalungu, CCM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order?

Hon. Victor Koech (Chepalungu, CCM): Thank you, Hon. Temporary Speaker. Looking around and pursuant to Standing Order 53 (b), I hereby request that you defer the putting of the question.

The Temporary Speaker (Hon. Omboko Milemba): Thank you, Hon. Koech. We shall defer the putting of the question until a later date.

(Putting of the Question deferred)

Next Order!

BILL

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL
(National Assembly Bill No.68 of 2023)

(Moved by Hon. Kimani Ichung'wah on 6.12.2023)

(Resumption of debate interrupted on 6.12.2023)

The Temporary Speaker (Hon. Omboko Milemba): Majority Whip.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Speaker. I beg to move that the Statute Law (Miscellaneous Amendments) (No.2) Bill, (National Assembly Bill No. 68 of 2023), be now read a second time. The Bill is introduced in keeping with the practice of making various amendments which...

(A Member spoke off the record)

(The Temporary Speaker consulted with the leading Clerk-at-the-Table)

The Temporary Speaker (Hon. Omboko Milemba): This is a Resumption of Debate. This particular Bill has already been moved by the Leader of the Majority Party. What I am not sure is who was on the Floor when debate on the Bill was interrupted. Was there anyone on the Floor?

(The Temporary Speaker consulted with the leading Clerk-at-the-Table)

There is nobody with a balance of time. Therefore, I will give a chance to the Majority Whip to speak because he has not spoken on it.

Proceed.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon Temporary Speaker. I am sorry, I must have been away when Hon. Kimani Ichung'wah moved debate on this Bill.

But be that as it may, I simply want to single out a few integral things in this Miscellaneous Bill. There is a proposal to amend the Traffic Act (Cap 403) to incorporate the use of technology in the management of minor traffic offences. We all live in this country and, therefore, we are aware of the challenges that we face as far as minor traffic offences are concerned. We have all been stopped by traffic police officers over minor offences like exceeding speed limit by 5 km/h. The traffic officer then picks your licence and asks you to park the vehicle by the roadside. You are then left there waiting for hours to be taken to court in the afternoon, and maybe the court is not even sitting that afternoon. You end up wasting the entire day and the country loses revenue. Such an amendment will come a long way in integrating that system to help manage minor offences. If we get to the level where you can instantly be fined for minor offences, it will reduce the struggle and minimize time wastage. This will in turn give individuals a chance to raise revenue for themselves and for the country.

The Bill also proposes to amend the Universities Act, 2012 to provide for the declaration of technical universities under Section 25 (1) of the Act in respect to public institutions that are/or were national polytechnics. It also proposes to amend Section 56 (1) to institute a placement board that will be responsible for student placement. This will create a central system in the placement of students and lessen the stress that comes with it. The Committee recommended that Section 25 should only apply to public national polytechnics while in Section 56 (1) there is need to separate funding and placement of students. This will create distinct roles in funding and student placement.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): I can see Hon. Gathoni Wamuchomba. Your name does not appear here but please speak on this Bill.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you, Hon. Temporary Speaker. I am indeed excited to contribute to the discussions in the House this afternoon. I have been here since 2.30 p.m., but I have not gotten a chance to speak. I am glad that you have found it important for me to add my voice to the...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Gathoni, for record purposes, I am usually very keen. I see your card has a challenge. Please, align that once you finish speaking on this Bill so that it appears on the Speaker's screen.

Proceed.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Hon. Temporary Speaker, I note and oblige.

I rise to speak on the Statute Law (Miscellaneous Amendments) (No.2) Bill, (National Assembly Bill No. 68 of 2023).

(Loud consultations)

I request that you protect me from my colleagues who are consulting loudly.

The Temporary Speaker (Hon. Omboko Milemba): Order, Members! Please, consult in low tones.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you, Hon. Temporary Speaker.

This morning, I had a discussion with a colleague from Kirinyaga regarding the recent emotional deaths that occurred there after many families consumed lethal alcoholic drinks. There were not only deaths but also a few people permanently lost their eyesight. It is very touching and emotional to see a county congregating in a remorseful service to burry not two or five or 10 people, but 23 people who were affected by that consumption. I hail from Githunguri Constituency in Kiambu County, which is also suffering from the same problem of illicit substance proliferation in the villages. It is affecting the very productive people aged between 20 and 45 years. I would be very scared to see ethanol or something close to that being traded in this country, and being given preferential treatment in terms of taxation. I am referring to the recommendation that appears on the Value Added Tax Act, 2013 (No.35 of 2013). This Bill proposes to amend the Value Addition Tax of 2013 to reclassify the supply of gas metres of tariff No.1928.10.00 and of denatured ethanol of tariff No.2207.20.00 as exempt and zero rated, respectively.

Hon. Temporary Speaker, I am not familiar with the purpose of those gas metres and the denatured ethanol. I may also not be privy to why those items are being allowed into the country. However, everything related to ethanol sends shivers down my spine. The impact and effects of ethanol are disastrous, retrogressive and hazardous. We may not also control the use based on the history of the country. Therefore, I appreciate that Members of various committees sat and deliberated on this amendment. I am ready to receive any information on the impact of

such tax relief for those gases and liquids, with the caution that we must not go back to where we were the other week when we witnessed the loss of life and loss of sight.

On that note, 23 people lost their lives, while five people remained blind. Did we get a formula for compensation to those victims? Did the Government support those people so that they can continue living positively? This is a big concern to me as a mother and as a woman. That is because I know what losing sight means when you once could see, especially if you were the breadwinner for your family.

I stand guided and would want to get more information on why such a proposal is here.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Next is Hon. Jane Kagiri.

Hon. Jane Kagiri (Laikipia County, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to support the Statute Law (Miscellaneous Amendment) (No. 2) Bill, (National Assembly Bill No. 68 of 2023).

I support the amendments, but I will particularly discuss two that I am passionate about. The first one is the Traffic Act Cap 403 which proposes the use of technology in managing minor traffic offences. My background is in computer science and I appreciate the use of technology because it aids in transparency. I believe that for those minor traffic offences, one will be stopped, shown their mistake, and they can continue with their journey. Technology also enhances efficiency. The penalty for some of those minor traffic offences is Ksh1,000. However, we waste a lot of time and resources for the offenders to get convicted in court. Technology brings about convenience. It is easier for one to know what their traffic offence is, pay the fine online and proceed with their journey.

Technology will also enhance accuracy because many times when we find ourselves on the road, it depends on how well we negotiate with traffic officers. They either increase your charges or lower them depending on the conversation. With technology, we can be sure of the accuracy of charges. In the end, this is a good way to maintain law and order.

I support the use of technology because it is going to help us with data analysis. Data analysis may help us understand when people are likely to overspeed or cause traffic offences. As a country, this will help us plan better for our roads.

I support the amendment to the Sexual Offences Act 2006, which proposes that we have a register for convicted sexual offenders. I support this because one, it will ensure public safety. In a neighbourhood where people know that someone is a convicted sexual offender, they will be more careful and take care of their children and loved ones better. It will also be a way of deterring crime because the public will be aware of the convicted offenders and the authorities will monitor the offenders better. On justice and accountability, in case someone is a repeat offender, they will get a harsher punishment.

Finally, having a register of convicted sexual offenders will be a form of justice for the victims. The victims will be assured that the offender will not do the same to anyone else because there is a record.

Thank you, Hon. Temporary Speaker. I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Moses Kirima.

Hon. Moses Kirima (Central Imeni, UDA): Thank you, Hon. Temporary Speaker. I support the Statute Law (Miscellaneous Amendment) (No.2) Bill, (National Assembly Bill No.68 of 2023), which is before this House. This amendment takes into account several issues which are beneficial to the public. However, the amendment to the Value Added Tax Act allows for ethanol and gas metres... This Bill proposes to amend the Value Addition Tax of 2013 to reclassify the supply of gas metres of tariff No 1928.10.00 and the supply of denatured ethanol...

(Hon. Gathoni Wamuchomba crossed the aisle without bowing)

The Temporary Speaker (Hon. Omboko Milemba): Order Hon. Member. Hon. Wamuchomba, you are disrespecting the House. You just crossed from one side to the other. Go all the way, bow and come back. Otherwise, that is total disrespect for the House.

Hon. Moses Kirima (Central Imenti, UDA): Thank you, Hon. Temporary Speaker. The House must be honoured.

(Hon. Gathoni Wamuchomba bowed and crossed the aisle)

The Temporary Speaker (Hon. Omboko Milemba): Very good. Hon. Kirima, you may proceed.

Hon. Moses Kirima (Central Imenti, UDA): Thank you. I hope you will add me the two minutes that have been taken to direct Hon. Wamuchomba.

It is dangerous to reclassify the supply of gas metres of tariff No.1928.10.00 and denatured ethanol of tariff No.2207.20.00 as exempt and zero-rated, respectively. Ethanol is disastrous to the Kenyan youth as it is used to make illicit and second-generation liquor. It has caused a lot of harm to the poor and the hustlers in the country. It has caused a lot of tears and injury to those people who seek quick intoxication because they cannot afford the right alcohol. If we zero-rate it, we will make it more available. We must look at this carefully. When we get to the Committee of the whole House, we must remove the words “zero-rated” and include the supposed taxation.

The amendment to the Employment Act No.11 of 2007 is proper because the National Intelligence Service (NIS) should be among the other Government’s security organs. The NIS deals with issues which do not need to go through the Public Service Commission (PSC). This is well because NIS deals with sensitive matters relating to the country’s security.

However, in the Traffic Act Cap 403, all developed countries have a way of dealing with minor traffic offences. You will find that somebody has committed a minor traffic offence like over speeding unconsciously when they are in a hurry or crossing to the wrong lane even when it is not necessary, but are forced by circumstances like avoiding an accident. When the traffic officer gets them, they handcuff or keep them on the roadside for hours trying to negotiate things which are not there or take them to the police station and lock them in instead of charging them directly and avoiding a lot of time wastage.

Having the amendment as it is in the Traffic Act, Cap 403 to incorporate the use of technology, we are going to avoid corruption by the traffic officers. When you are fined Ksh1,000 through a machine technology, you are going to pay and proceed with your *safari* instead of being kept on the roadside by the police officer who will negotiate and demand that you bribe them so that they can let you to go. In the developed countries, this is the nature of how things are done. We have been late about it. We are timely on that amendment and it should be as it is so that, at least, the country can develop and save time. When we save time, we also save money.

The last one is on a public holiday called *Utamaduni* Day. It has been misused in a way that does not meet its requirements. In Kenya, as we speak, nobody can tell what is supposed to be worn, eaten or done on that day. So, it should not be a public holiday. Let people have the *Utamaduni* Day depending on their culture and the location they are in. The proposal to amend the Public Holidays Act by deleting the provisions of *Utamaduni* Day as a public holiday is right. If you go to a community like Meru where there are nine sub-tribes like the Tharaka where Murugara comes from, the Kirima’s and other people from Igembe, they are the same community, but the *utamaduni* (culture) is very different. Let people set their own culture and the way they would want to celebrate the day instead of generalising it as a public holiday. When you go to Luo land or Hon. (Dr) Oundo’s place, Busia, you will find that the

day is celebrated differently from Meru. Let people have their *Utamaduni* Day. It should not be a public holiday, as it will depend on what is being done and when. When it comes to initiation, the way we carry it out is very different from the way the Maragoli carry out theirs. So, this day should not be a public holiday because when we burden this country with public holidays, sincerely, we will be making it poor.

With those few remarks, I support the Bill, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Let us have Hon. Eric Muchangi, Chairman of the Departmental Committee on Labour.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Temporary Speaker. I rise to contribute to the Statute Law Miscellaneous (Amendments) No.2, Bill. I support the idea to amend the Traffic Act to incorporate the use of technology in the management of minor traffic offences. Technology is being embraced all over the world. If you go to the developed world, people do not spend all their time on the road dealing with police officers. What happens in our country is that the police will want to arrest and detain you for hours so that in the process, they can extort some money or even exploit members of the public. However, when technology is incorporated, it will be used as a deterrent measure by the people in this Republic and they will prefer to pay instant fines, save the amount of time that we spend on our roads with traffic officers and be more productive as a country.

I also support the idea of amending the Sexual Offences Act, 2006, which will provide that the convicts' records shall be kept and maintained by the Chief Registrar of the Judiciary. This also will act as a deterrent measure because the repeat offenders will fear that their records will be maintained by the Judiciary. I think this will be a good treatment for them. In my Committee, we have been spending a lot of time discussing those issues of sexual offences in different sectors. I think this will be a good move.

I have reservations about the idea of amending the Value Added Tax (VAT) Act, 2013 to reclassify the supply of gas metres of tariff number 9028.10.00 and the supply of de-natured ethanol of tariff number 2207.20.00 as exempt and zero-rated, respectively. This is an area that we would like to be clarified because when ethanol is mentioned, some of us get very worried. We are coming from a community where young people are drowning in the abuse of alcohol and consumption of illicit brew. I can confirm to this House that many of our young people, even the very educated, are getting lost. We are very worried as a community because we wonder what will happen tomorrow when we lose young people to illicit brews. We seek clarification before we expedite on this Bill so that we can be assured that this amendment will not make things worse for young people. Recently, the courts legalised *Muratina*. This came as good news to some quotas.

What people have been consuming and dying of is not *Muratina*, but illicit brews that are manufactured in the streets by the use of ethanol. This is what we are keen on. We do not want the supply or sale of ethanol made so easy that it is available to the people who want to kill our young people through the sale of illicit brews.

With those comments, Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Edith Nyenze.

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Temporary Speaker. Let me take this opportunity to support the Statute Law (Miscellaneous Amendments) (No.2) Bill, and the amendment to the Traffic Act (Cap. 403) to incorporate the use of technology in the management of minor traffic offences. It is timely and will improve discipline, bring orderliness and discourage corruption and waste of time on our roads. The technology will help keep records for every offender. This will deter people from committing more offences.

Let me also take this opportunity to condole with the families of the nine people who died on the spot along the Katangi-Machakos-Kitui-Nairobi Road yesterday, when the driver

of the vehicle they were travelling in lost control and crashed. As I support the amendment to the Traffic Act, I also condole with the families of those who lost their loved ones.

Thank you, Hon. Temporary Speaker. I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. John Waluke.

Hon. John Koyi (Sirisia, JP): Thank you very much, Hon. Temporary Speaker, for giving me this chance to also support the amendment to the Traffic Act. We should pass this Bill so that we can save lives. We lose almost 3,000 people every year on the roads.

I lived in the United States of America (USA) for some time. Police officers in the USA do not chase drivers on the roads, or detain a driver for hours by taking their driving license or car keys like they do in Kenya. In the USA, they use closed-circuit television (CCTV) cameras and people obey the traffic rules. When the lights indicate that cars should stop, all drivers obey the rules and stop. Driving in the USA is very smooth and there are very few accidents unlike what we experience in Kenya every day. Whenever you watch the news, you always come across a news item of a trailer that has killed people, like what we saw yesterday where a very young child lost her life.

Action should be taken to ensure that our police officers do their jobs because they are employed to look after Kenyans and their property. However, many accidents in this country are caused by police officers. They stop a vehicle abruptly and another vehicle hits the stationary one killing people. We should seriously consider this amendment to the Traffic Act because technology keeps changing.

Kenyan police officers should also follow traffic rules. They should not just collect bribes or waste peoples' time. A person may be going to engage in business and then he is stopped for committing a traffic offence such as skipping a traffic light. Such cases should be taken very seriously.

I support this Bill. I ask my colleagues to pass it so that we can save many lives and not lose them through accidents.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Rindikiri.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I rise to support the various amendments to various Acts in this Bill.

First is the issue of the Universities Act, 2012 (No.42 of 2012). The amendment addresses the omission of national polytechnics and institutions, which were not classified as Government institutions, since students there are not sponsored by the Government. All students should be placed in various institutions. Some self-sponsored students miss placements because the Act does not allow for placement of self-sponsored students in universities and colleges. I support the amendment that the placement board shall be responsible for placing all students in universities and colleges.

I also support the amendment to the Sexual Offences Act, 2006. It is high time that we kept a coordinated register of all convicted sexual offenders in the country. Our girls and mothers have been victims of sexual harassment and gender-based violence. There is no central register of sexual offenders. That means that one can commit an offence in Kisumu County, run away, commit another offence in Meru County, and run away because there is no centrality in terms of sexual offence cases and when offenders appear in court. This amendment will come in handy. We should have a central register of all convicted sexual offenders within the Republic of Kenya so that an alert is issued in case of repeat offenders.

I support the amendment on the usage of technology in the management of minor traffic offences. We need integrated technology that will centralise information on all road users. Those records should be coordinated by the courts, police officers, the National Transport and Safety Authority (NTSA), insurance companies and even financiers. The driving licenses of people who commit traffic offences are usually withdrawn. However, since the different arms

of Government do not coordinate, a person can obtain another driving license which is issued by the same Government. This amendment on the usage of technology in the management of minor traffic offences will come in handy and, therefore, I support it.

There is also the amendment on the Value Added Tax charged on denatured ethanol. This is ethanol that has been combined with a denaturant making it undrinkable. That means that it is not pure ethanol because pure ethanol is pure alcohol. The amendment addresses the importation of denatured ethanol, which can be used for industrial use. The only problem is that it can be used as a conduit for pure ethanol, which is consumed as alcohol. The proposal in the Bill is okay, but we have to be very careful because in the process of zero-rating denatured ethanol, the possibility of unscrupulous and corrupt people bringing in ethanol is very high. I join my brothers and sisters in Kirinyaga County and other parts of the country where people have died because of consuming ethanol.

This is not a bad Bill. However, we need to be very careful when it comes to the amendment to the Value Added Tax Act.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Wilberforce Oundo, do you want to speak on this Bill?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you. I stand to support the Statute Law (Miscellaneous Amendments) (No. 2) Bill, (National Assembly Bill No. 68 of 2023), but with reservations. I have had reservations all my life in the House, about the mischief that ends up achieved through miscellaneous amendment. I cannot drop that position because I sincerely believe that some of the amendments proposed sometimes go to the depth of Acts to an extent that we need to treat them carefully. It provides for the amendment of several Acts: The Oaths and Statutory Declarations Act, the Advocates Act, the Notaries Public Act, the Civil Procedure Act and the Public Holidays Act.

I want to mention to my colleagues that 10th October has always been nostalgically referred to as Moi Day. Those of us who went to school during *maziwa ya nyayo*, the Loyalty Pledge, and *Tawala Kenya Tawala*, look back with nostalgia. It is just because of our typical politics. We are in a hurry to erase the good things that *Baba Moi* used to give us. Members will remember how we would joyfully line up the roads in our rural areas with miniature flags cheering the motorcade of *Baba Moi* and he would rise from the sunroof of a wonderful Mercedes Benz and wave to us. That day, when we went to class the next day, we would get all the marks because we would feel energised.

As a society, we should not allow that kind of feeling to go. It robs us of our history and pride. We need to find a way to bring it back. The reference to *Utamaduni Day* had some little significance. I agree with my colleague who says that *utamaduni* is about our culture. Different communities celebrate their culture on different dates. Having a fixed day does not make sense. I will attempt to return Moi Day at the Committee of the whole House. Allow the many of us with a problem with current technology to celebrate our good days because we did not have PlayStation or television sets by then. The only thing that would entertain us was matching like Moi when inspecting guards of honour.

When we go to the next Act being amended, the Trustees Perpetual Succession Act (Cap 164), the amendment might look routine by only dealing with the change of the phrase “Pension Fund” and “principal”. However, the various schedules attached to be amended could be substantial. The fees being initiated here could be substantial. That is why I have argued why not just bring the Bill and subject it to public participation on its own instead of such amendments? That is so that those who have personal interests and practitioners in the field can give proper input. As it is with those kinds of amendments, the substance of the matter is going to be changed. Again, I would have to amend it so that we delete this. Let us go for substantive amendments because there are so many things that have moved on.

On the Industrial Training Act, I do not want to comment. Allow me to comment on the Traffic Act. Some years back when I was in the corporate world, I remember I was late for a meeting where I was to make a presentation that would give my organisation Ksh10 million then. That was around the year 2007. That was not a small amount of money. A traffic officer stopped me because I was talking on my mobile phone and he wasted my time. I must confess my sins because we are in the period of Lent. I left the traffic officer in the car whose windows I left open and went with the key. I did not lock the car. I hopped into a taxi and left him there because I could not afford to waste that time. Therefore, the amendments that have been brought here to allow electronic payment of fines, accepting charges, and the rest are very progressive. We must support them.

On the Sexual Offences Act, I come from a community where cases of child abuse and sexual molestation for both girl and boy children are becoming rampant. Indeed, many a time, the convict or the offender will be released and come to threaten and intimidate the witnesses and the victims. For that reason, many cases go unreported because, as they say: “There is nothing I will do to the offender”. It is a good idea that the Chief Registrar of the Judiciary keeps a register so that the information can be shared among various court cadres. However, we need to go a bit further. Just as we have our records at the Registrar of Persons for identification cards, birth certificates and the rest, that conviction for a convicted sexual offender should be part of personal data. For any reason, if they are caught as we see in the movies, one can just key in and get all the unclassified personal data of a person. For a convicted sexual offender, that information should not be considered personal or classified. It should be made available so that when I see a sexual offender probably hovering around children, I should raise an alarm in whichever way so that the offender is not allowed to come close to children especially. The new system they want to come up with should also find a way of incorporating the same.

I want to skip the Veterinary Surgeons and Veterinary Para-Professionals Act. I might not understand what the amendment is about because I am not a veterinary doctor.

However, allow me to speak about the Universities Act. There are two very critical amendments that are proposed here. Initially, a former national polytechnic could be declared a technical university. That is why the Technical University of Kenya came out of the Nairobi Polytechnic. The Technical University of Mombasa came out of Mombasa Polytechnic. It is all over. This amendment is trying to expand. We are going to declare several Technical Vocational Education and Training institutions (TVETs) or Technical Training Institutes (TTIs) technical or national polytechnics. They may not have the requisite infrastructure to get to that position. That is why the amendment under (b) expands the requirements or the criteria to include having the requisite capacity in physical facilities and human resources appropriate for a technical university. Once this passes as I hope, we need to put in place the criteria for nomination to become a national polytechnic because of the geopolitics that have pervaded this country.

Bumbe TTI was established and its foundation stone was placed in 1974 when Prof. Julia Ojiambo was the Member of Parliament for the then Busia Central Constituency. *Baba* Moi opened it in 1977. It has never been elevated to a national polytechnic regardless of the fact that it has the entire infrastructure it requires, save that successive governments and donors have given us money to a point that it is far much bigger than any other. However, it has never been given that status. We keep urging the national Government to give us that status so that we can eventually encourage the community so that Bumbe TTI gets university status.

I totally agree with the provision that it remains Government-sponsored to make it universal so that any child going to university, whether private or public university, must meet some academic qualifications. Who can be better placed to set those academic qualifications? That is the Kenya Universities and Colleges Central Placement Service (KUCCPS).

With those very many remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Esther Passaris.

Hon. Esther Passaris (Nairobi City COUNTY, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Statute Law (Miscellaneous Amendments) Bill as brought in by the Leader of the Majority Party for the following reasons.

On the Traffic Act, I believe that everybody has lost respect for the traffic force because whenever we see them, we think that all they want to do is ask for a bribe. The fact that we are going to amend to have fines levied using technology driven mechanisms, we will end up having a lot more respect for the force, which is necessary in order for us to trust them with our security. On technology driven fines, I would like us go a step ahead and integrate the surveillance cameras, which we spend a lot of money on, to pick out petty traffic offences. I recall in the 1980s when I went to the United States of America, someone in a car we were traveling in threw a paper out of the window. We drove for quite a number of kilometres before we were stopped. When we were stopped, straight away, a fine was levied. The ticket was issued and payment was made immediately. When we will go into a system where we collect data electronically, we will also be able to reduce road carnage. The reason we have road carnage is, a driver may commit a traffic offence such as hitting and killing someone and could have a case ongoing in a court of law, but that may be unknown. He may end up being hired again thus increasing road carnage. It is important for us to integrate and I believe that will enable us to collect more revenue, which is needed.

When it comes to the Sexual Offences Act 2006, it is very important to have a record of perpetrators. It is important because every single day we hire people. For instance, we could have a paedophile teacher who could, for some unknown reason, be out on bail. We should track such people because if we do not keep their record, whether it is pre-trial or post-trial, a situation may arise where a paedophile might be hired in a school and continue committing sexual gender-based violence against the citizens. We need to draw the lines on human rights and keeping the vulnerable in society safe.

When it comes to the zero rating of ethanol, I believe that ethanol encourages us to have clean cooking. We need to ensure that we are part and parcel of saving the globe. We have quite a number of people that have made investments in the area of clean cooking. By zero-rating the tax on ethanol, we will ensure that its supply is affordable and we will provide an alternative to charcoal and harmful substances that people use to cook.

I believe those are very good amendments and I support.

The Temporary Speaker (Hon. Omboko Milemba): Next to speak on this is Hon. Beatrice Elachi. Are you speaking on this?

Hon. Beatrice Elachi (Dagoretti North, ODM): Yes.

The Temporary Speaker (Hon. Omboko Milemba): Okay, proceed.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I also rise to support the Statute Law (Miscellaneous Amendments) Bill. I appreciate that there is always a time to reflect. As *daktari* has said, sometimes, when a miscellaneous amendment Bill is brought, it is always good for us to look at the original law and ask ourselves why we need the amendment.

I wish to look at the Public Holidays Act and I will say the same. I will not say we change or anything, but I wish this House would come up with a way of appreciating every leader who has led in this country. We must have something to appreciate so as to remember them. We will do that by looking at the legacy they left for the country. We are in East Africa and it is only in Kenya where we do not appreciate leaders who have done a lot for our country. It is important to appreciate all leaders. As much as we are bringing in *utamaduni*, I hope we will remember and appreciate all our former presidents, including those who have passed on, for the work they did for the country. Their legacy should be archived.

Let me start with the Traffic Act. It is important to have the intelligent transport system as this will be of help. For example, we post our police officers to roundabouts to monitor how we are driving. One of our cultural practices is that all of us are always in a hurry. In countries such as Pakistan, with 8 million people in the city, you never get a traffic challenge because people know that they just follow one another. As a country, we behave differently and, therefore, we have to introduce fines. If one repeats a traffic offence like speeding three times, he should be punished differently by being denied renewal of their driving licence. There must be discipline. There is no need of levying and keep speeding. We have a road accident every day thus losing lives in accidents.

Let me comment on the Sexual Offences Act. Today we had a meeting with a team from Kibra under the Sustainable Development Goals (SDG), and it was a sad story when I looked at what the girls are writing. This amendment is going to curb sexual offences and discourage offenders. It is important to have a well-maintained register. It should not just cater for people out there, but also those within families. It should capture a man who marries a woman with a child and turns the child into a wife. When you look at such children, you can always notice that they have something to tell. This is happening in many homes. The woman in such a marriage stays because she may have five children who she believes no one will take care of. This is very sad and it happens all over. That kind of incest is not good. The register should cater for all. We have to start in schools and call things by their name. We have to find a way of protecting our children.

On the Office of the Attorney General Act, as we make this an independent office, we have to also try and look at the regulations. I hope the Chairperson of the Departmental Committee on Justice and Legal Affairs will look at the regulations so that we do not come back here to find ourselves in a conflict between the Public Service Commission and the Attorney-General's Office because of employment. The law says that the Public Service Commission hires. But because the Attorney-General has gone through a lot, he needs to employ State officers who will be appearing in court. We need to be careful so that we do not have a conflict. Also, as we make it an independent office, we need to ask ourselves if the Attorney-General will be sitting in the Executive.

Constitutional independent offices are independent. In the current Cabinet now, the Attorney-General is part of the Executive. So, with this arrangement, will he be sitting in the Executive? We must organise the legislation so that when we make the Attorney-General's Office independent, he goes with the accolades of a constitutionally independent office. As an independent office, it will have opportunities and disadvantages. If that is how they wish it to be, then it is okay. However, we must organise the legislation. The Director of Public Prosecutions (DPP) is independent, and we have never seen him as part of the Cabinet. That is the same way we want the Office of the Attorney-General when we pass this Bill.

On the Universities Act, we have to ask about the polytechnics. If you may remember, when the Kenya Universities and Colleges Central Placement Service (KUCCPS) team was selecting students for university admission, it sent students to universities without knowing that some could not afford the fees. Some of them were taken to private universities to do medicine and are struggling. It is important that, as KUCCPS continues with placement ... With the KUCCPS new system of identifying vulnerable students... The students who got help from me and went to school through bursaries, will also need bursaries as they join universities and colleges. Recently, many students and parents went through a lot of challenges with the KUCCPS system. As we debate, let us re-organise the Statute Law (Miscellaneous Amendments) Bill. Let us ensure that the vulnerable students in the KUCCPS system are the same students who were funded through bursaries or sponsors in their primary and secondary education.

Therefore, it is critical that these things are addressed so that, we do not find ourselves in a situation where functions overlap. If that happens, we will find ourselves with court cases every day, and it will not be healthy for the Public Service Commission and the Office of the Attorney-General. I appreciate that the team that prepared the Statute Law (Miscellaneous Amendments) Bill did its work well. I believe we will have an opportunity when the Bill will be in the Committee of the whole House to look at the proposed amendments.

I beg for support.

The Temporary Speaker (Hon. Omboko Milemba): Very well. I am happy that the Chairman of the Justice and Legal Affairs Committee is in the House. The issue of the Attorney-General's Office will require that you put your mind to it when replying. Next to speak on this will be Hon. Cynthia Muge.

Hon. Cynthia Muge (Nandi COUNTY, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Statute Law (Miscellaneous Amendments) Bill and appreciate whoever sponsored the Bill. We make a difference through small amendments. The little amendments that are proposed in this House today on this Bill that we call small will make a huge difference. I realised that when you are a Member of Parliament, you have to be a jack of all trades. You have to speak to issues you are an expert in, and those you have no experience and expertise in. I want to appreciate whoever went through these Acts and noticed the inconsistencies in the statute laws.

I want to discuss the Public Holidays (Amendment) Act of 2023. Many Members have spoken on it. Kenya has a rich heritage and a serious cultural diversity. We are diverse in many ways. I remember when we were making posters... It is common business for a politician to make a poster with their image on it – although few choose not to have their images – for specific days, like a national holiday. I remember in 2021 and 2022; we made frantic calls to confirm with our communication teams whether the national holiday was Huduma Day or Utamaduni Day. There is a lot of confusion in the Public Holidays Act. I keep asking myself what the significance of this holiday is. I am glad that somebody went through the Act, and they have brought proposals for amendment through the Statute Law (Miscellaneous Amendments) Bill. I support the Hon. Member who mentioned that it was Moi Day before this holiday became Utamaduni Day. I may not have lived experiences of what President Moi did and how beautiful or not so beautiful it was when President Moi was alive. When you go into the archives of the videos and writings that people did, you will literally live in the moment when President Moi was alive. At times, I feel guilty that I may not have an opportunity to relive and remember what President Moi did and the things that were done during his era. Having said that, I appreciate that there is a proposal to delete that so that we celebrate and appreciate our rich heritage and cultural diversity as a country.

On the Industrial Training Act, I had the opportunity... It is beautiful to sit here; you get the time to look at so many things. Having looked at the inconsistency between the Industrial Training Act remittance and the KRA fee – anybody who sees KRA right now would comment on the same – I support the proposed amendments.

The Traffic Act is a popular Act that has been spoken to by most Members. As Members have said, this provision will help us reduce corruption. This Government is keen on fighting corruption, and the most glaring corruption we see daily is on our roads. For example, when you are behind a matatu on the road, a traffic police officer will point at a matatu – there is a signal language that they use – and the matatu will slow down as though breaking, and then it drives off. If you are keen, you will see what has been dropped and conclude what that dropping is all about. This amendment will help us to curb that kind of corruption. If, for example, you find me in contravention of the road rules and regulations, I must pay a penalty. If I delay in paying, I should be picked up and arrested from my House just like they do in Rwanda. Being arrested is scary enough for most people, especially me. It will bring back sanity to our roads.

When accidents occur, people often ask if Parliament can legislate on the same. We can hardly legislate on manners, like table manners and road manners. I call upon all of us to be good-mannered, especially on issues that deal with the road.

I am pleased about the proposed amendment to the Sexual Offences Act. It has been proposed that there will be a register. That is a significant amendment. We shall pin people who are sexual offenders. An offender is likely to re-offend every other time. So, it will be important if we have a tag on them. This tag is not only going to be important to the law enforcers, but it will also be important to the community. If such kind of a person is re-admitted to the community, for caution's sake, the community will know the characteristics of such a person within their locality. I would wish that we had a tag for the sexual offenders, but it would be out of order because you cannot list an offender before you convict them for that crime.

On the Universities Act, I agree with the proposed amendment. It will be important and significant.

Allow me to add my voice to the Value Added Tax Amendment Act, 2013. This country is fighting illicit brews. At times, I listen to conversations on illicit brews, and I feel like people who comment have never come head-on with the effects of illicit brews. They have not seen the impact of illicit brew on anyone who is close to them, like a relative, a friend or a neighbour. I will support any kind of effort that is geared toward finishing the illicit brew. As I said, as a Member of Parliament, you are forced to be a jack of all trades. I have been forced to know the different classifications of ethanol. Also, I am aware that the ethanol produced in Muhoroni is insufficient, and the hardest business to do is importation. The factors contributing to the killer brews are hardships, bureaucracy, and taxes involved in ethanol importation. So, people resort to making their own ethanol, which ends up killing others.

I have searched what denatured ethanol is, and seen it is for industrial use, not commercial use. The type of ethanol being mentioned and referred to here is not fit for human consumption. Nobody should use the lenses of consumable ethanol to judge this amendment because this is entirely for commercial and industrial use and not for consumption at all costs.

I support the amendments in this Bill because they will enable us to become more efficient, compliant, and progressive in the changing times and ways of doing things in this country. I support this amendment.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Gideon Mulyungi.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker, for allowing me to contribute to this Bill. From the onset, I want to start by thanking the Justice and Legal Affairs Committee Chairperson and his team for coming up with these very progressive and perpetual amendments to the law. I want to assure the Committee that I support these amendments. Although I can see the Chairperson is on the phone, he is a very high-ranking Member of this House. I have high regard for him and do not need to read anything. I know he was present and signed these amendments and so, I support them with my eyes closed.

I rise to add my voice starting with the amendment to the Traffic Act, which proposes adoption of technology. Each one of us has committed a traffic offence. Once you are caught, the first thing the police officer does is enter your car, tell you to go to the police station or pick up your car keys, leaving you helpless and grounded. I support this amendment because it will ease the burden of petty traffic offenses so that you are charged on the spot and pay your fine online.

I also support the amendment on sexual offenses and defilement. Many a times, we come across sexual offenders, and we do not know them. They are taken to court for committing offenses many times and sent to prison for maybe seven years. Yet, they come out

and commit another offense, and no one refers to what they had done earlier. Therefore, I support that we keep a register of all sexual offenders and, moving forward, keep a register of all other offenses, including capital, corruption and money laundering.

On the Universities Act, there has been some discrimination and unfairness to students who want to join public universities privately as self-sponsored and not Government sponsored. I support a central placement board that caters to all students irrespective of one's background, whether poor or rich, or which university they want to join, so that there is fairness to all the students all over the country.

Hon. Temporary Speaker, on the issue of public holidays, we have many holidays in Kenya. Sometimes, they even pass without one's knowledge. We only realize when the Cabinet Secretary gazettes, or we see national celebrations headed by State officials. I support the amendment that duplicate public holidays appearing in October, that is, the former Moi Day, which was later converted to *Utamaduni* Day, be deleted as a public holiday in Kenya.

I also support the amendment to remove Value Added Tax (VAT) on ethanol. As you realise, there is high taxation in the country, and Kenyans are over-burdened. I fully support any removal of VAT on some items that touch on the common *mwananchi*. Therefore, these amendments are progressive and perpetual to the law and will make Kenya a better place to live.

Thank you, Hon. Temporary Speaker, once again. The Chairperson of the Committee is my friend and neighbour. I will fully support him anytime, any day, or even midnight.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Siyoi Lillian Chebet.

Hon. Lillian Siyoi (Trans Nzoia County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to contribute. I support the proposed amendment to the Traffic Act to incorporate the use of technology in the management of minor traffic offenses. This is because we see people wasting a lot of time on the road, struggling with police officers trying to fix the mistakes they have made. I support this amendment because it will curb corruption. There are some minor mistakes one makes, and there is no need to go to court. You can be charged there and then or be given a pay bill to pay your fine as you continue with your work. So, I support this.

I also support the amendment on sexual offenses, which is a huge issue in society. In this country, we see offenders set free after having sexually harassed or defiled children in estates. After being taken to court, they come out on bond and do the very same crime elsewhere.

Hon. Temporary Speaker, I support this Bill. When we do this, people will be careful. We will know that a certain person was prosecuted for a certain offence. Therefore, we have to be careful as that case is ongoing. The other people living within the same perimeter with him can be careful and told to be cautious. He can harm the same people who are there. It will also help because when the person is accused the second time, it will enable the magistrates to set the charges higher than he expects. We can be sure he is an offender and needs to be prosecuted for the offence he commits.

Thank you so much, Hon. Temporary Speaker.

Hon. Mugambi Rindikiri (Buuri, UDA): On a point of order, Hon. Temporary Speaker.

Hon. Temporary Speaker (Hon. Omboko Milemba): Very well. What is your point of order, Hon. Rindikiri?

Hon. Mugambi Rindikiri (Buuri, UDA): Hon. Temporary Speaker, I refer to Standing Order 95. I ask the Mover to reply, please.

Hon. Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Rindikiri. Even as you stand on Standing Order 95, there is no further interest in this debate. Therefore, I call upon the Mover to reply.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. As I reply, let me first thank all the Members who have contributed to this Bill with excellent proposed amendments since the beginning of its debate in the last Session last year.

I also take this opportunity to thank the Departmental Committee on Justice and Legal Affairs, under the able chairmanship of Hon. George Murugara, for the Report that he tabled on the amendments proposed in this Statute Law (Miscellaneous Amendments) Bill. It had very many amendments. I have listened to many of those proposals or contributions by Members. I agree with the Member for Nandi County, Hon. Cynthia Muge, who has contributed a few minutes ago. She went at length to explain to Kenyans the issue of ethanol being dealt with within this Bill. This is not the one used for human consumption, but it is denatured. It cannot even be put in the mouth. It is very bitter and used for other industrial uses. This is what is being targeted.

Otherwise, there was a concern amongst members of the public during public participation that this may touch on the normal ethanol that is used for alcohol production that devastates lives and livelihoods, especially the most recent case in Kirinyaga County. There are also many amendments that the Committee agreed with after public participation. This includes the one on the public holidays, which the Committee disagreed with. I agree with them on keeping *Utamaduni* Day. Following further engagements with the Executive, we agree that this *Utamaduni* Day should remain, but themed on conservation of our environment.

The Chairman of the Departmental Committee on Justice and Legal Affairs, Chairman of the Departmental Committee on Administration and Internal Affairs, and I will move amendments to rename this holiday either as *Utamaduni* and *Mazingira* Day or *Mazingira* and *Utamaduni* Day so that it remains a public holiday when we, Kenyans, can celebrate not only our diverse cultures, but also culture among Africans of conserving the environment. We will theme it not only on preserving diverse cultures, but also on preserving our environment. Therefore, I agree with the Committee and many Members who spoke against the amendment to remove the holiday.

There was also an amendment to Section 56 (1) of the Universities Act, 2012. It is good when we have an opportunity to debate some of these Bills over a period of time. Since this debate began, there were reports last week on private universities and monies that had been given to them. A lot of money goes to universities. The Public Investments Committee on Governance and Education led by Hon. Wamboka Wanami has called upon private universities to refund a total of Ksh219 million as they kick off a probe on monies that has been disbursed over the years to our private universities. Therefore, I will indicate my intention to drop the provisions related to placement in private universities for all students, not just Government-sponsored students. Therefore, when we come to the Third Reading, as the Proposer of the Bill, I will seek to drop some of these amendments relating to Section 56(1). This will allow the Public Investments Committee on Governance and Education to finish its probe and whatever other investigations that may come out of that process. This will ensure that we do not do anything that may jeopardise the work of a parliamentary committee or interfere with the work of investigative agencies, should there be a need following the probe that the parliamentary committees are carrying out.

Allow me to thank all the Members who had an opportunity to contribute both last year and this year. We shall be inviting those who expressed the need to propose further amendments to this Bill in due course to do so. If there is a Kenyan out there who feels they want to propose amendments to this Bill, they are at liberty to approach any Member of Parliament, being the peoples' representative, to come and represent them with such amendments when we get to the Third Reading.

With those many remarks, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Thank you, Leader of the Majority Party. Before we move on, I am very happy you followed Members' contributions. We had a particular item on the independence of the Office of the Attorney-General. If you could be magnanimous, you can speak to it for one minute only.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I had the opportunity to listen in from the Office.

It is, indeed, true that we must safeguard the independence of the Office of the Attorney-General. It should not just be operations matters, but it should be up to and including the hiring of staff into that office. Remember, the Attorney-General is the legal advisor to the Government. This House, as an institution, also depends largely on him not just on legal advice, but also on the drafting of Bills. It is imperative that the office be safeguarded to ensure its independence and that it recruits staff who match up to the skills needed, whether in legislative drafting or representing the Government in courts of law.

The Attorney-General's Office has become a training ground over the years. Parliament, as an institution, and all other arms of Government, including Government ministries, poach the best of the well-trained staff from the Attorney-General. Over the years, they have poached from the Attorney General's chambers and left them with few inexperienced staff. It would be important that the Office of the Attorney General is given requisite support with the passage of this Bill. When the time comes, we will ensure that the Attorney-General's Office is safeguarded, independent and secured. It should be given the right to procure experienced staff with requisite skills who will offer value to the people of Kenya in and out of court, including this House, in legislative drafting.

I seek your indulgence to postpone this matter to a later time. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Most obliged. We shall defer the putting of the question to a later date.

Next Order.

(Putting of the Question deferred)

Next Order.

BILL

Second Reading

THE EMPLOYMENT (AMENDMENT) BILL (Senate Bill No. 11 of 2022)

The Temporary Speaker (Hon. Omboko Milemba): Chairperson, Departmental Committee on Labour.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you. The Bill was read a First Time in the House on 17th August 2023, pursuant to the Standing Order 127 (1). The Bill was committed to the Departmental Committee on Labour for consideration and facilitation of public participation.

The principal object of the Bill is to provide for the right to disconnect in the digital age. This Bill seeks to address increased employee burnout. Digital connectivity has also been noted to be eroding leisure time for...

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

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Chairperson. What is your point of order, Hon. Millie? Chairperson, you may take your seat as we listen to the point of order.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Sorry, Hon. Temporary Speaker. I will seek forgiveness in case I am the one who missed. I am unsure whether I missed him reading the Bill a Second Time, as is required by procedure.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Chairperson. Give him the Bill.

Hon. Muchangi Karemba (Runyenjes, UDA): Hon. Temporary Speaker, I beg to move that the Employment (Amendment) Bill, (Senate Bill No. 11 of 2022), be now read a Second Time.

The Bill was read for the First Time in the House on 17th August 2023, pursuant to Standing Order 127 (1), and committed to the Departmental Committee on Labour for consideration and facilitation of public participation.

The principal object of the Bill is to provide for the right to disconnect in the digital age. This Bill seeks to address increased employee burnout. Digital connectivity has also been noted to be slowly eroding employee leisure time, affecting their work-life balance. This Bill, therefore, seeks to strike a balance between work and private life so as to allow digital technology to positively affect workers' quality of life as supported by employers.

Hon. Temporary Speaker, the Bill contains two clauses for consideration. Clause 1 of the Bill provides for the short title. Clause 2 of the Bill provides for the amendment by inserting a new Section 27(a) to provide for the right of the employee to disconnect and for a policy on the same. The Bill does not limit any fundamental rights and freedoms as provided for under the Constitution.

Under the Fourth Schedule of the Constitution, counties are mandated to implement the national labour standards and employment policies in their counties. Therefore, the Bill concerns counties in terms of Article 110(1)(a) of the Constitution and Standing Orders.

In line with Article 118 (1)(b) of the Constitution and Standing Order 127 (3), the National Assembly, in the local daily newspapers of 25th August 2023, invited the public to make submissions on the Bill.

Further, the following stakeholders were requested to submit their views to the Committee:

1. Office of the Attorney-General and the Department of Justice.
2. State Department for Public Service.
3. State Department for Labour and Skills Development.
4. Public Service Commission.
5. Law Society of Kenya.
6. Kenya Law Reform Commission.
7. Central Organization of Trade Unions.
8. Katiba Institute.
9. Federation of Kenyan Employers.
10. Kenya Private Sector Alliance.

The following stakeholders submitted their Memoranda to the Committee.

1. State Department for Labour and Skills Development.
2. Public Service Commission.
3. Council of Governors.
4. Law Society of Kenya.
5. Kenya Law Reform Commissions.
6. Federation of Kenya Employers.
7. Kenya Association of Manufacturers.

8. Kenya Private Sector Alliance.
9. Central Organisation of Trade Unions.
10. The National Council of Non-Governmental Organisation.

Hon. Temporary Speaker, the Committee, while considering the Bill, made the following observations –

1. That the proposed amendment is noble as it will protect the rights of the employees as enshrined under Article 41 on the right to fair labour practice by ensuring an employer pays the employee equal remuneration for work of equal value as per Section 5 (5) of the Employment Act No 11 of 2007. Article 43 also provides that all citizens have a right to the highest attainable standards of health and with the documented effects of lack of rest during non-work times such as stress, fatigue and burnout, interfering with the employee's health and well-being, this amendment will enhance the protection of this right.
2. The right to disconnect may be provided for through policy. However, the Constitution under Article 94 provides the power of Parliament to make provisions having the force of law in Kenya. Therefore, the enactment of the law on the right to disconnect is rightfully before Parliament.
3. But that notwithstanding, the term 'emergency' should be clearly defined to prevent ambiguity. Further it should be clear that an employee should first establish whether there is an emergency or not by answering the communication.
4. Not all scenarios that could constitute an emergency have been defined. Some sectors require employees 24 hours a day which has not been defined.
5. The lack of clear parameters for applying the right to disconnect makes it difficult to enforce this right. It is, therefore, important to define other parameters besides emergency parameters, such as defining the term 'compensation' to create a means to easily enforce this right as it is backed by the right to fair labour practice under Article 141. This includes working within defined working hours and the right to privacy under Article 31, as enshrined in Kenya's Constitution 2010.
6. To cure this mischief, the Bill can provide for delegating legislative power to the relevant Cabinet Secretary to make regulations that will clarify aspects such as the nature of compensation, emergencies, and out-of-work hours as provided for under international labour laws, to accommodate changing trends in the workplace, such as flexi-working hours of contracts that require employees to work with people in different time zones. This will then provide guidelines to govern policies to be enacted by the employers.
7. The need to re-draft and insert '2007' after the Labour Relations Act' to ensure correct quoting of the Labour Relations Act 2007 in Section 27 (a) (8). Further, the one section in Section 27 (a) (4) be deleted and substituted with the word 'Sub-Section' to prevent confusion with Section 10 of the Employment Act, 2007.
8. There is a need for a transition clause of six months to allow organisations to develop and engage internally on policy formulation and socialising the same with employees.
9. Hon. Temporary Speaker, Section 27 (a) (7) provides that when an employer contacts an employee during the period where there are no mutually agreed-out work hours, the employee shall not be obliged to respond and shall have the right to disconnect. The Committee noted that this may be detrimental to the employer when faced with an emergency that needs the urgent attention of the

employee, since the employee did not answer the communication to be informed of the situation and ascertain if it is an emergency.

There is ambiguity in such instances where an employee...

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

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Chairperson. A point of order is a higher Motion.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity and indulging me. I know that I should not be raising this point of order at this time, but I know that, sometimes, when Committee Chairs move their Reports, Members are not available in the House. Listening to the Committee Chairperson, it is unclear whether he is rejecting the Report or proposing amendments to it. He needs to be very clear since when we will be debating the Bill, he may not be here to clarify. It would be good for him to be clear. I know that you might clarify in the end, but because of time, it would be nice to know what your train of thought is at this point.

The Temporary Speaker (Hon. Omboko Milemba): Thank you, Hon. Millie. I am keenly following as he moves the Bill, and I am equally taking notes. You know my interest. I was hoping that he would raise the matter at the conclusion. Let us give the Chairperson more time. Proceed.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Temporary Speaker. There is ambiguity when an employee has not completed a set task for the day.

The proposed amendment to Section 27(a)(6) would give employees blanket immunity, even where there are legitimate reasons for contacting them after working hours.

10. Employment is a civil relationship and should, therefore, not attract criminal liability by imposing fines. The offence created to ensure compliance with the amendment is punitive, and it is unclear against whom it may be enforced. An organisation or corporation is a legal person and is in the same position in relation to criminal responsibility and liability as a natural person.

11. The right to disconnect should cover all categories of workers and, therefore, Section 27(a)(10)(b) should be amended by inserting employment contracts and collective bargaining agreements after employment policy to effect this. Further, the deployment of a policy to govern the right to disconnect should apply to all employers, not just those with ten or more employees.

Having considered the Bill and the views and recommendations of the public and relevant stakeholders, the Committee resolved to recommend that this House rejects the Bill. That answers Hon. Millie's request.

The Temporary Speaker (Hon. Omboko Milemba): I also think so. You may proceed.

Hon. Muchangi Karemba (Runyenjes, UDA): The justification is that:

1. The Bill does not consider the changing work environment and current work trends, where work is not measured in terms of hours of work, but in terms of output and achievement of employment target deliverables.
2. There is an existing Government policy allowing for flexible work arrangements such as remote work and flexible hours, that is, flextime.
3. The current move to source for online employment opportunities by the Government will render this provision not progressive.
4. The issues raised by the Bill may be best addressed through policy formulation.
5. Matters of compensation for extra time worked have already been provided for both in the Employment Act and the Employment Policy.

6. The amendment Bill does not provide ways of how the employee may compensate the employer if the employee leaves work early and does not meet their targets.

As I conclude, I appreciate the Members of the Departmental Committee on Labour and the Secretariat for their role in scrutinizing this Bill. The Committee is grateful.

The Temporary Speaker (Hon. Omboko Milemba): Order, Chair. We may rise.

As I stop you now, note that you still have 32 minutes to move your Bill. The next time you do so, I advise that you get back a little so that you bring out your recommendations clearly, as you had started. This will enable Members to understand the Committee's recommendations.

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the time being 7:00 p.m., this House stands adjourned until Wednesday, 28th February 2024, at 9:30 a.m.

The House rose at 7:00 p.m.

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