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Wednesday, 18th October 2023

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, you may continue ringing the Quorum Bell.

(The Quorum Bell was rung)

Order, Hon. Members. We now have quorum to transact business. Let us proceed, leading Clerk-at-the-Table.

PAPER

Hon. Speaker: Chairperson of the Special Funds Account Committee. Leader of the Majority Party, who is the Chairperson of that Committee?

Hon. (Dr) Robert Pukose (Endebess, UDA): The Chairperson of the Special Funds Account Committee is the Member for Migori County, Hon. Fatuma.

Hon. Speaker: *Wapi Mhe. Fatuma?* Okay, let us go to the next Order.

NOTICES OF MOTION

Hon. Speaker: Chairperson of the Special Funds Account Committee. Hon. Wandayi, that is your jurisdiction. Where is the Chairperson of the Special Funds Account Committee?

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, Hon. Fatuma Mohammed is two minutes away. If you could indulge her so that when she comes in, she may be able to prosecute her business.

Hon. Speaker: That is obviously guesswork because if she was two minutes away, I would see her in the walkway.

(Laughter)

Hon. Opiyo Wandayi (Ugunja, ODM): No. I personally met her some few minutes ago. Thanks.

(Hon. Speaker consulted with the leading Clerk-at-the-Table)

Yes, Hon. Irene Mayaka.

ESTABLISHMENT OF REGULATORY FRAMEWORK
FOR CRYPTOCURRENCY

Hon. Irene Mayaka (Nominated, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that Article 231(2) of the Constitution mandates the Central Bank of Kenya (CBK) to formulate monetary policy, promote price stability, and to issue currency among other functions; further aware that the National Payments Systems Act provides that the CBK may, by notice in the Gazette, designate a payment instrument if the Bank is of the opinion that the payment instrument is of widespread use as a means of making payment and may affect the payment systems of Kenya; or to protect the interests of the public or of the integrity of the payment instrument; noting that use of cryptocurrency has gained traction in the recent past and has become an increasingly significant aspect of the modern financial ecosystem; further noting that Kenya is amongst the leading countries in cryptocurrency ownership in Africa; concerned that the widespread use of cryptocurrency in the country without regulation could drive financial instability, market manipulation and potential illegal financial activities; further concerned that if left unregulated, cryptocurrencies may unofficially replace and devalue the domestic currency; cognisant of the fact that the Finance Act, 2023 introduced tax on income derived from the transfer or exchange of digital assets which include cryptocurrencies, digital documents, audible content, motion pictures, and other related digital data; acknowledging that there is need to establish a regulatory framework to ensure mandatory registration of cryptocurrency and digital wallets; now therefore, this House urges the national Government, through the National Treasury and Economic Planning, to develop a framework for the establishment of a regulatory framework on the use of cryptocurrencies in the country and provide for licensing, governance and operations of cryptocurrency-related business.

Hon. Speaker: We will go back to Order No.5. Chairperson of the Special Funds Accounts Committee. Hon. Fatuma, you have held the House at ransom. You know very well that when you have business on the Floor, the Speaker should find you in the Chamber. We have called out your orders twice. Your leader, the distinguished Leader of the Minority Party, was constrained to mislead the House that you were two minutes away when you were not. Can you apologise to the House and proceed to lay the Paper under Order No.5?

Hon. Fatuma Mohammed (Migori County, Independent): Thank you, Hon. Speaker. I am very sorry for the delay. I had a terrible toothache, which I have just dealt with. I might sound a bit funny. That is why I delayed. I am very sorry, Hon. Speaker. I apologise to the House at large.

Hon. Speaker: Go ahead.

PAPER

Hon. Fatuma Mohammed (Migori County, Independent): Hon. Speaker, I beg to lay the following Paper on the Table:

Fourth Report of the Special Funds Accounts Committee on its consideration of the reports of the Auditor-General on the Financial Statements for the Kenya Slum Upgrading Low-Cost Housing and Infrastructure Trust Fund for the financial years 2017/2018 to 2021/2022, and the Alcoholic Drinks Control Fund for the Financial Year 2017/2018.

Hon. Speaker: Proceed to give notice of Motion under Order No.6.

NOTICE OF MOTION

ADOPTION OF REPORT ON THE KENYA SLUM UPGRADING LOW-COST HOUSING AND INFRASTRUCTURE TRUST FUND AND THE ALCOHOLIC DRINKS CONTROL FUND

Hon. Fatuma Mohammed (Migori County, Independent): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Special Funds Accounts Committee on its consideration of the Report of the Auditor-General on the Financial Statements for the Kenya Slum Upgrading Low-Cost Housing and Infrastructure Trust Fund for the financial years 2017/2018 to 2021/2022, and the Alcoholic Drinks Control Fund for the Financial Year 2017/2018, laid on the Table of the House on Wednesday, 18th October 2023.

Hon. Speaker: Next Order. Member for Lamu East, Ruweida Obo.

QUESTIONS AND STATEMENTS

GENERAL STATEMENT

ALLEGED ETHNIC CLEANSING IN LAMU COUNTY

Hon. Ruweida Mohamed (Lamu East, JP): Hon. Speaker, pursuant to Standing Order 43, I wish to make a General Statement with regard to the alleged claims of ethnic cleansing in Lamu County.

On Thursday, 5th October 2023, during her Maiden Speech in the House, the Women Representative of Lamu County, Hon. Muthoni Marubu, made allegations implying that the ongoing incidences of insecurity in Lamu County were a disguise for ethnic cleansing perpetrated by the indigenous people on the Agikuyu community in the region. I wish to put it on record that residents of Lamu County, including those from Iraq and Mkokoni sub-locations, who comprise persons from various ethnic backgrounds, among them the Agikuyu, have been living together in peace.

The security situation in Lamu has been delicate, and it has become an easy target for attacks by criminal gangs and infiltration by *Al Shabaab* militants, especially in Boni Forest. As a matter of fact, insecurity affects all residents alike irrespective of their ethnicity. Additionally, the names of terror suspects released by the Cabinet Secretary for Interior and National Administration yesterday show that these individuals hail from a cross-section of all tribes and regions, not just from Lamu. It is, therefore, regrettable that my colleague made such unfounded claims of ethnic cleansing when the entire Lamu County has been bearing the brunt of external militant and terrorist attacks.

As the Member of Parliament for Lamu East Constituency, and the previous Lamu County Women Representative, I appeal to my colleague and other political leaders from the region to encourage peace and ethnic harmony as opposed to fanning ethnic divisions. Further, I urge the Government to quicken investigations into the root causes of the incessant insecurity in Lamu in order to bring the perpetrators to book. I also request the security agencies to step up security surveillance in Lamu in order to stabilise peace in the region.

Finally, I sympathise with those affected by the attacks and call upon all the Members of this House to unite in the fight against insecurity in Lamu and other vulnerable parts of the country.

Hon. Speaker: Thank you, Member for Lamu East. Hon. Owen Baya has requested to comment.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. I rise to support that Statement by Hon. Captain Ruweida. Issues of Lamu are issues of the Coast Region, where many communities have come together. For us to continue to coexist, we need to respect all communities. Inflammatory remarks by one community against another will make the Coast Region ungovernable. I would like to ask leaders from the Coast, of whatever tribe, to see themselves as coastal leaders and not as an extension of their community. That is the only way we can live harmoniously.

Whatever is happening in Lamu must be condemned because it is criminal. People killing others is criminal and should not be seen as tribal or as one tribe against another. Those are criminal acts and those criminals must be brought to book. Many Giriama live in Lamu and have been affected by the killings. I cannot stand here as a leader and say that the Bajuni or the Kikuyu are fighting the Giriama. Those are criminals who should be arrested and put where they are supposed to be. We should not make inflammatory remarks against one community. If we go in that direction, Lamu will be ungovernable. When people start digging into history and saying, “We came here earlier, and you people did not” or “This is our place”, they ignore that all of us belong to Kenya. The people of Lamu belong to Lamu and all of them belong to Lamu. We cannot accept inflammatory remarks made by leaders in a flagrant way such that communities are now taking positions against each other.

Leaders in Lamu must come together and sit down as leaders of Lamu. Not leaders who are in Lamu by extension of another community or tribe. That is wrong. The people of Lamu elected leaders the way they are. One from the Bajuni community, another one from the Kikuyu tribe and another from whatever tribe. They put them together to work together for the benefit of the Lamu community. The problem starts when we start segregating people by saying that we are leaders from Lamu but we come from this or that region. That is why people are losing their lives. The more leaders grandstand, the more people will lose in Lamu.

I urge the leadership in Lamu and the Coast Region in general to stop these inflammatory remarks. Let us come together and look at the issue. If it is criminal, it is criminal. I do not see it as a tribal issue. I heard that four members of the Giriama community were killed there but I cannot go there and say that they are being killed due to tribalism. It is criminal and it must be condoned as such. It is criminal. I ask leaders from other regions not to pour fuel on the fire that is already in Lamu. I have seen comments from other regions of this country saying, “Those are our people”. No. Those are coastal people. They are our people and we love them equally. Nobody should take the position that they are their people because they originated from a certain region, therefore beating drums of war from other areas. We are urging them to desist and allow us, as coastal leaders, to handle the issue of Lamu and ensure that peace prevails in Lamu.

I thank you, Hon. Speaker.

Hon. Speaker: Leader of the Minority Party. Do not take as long as he has.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, I will not. I have been listening keenly to both Hon. Baya and Hon. Capt. Ruweida on the matter of insecurity in Lamu County. I am sure I also listened keenly to the previous leader from Lamu, who spoke on this matter last week but one. I cannot remember her name properly. My plea is that all these leaders should sober up. The issue of insecurity in Lamu County has a very long history. I remember vividly the time when there were chaos in Mpeketoni and many people lost their lives. All these people are Kenyans.

I want to agree with Hon. Baya and Hon. Capt. Ruweida that we cannot put an ethnic tag on crime. Criminals are criminals. That is why taxpayer's money is used to pay our security agencies. It is only in Lamu where we have the Kenya Defence Forces (KDF) deployed almost permanently to deal with internal security issues. I am not even sure if this House gave approval for the KDF to be based in Lamu permanently to deal with petty crimes of people killing one another. Insecurity in Lamu and any other part of this country requires that we allow security agencies to do their work impartially, objectively and expeditiously. How I wish that the perpetrators of these crimes in Lamu were apprehended and taken to court as soon as possible.

As I conclude, the other day we were told that a list of instigators of this violence in Lamu will be published. I was waiting to see which names would be published. Yesterday I saw a list in the media from the Directorate of Criminal Investigations (DCI). If you look at that list, you will get worried. We do not want lists of instigators of violence published. We want to see those people being arrested and arraigned in court. Why publish names and photos of people? We want them arrested. Let us know what the problem is in Lamu before we venture into Haiti and other foreign places. This is a critical matter and Kenyans are losing their lives. It does not matter whether it is a Kikuyu, a Giriama, a Luo, a Pokomo or other ethnic groups that live in Lamu. Those are Kenyans and the security agencies must do their work.

Thank you.

Hon. Speaker: Hon. Zamzam, you have two minutes.

Hon. Zamzam Mohammed (Mombasa County, ODM): Asante sana, Mhe. Spika. Vile ambavyo vita vinaathiri Lamu, mimi kama Mama Mombasa naamini kuwa vinaathiri jamii yetu nzima. Ningependa kutoa ushauri kwa viongozi wa Lamu na Pwani kuwa haya maswala yanashika kaunti zetu. Tushikane kama viongozi wa Pwani na tutafute suluhisho.

Mhe. Spika, nimechanganya makabila tofauti. Babangu ni Mmijikenda. Mamangu ni Mbaluhya. Nimeolewa na Msame-Mzaramu. Nimechanganya lakini haitakuwa sawa ikiwa leo mimi nitaambiwa "toka hapa, nenda kwenu" ama iwe hivi na vile. Sote ni Wakenya. Tunafaa kukaa mahali popote. Hata hivyo, nitasema kwamba *historical land injustices* zimekuwa sababu ya vita vingi kutokea ndani ya Pwani. Ningepomba Wapwani wote *watritiwe* kwa njia moja. Kama ni maswala ya mashamba, Wabajuni wakipewa titles, wengine wote wapewa titles ili *kubalance*. Matatizo yanatokea kwa kuwa nimezaliwa hapa, hapa ndio nyumbani, na sina cheti huku pengine mwenzangu aliyezaliwa hapa na ni wa kabila lingine amepata cheti. Ikiwa Serikali itachukua Wakenya wote kuwa hadhi moja na sisi Wapwani tupewe hatimiliki za mashamba yetu, tutaweza kutatua haya matatizo.

Kivyovyote vile, maisha ya mtu hayafai kupotezwa. Si kubishiwa mlango na kuchinjwa ukitoka nje kwa kuwa mtu yuaitwa Kamau ama Njoroge. Mimi kama Mama Mombasa ninapinga vikali.

Asante.

Hon. Speaker: Tosha. Give Hon. Bowen the microphone. You will be the last to comment on this statement.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. Last week I heard the honourable Woman Representative of Lamu County make her Maiden Speech.

(Loud consultations)

I have also listened to Hon. (Capt.) Ruweida. From what I have heard from the two leaders, the problem in Lamu is in the leadership of Lamu. You cannot have two Members of Parliament from Lamu County seated in this House and they cannot talk to one another. They address each other through the media and the Floor of this House. Do they believe that they will bring peace to Lamu by doing that? It is not possible. I urge my two colleagues, Hon. Ruweida and Hon. Muthoni to sit down as Members of Parliament and leaders for the benefit

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of the people of Lamu. The people of Lamu elected them to talk together instead of addressing each other in the media, WhatsApp and the Floor of this House.

Hon. Speaker, some of us come from the Rift Valley Region, which is majorly a cosmopolitan area. It includes Trans Nzoia and Bungoma, where you come from. We have all the faces of Kenya there and we have co-existed very well despite having small issues. You find that the small issues are majorly because of the local population, but the leaders should come together to see how to make their people co-exist. The Deputy Leader of the Majority Party, Hon. Baya, spoke very well. We are all Kenyans and we do not have another country. Kenyans who are in Lamu are our brothers and sisters. We want to live as Kenyans regardless of where we come from. I ask Hon. Baya to take up leadership in the coastal region and bring these leaders together to ensure that the people of Lamu live in peace.

Thank you, Hon. Speaker.

Hon. Speaker: On special request, I will give Dawood, Hassan and close with the Leader of the Majority Party. Take two minutes each.

Hon. Rahim Dawood (North Imenti, Independent): Thank you, Hon. Speaker. I had asked for a special request because my grandmother and father were born in Lamu. We have generations in our family born in Lamu. I do not understand the fight between the two Members of Parliament, as Hon. Owen has said. I can remember what my father told me about Lamu; that, it was the most peaceful place on earth. That is why most people from the Indian sub-continent passed through there before going anywhere else.

There should be nothing like ethnic cleansing because this is not Rwanda or what is happening in Eastern Europe. We need to get to the bottom of this matter. I request the Coast Parliamentary Group to get to the bottom of this matter as they work with both Members of Parliament because they are inciting the public against each other. The two Members should not be allowed to incite the people. That is my request because Lamu is peaceful.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Proceed, Hon. Hassan.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you Hon. Speaker, for giving me this opportunity. I want to speak on Hon. Ruweida Mohammed's Motion.

Hon. Speaker: It is not a Motion but a Statement.

Hon. Yusuf Hassan (Kamukunji, JP): Yes, Hon. Ruweida Mohammed's Statement. I come from a multi-cultural and multi-ethnic neighbourhood. I believe that Kenya is a fragile nation in the making. We should do whatever is necessary to reconcile our communities, to be part of the solution to the problems we face every day. I think it is very dangerous when Members of Parliament or politicians use the privilege of sitting in this House as an opportunity for pulling communities apart rather than putting them together.

The historical legacies of Lamu and its neighbourhood are well known. Hon. Baya has spoken like a true and visionary leader. It is important for Members of Parliament and politicians from the Coast Region to come together and resolve these problems. This is because any society will have clashes and problems. Those killing innocent people, as it has been said, are not part of the solution. They are criminals who are committing murder and should be dealt with very strongly through our legislations and law enforcement officials. They should be isolated. Let us work for unity, peace, brotherhood and sisterhood of our nation. We must ensure that elements who want to spoil our peace and unity are eliminated and isolated from us.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. First, let me commend all the Members who have spoken on this issue, particularly the Member for Lamu East for raising it. I cannot agree more with the sentiments of most Members who have spoken,

beginning with what the Member for Kamukunji has said that, not just in Lamu but in the entire country, we must live together as one nation.

All communities are all over the country. You go to Bungoma and the Bajuni are living peacefully with other people. You will find the Somali community in Lamu just like in Kikuyu Constituency. As Hon. Owen Baya will tell you, the Pokomo and Giriama are known to be inhabitants of the Coastal Region but today they also live in Northern Kenya.

As leaders, we must always remember that we bear great responsibility and duty of care to the people we lead. That duty and responsibility must always encourage us to speak in a manner that always brings our people together. Criminals and terrorists are unaware of the differences we have as a country along our ethnicities. They endeavour to take advantage of any small difference we perpetuate as leaders by inciting Kenyans against each other. It is always fashionable, if I stand here to speak to my community and the gallery. Especially, if you come from a large community like mine, there is always the temptation to speak to the gallery and say what will excite the people, especially the voters.

We must always bear in mind that we owe a duty of care even to the big communities we lead. However small or big a community is in this country, we were all put here by the Almighty God to live peaceably together. We must desist from using words or issuing statements that may look populist in nature but end up inciting communities against each other.

Yesterday, the Cabinet Secretary for Interior and National Administration released a list of terrorists and criminals terrorising people in Lamu. Security challenges relating to terrorism are not only in Lamu County, but also neighbouring counties like Garissa, Wajir and Mandera have suffered the same fate. We cannot say that there is a particular community being targeted in Lamu but not in Mandera or Garissa for that matter.

Terrorists are criminals who must be looked at with the prism of criminal activity and not their ethnicity, where they come from or religion. I have seen in Lamu and Northern Kenya, many Muslims also suffer in the hands of terrorists. Therefore, I wish to plead for restraint, especially amongst the political leadership. I am saying this because I have relatives in Lamu. My first cousins live in Mpeketoni. When I speak to them, they tell me about criminals and terrorists and not ethnicities or one ethnic community targeting another. As leaders, we must be cautious so that we do not fall prey to the machinations of criminals called terrorists, who want to exploit our ethnic divisions to make it look like one ethnic community is being targeted in this region and another ethnic community in another region.

We are speaking about one community in Lamu. If tomorrow you speak to the Member for Likoni, Hon. Mishi Mboko, she will tell you, for instance, that Likoni has a huge population from Luo-Nyanza. What will happen tomorrow if terrorists target that community from Luo-Nyanza in Likoni? Are we going to say those originally from Luo-Nyanza are being targeted by the Digo, who also live there? That is why we must look at terrorism as a criminal activity and help the Government to deal with it that way because it has nothing to do with our ethnicity, where we come from or the religion we profess. Criminals and terrorists are plainly that.

I know we will be tempted because the other day I saw the Member for Mombasa County express solidarity at the global front with whatever is happening in the Middle East. All these temptations are there but I plead with you at the global stage, to call for restraint and peaceful co-existence of people from all races and religions so that we live peacefully together. I would like to plead with the people of Lamu County that the Cabinet Secretary for Interior and National Administration has already released a list of the criminals. He has even offered a cash reward for anyone who will give the security organs information that will lead to their arrest. That shows the level of commitment by the ministry to deal with the problem in Lamu and the Northern Kenya Region. Those who may be harbouring criminals or have knowledge of where these criminals are hiding, whether it is in the Boni Forest or the frontier districts of

our country bordering Somalia, please; let us volunteer the information to our security agencies so that they deal with this problem of terrorists and criminals.

In conclusion, I plead with all of us to exercise restraint, especially in our public pronouncements. It is very tempting to say insightful things because they augur well with the majority of our voters but what is very good for the public gallery now may be very dangerous tomorrow, even to your own family and yourself. Therefore, we must always exercise restraint as leaders because, as the Bible says, to whom much is given much is expected. We have been given the honour and responsibility of being Members of Parliament and leaders in our country. Let us also remember that God has given us a higher responsibility of serving the people. Therefore, let us exercise restraint in what we say and how we engage even with members of our communities and those from other communities.

I beg that we allow the Ministry of Interior and National Administration to deal with criminals as criminals and terrorists as terrorists, irrespective of who they are. Ten years ago, the notion was that every terrorist was a Muslim. Today, that is not the case. We have seen many Christians being lured into terrorism and becoming more vicious. Some of the people who attacked DusitD2 Hotel Complex were said to have been harboured in my own county, in Ruaka Estate, Kiambaa Constituency, Kiambu County. We would never have imagined that terrorists would be in Ruaka, Kiambu County. It is a reality that we live with today. As leaders, we must desist from falling into the hands and machinations of terrorists and criminals who would want to come and divide us.

Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Thank you, Leader of the Majority Party. Hon. Members, I want to close this debate. I encourage you that when there is a problem, you do not look for who to blame but for a solution. You carry enormous responsibility as representatives of the people. Whatever you say is never in jest. It is taken seriously.

(Applause)

There was a case in the Republic of Uganda where a chief stood at a market, denounced cattle rustlers and said: “Kill the cattle rustlers; I will answer for it.” Wananchi captured 10 people and killed them. So, I urge you that whatever we say is very critical. Those of you who can remember the attack in Uganda, during the 2010 World Cup finals, everybody thought these were Muslim-Somali terrorists. When the Government of Uganda arrested the attackers, it was discovered that four of them were from Luhya, Luo, Kikuyu and Somali nations, all from Kenya. So, let us not profile any community. Criminals have no colour, ethnicity or religion. They are criminals, pure and simple.

(Applause)

Additionally, let us support our illustrious Minister for Interior and National Administration. He has been criss-crossing the country, battling criminal gangs and formations to make our country safe.

The Member for Lamu County wanted to say something but I encourage her to keep her cool. There is no ping-pong between you and your colleague from Lamu East. Many people have spoken to this matter. I looked at *The Hansard* on what you said. At an appropriate time, I will invite you to counsel you on many issues. Hon. Members, let us leave the matter there. The young Member for Lamu County is on a learning curve.

(Laughter)

That was her Maiden Speech. If there was any misstep, we forgive her. We encourage her to be more careful in future. I ask the veterans, just like I told you earlier, to try and mentor the young colleagues. The young Members should also go to the library and read speeches of great debaters in these Houses. That will help you in your debates.

Next Order.

BILL

Second Reading

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL
(National Assembly Bill No.2 of 2023)

*(Moved by Hon. Samwel Chepkonga
on 17.10.2023 – Afternoon Sitting)*

(Debate concluded on 17.10.2023 – Afternoon Sitting)

Hon. Speaker: Order, Hon. Members. I now put the Question on Order No.8.

(Question put and agreed to)

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

Hon. Speaker: Before the next order, allow me to acknowledge, in the Speaker's Gallery, leaders of Egerton University Students Association, from Matungu Constituency, Kakamega County. Hon. Members, on your behalf and my own behalf, I welcome them to the House of Parliament.

(Applause)

Next Order.

MOTION

RATIFICATION OF THE EAC MULTILATERAL AGREEMENT
ON AIRCRAFT ACCIDENT AND INCIDENT INVESTIGATIONS

THAT, this House adopts the Report of the Departmental Committee on Transport and Infrastructure on its consideration of the East African Community (EAC) Multilateral Agreement on Aircraft Accidents and Incident Investigations, laid on the Table of the House on Thursday, 17th August 2023 and, pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the ratification of the East African Community (EAC) Multilateral Agreement on Aircraft Accident and Incident Investigations.

(Moved by Hon. George Kariuki on

17.10.2023 – Afternoon Sitting)

(Debate concluded on 17.10.2023 – Afternoon Sitting)

Hon. Speaker: Hon. Members, I will now put the question at Order No.9.

(Question put and agreed to)

Next Order.

BILLS

First Reading

THE UNIVERSITIES (AMENDMENT) BILL
(National Assembly Bill No.38 Of 2023)

*(The Bill was read a First Time and
referred to the relevant Committee)*

Hon. Speaker: Hon. Members, I want to re-arrange the Order Paper. I have been advised by the Deputy Speaker that the Bill at Order No.12 was almost concluded. We need just one or two Members to contribute then we close the Second Reading. Instead of opening up a new order, we can conclude that one first. Was it replied to?

(Hon. (Dr) Robert Pukose spoke off the record)

Leading Clerk-at-the-Table, call out Order No.12. If there are no contributors on that Order, the Mover can reply then we go to Order No.11, where the Leader of the Majority Party will move debate on the Bill.

Second Readings

THE KENYA DRUGS AUTHORITY BILL
(National Assembly Bill No.54 of 2022)

*(Moved by Hon. (Dr) Robert Pukose
on 18.10.2023 – Morning Sitting)*

*(Resumption of debate interrupted
on 18.10.2023 – Morning Sitting)*

Hon. Speaker: Was any Member on the Floor?

(A Member spoke off the record)

Is Hon. Rashid Bedzimba in the House? There being no further interest, I call upon the Mover to reply.

Hon. (Dr). Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. I thank the Members who contributed to this Bill and for the sentiments that were put forward based on

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the public participation Report in amending certain sections. Members talked about the difference between pharmacists and pharmaceutical technologists. There was also an issue on drugs. They suggested that veterinary drugs and human medicines should be under the Kenya Drugs Authority. Drugs for animals and humans are basically the same. We need to control them. These are good amendments that the Committee will consider in the Committee of the whole House.

With those few remarks, I beg to reply.

Hon. Speaker: Have you concluded?

Hon. (Dr) Robert Pukose (Endebess, UDA): Yes, Hon. Speaker.

Hon. Speaker: Hon. Members, I am satisfied that there is quorum to warrant the Question to be put.

(Question put and agreed to)

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

Let us go back to Order No.11.

THE INSURANCE (AMENDMENT) BILL
(National Assembly Bill No.18 of 2023)

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move that the Insurance (Amendment) Bill (National Assembly Bill No.18 of 2023) be now read a Second Time.

This is a very short Bill with five clauses, some of which are clean-ups of the Insurance Act. The first one is on Section 40 of the Insurance Act, which is being amended to delete a proviso in sub-section (1) that had created some conflict in the law. Section 32 of the Act provides for a minimum of 5 per cent or Ksh5 million to be held by insurance companies with the Central Bank of Kenya (CBK). Section 40(1) of the Act that we are deleting provides for Ksh3 million. The Bill is proposing to delete that section to have clarity that you now hold Ksh5 million or at least 5 per cent of the total assets of an insurance company. This gives assurance to members of the public who are insured by insurance companies that, at least, there is some money that is being held by the insurance companies as a percentage of their total assets with the CBK. When you invest in an insurance company as an insured person or insurance investment product, you are certain, just like in the banking sector, that there are deposits held by the insurance company with the CBK to compensate you, should there be a problem with the way it is run.

Secondly, Clause 3 of the Bill amends the Insurance Act by inserting new Section 67H, which is basically creating penalties. New Section 67H (1) says:

“Any shareholder, director, principal officer or management staff of an insurer who—

(a) Fails to take all reasonable steps to secure the compliance of a registered or licensed person with this Act;

(b) Fails to take any reasonable steps to secure the accuracy and correctness of any statement or report submitted under this Act or any other applicable written law; commits an offence under this Act.”

These are amongst many other offences that are listed in the Bill. I am avoiding to read them. A first offender will be subjected to a fine not exceeding Ksh5 million or imprisonment

for a term not exceeding two years. Repeat offenders will get a fine not exceeding Ksh10 million or imprisonment of a term not exceeding five years. In the case of a company, there will be a fine not exceeding Ksh30 million. This is to act as a deterrent to insurance companies. I read the first bit that says any shareholder, director, principal officer or management staff of an insurer who commits those offences will be liable to a criminal offence and be surcharged.

I pointed it out because I just had an engagement with the Chairman of the Departmental Committee on Finance and National Planning who considered this Bill. During the Committee of the whole House, we may need to amend the words, “any shareholder,” to remove the word, “shareholder.” A shareholder may not necessarily be culpable in the running of any company. There are insurance companies that are already listed with our Nairobi Securities Exchange (NSE). Many Kenyans are shareholders holding insignificant shareholding in a company. They are not necessarily involved in the day-to-day running and management of the insurance company. If it fails on any of the issues that are listed here, either to make correct statements or take reasonable steps to secure compliance with the insurance Act, a shareholder who has shares and is not involved in the day-to-day running of the company may be found liable and be imprisoned or fined Ksh5 million, yet he has nothing to do with it.

We have agreed with the Chairman of the Committee that during the Committee of the whole House, that is one of the areas that we will amend to remove the term “any shareholder” and leave it as “any director, principal officer or management staff of an insurer.” These are people charged with the responsibility of managing the insurance companies. If they fail to comply with the Insurance Act, then they are liable to an offence. If they make false statements or reports to the Insurance Regulatory Authority (IRA), then it should be the director, principal officer or management staff of the insurance company who will be held liable. If they fail, without any justification, to settle a judgement or any claim under the insurance Act, they will be held liable.

It is important for these penalties and deterrent measures to be there in law. As it stands today, insurers with their management and staff punish many Kenyans. You pay premiums but when you get into an accident or incur a loss, the insurance company does not compensate you, knowing nothing will happen to them under the Act. Part of the measures that are being put under new Clause 67H is to ensure that if an insurer fails to settle a claim or judgement in court, without any lawful justification, then he will have committed an offence and be subjected to the penalties and fines that are stipulated.

Clause 4 of the Bill seeks to amend Section 70 of the Insurance Act, which is just a clean-up exercise. This is the same in Clause 5, which amends Section 150 of the Insurance Act in the marginal note by deleting the word “surveyors” and substituting with the words “insurance surveyor”. Insurance surveyors are professionals who are defined under the Insurance Act.

Hon. Speaker, as I said, this is a very short Bill. I beg that we all support it. We want to ensure that the insured or clientele of our insurance companies are first assured that their money is safe within the insurance companies. This is what they have invested in insurance investment products, the money market or money they have paid to insurance companies as premiums to secure their assets at a time of loss. This Bill will ensure that the running and management of insurance companies is professional enough. There is no insurance manager, principal officer or any person working with an insurance company who will make false reports to the IRA. The IRA is charged with the responsibility of regulating our insurance companies and making sure that they are submitting reports that reflect their actual financial status and financial health. This is to ensure that when members of the public are insuring with them and paying premiums, they are certain that when they incur losses, those insurance companies will be in the right financial status to settle their claims.

Let me not say much because, as I said, it is only a five-clause Bill and there is really nothing much to say. I can only plead that we support this Bill to ensure that our insurance companies are healthy financially. That they are making reports to the IRA and the Commissioner of Insurance in time. Accurate reports that will ensure that the regulatory agencies and authorities are able to ascertain that all the license insurers are financially healthy and capable of insuring the public. As leaders and the representatives of the people who are insuring with these companies, we owe these people a fiduciary duty just like the managers and directors of insurance companies owe the public a fiduciary responsibility, to ensure that when they put their money in these companies, it is secure. That they will be in a position to compensate them should there be any loss to the insured.

With those few remarks, I beg to move and request the Chairman of the Departmental Committee on Finance and National Planning, who has done a very good job together with his Committee in considering this Bill in record time, to second. They availed a Report which they tabled the other week. I commend them, especially the Chairman for his continued diligence in considering all Bills that come to the House touching on insurance and finance sector. I must commend the Departmental Committee on Finance and National Planning for the good work that they continue to do on behalf of the people of Kenya.

Thank you, Hon. Speaker.

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

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

Hon. Deputy Speaker: Thank you. Before Hon. Kimani speaks, could one of the lady Serjeant-at-Arms kindly come to my table?

You may proceed.

Hon. Kuria Kimani (Molo, UDA): Hon. Deputy Speaker, I beg to second that the Insurance (Amendment) Bill (National Assembly Bill No.18 of 2023) be now read a Second Time.

The Insurance (Amendment) Bill (National Assembly Bill No.18 of 2023), is sponsored by the Leader of the Majority Party, my senior, Hon. Kimani Ichungw'ah, the distinguished Member of Parliament for the great people of Kikuyu. It was published on 12th May 2023. It was read the First Time on 25th July 2023 and committed to the Departmental Committee on Finance and National Planning, pursuant to Standing Order 127. The Bill was submitted by the Cabinet Secretary for the National Treasury as part of the proposals for the Budget of the 2023/2024 Financial Year.

The object of the Bill is to enhance accountability within the insurance companies and observance of fiduciary duties, as well as professional responsibility by senior managers of insurance companies, by amending the Insurance Act Cap.487, to provide for offences and penalties relating to the management of insurance companies. The Bill seeks to ensure that the insurance companies take responsibility in case an insurance company fails. Further, the Bill seeks to correct some errors that were there in the Bill.

Hon. Deputy Speaker, the Committee received the Bill pursuant to Article 118 of the Constitution and Standing Order 127(3). The Committee called members of the public to submit their memoranda through adverts placed in print media on 8th July. We received memoranda from the Association of Kenya Insurers, Association of Insurance Brokers, PricewaterhouseCoopers, the Institute of Certified Public Accountants Kenya and the Insurance Regulatory Authority. The Committee held stakeholder hearings on Wednesday, 30th August 2023, in Parliament Buildings where we also received oral submissions.

In compliance with the constitutional requirements of public participation, the Committee took into consideration the representations received on the Bill. We appreciate all the stakeholders that took their time to submit their memoranda to the Departmental Committee on Finance and National Planning, which we took time to read and adopt some of them in our Report.

The Insurance Act was enacted in the 1980s. Since then, it has been amended a record 38 times over the years. There is, therefore, an urgent need to comprehensively review and perhaps reveal the Act, to be in tandem with the current industrial requirements. But in the meantime, the Bill though a piecemeal one, will go a long way in protecting the insured citizens from shareholders, directors and principal officers or management staff of insurance.

We are also considering at the same time the Insurance Professionals Bill, and hopefully we will be able to table that Report very soon in this House. This Bill hopes to regulate the way the professionals in the insurance sector carry out business. If you check every profession in this country, whether it is the lawyers, they are regulated by the Law Society of Kenya. If you are a practising accountant like myself, you do not have to just sit for the Certified Public Accountant (CPA) exams, but also be in good standing in the Institute of Certified Public Accountants of Kenya (ICPAK). Doctors have their organisations. Engineers have the Engineers Board. But you find that this very critical sector of insurance has no regulator in terms of the work of professionals in the insurance sector. This has led to Kenyans losing billions and billions of shillings through fraudulent and shrewd insurance practitioners. Unfortunately, there is no reprieve where these professionals can be reported for professional action to be taken against them, apart from criminal proceedings. If you check, you realise that the people that run down one insurance company just quickly regroup, go to another one then run it down. If you ask even on the streets, there are people who are professionals, whether you want your car to be written off, there are people who carry out those fraudulent activities.

After extensive deliberations, the feel of the Committee and the sector is that there is need to have an Insurance Professionals Bill, so that we can regulate the way these professionals carry out their activities. If we have ICPAK that regulates those people who take care of our books of accounts, our audit and accounting, then what about those people that take care of our insurance policies? For example, the life insurance policies that we take. The many years of hard work that make us get a mortgage and buy a home then we insure that home, hoping that in the event of the insured risk happening, then we will be able to go back to the situation we were before the accident, what in insurance terms is called indemnity. If we have these regulations in all these sectors, why not the insurance professionals' sector?

With those few remarks, I beg to second.

Hon. Deputy Speaker: Thank you.

(Question proposed)

Hon. Members who want to contribute to this debate, kindly press the intervention button. Hon. (Dr) Makali Mulu, Member for Kitui Central Constituency.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Deputy Speaker. I support the Insurance (Amendment) Bill.

As the Mover and the Seconder have said, it is expected to provide an accountability framework for the insurance...

Hon. Deputy Speaker: The volume is very low. I can hardly hear you, Hon. Makali.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Sorry. I am saying that it is supposed to provide an accountability framework for the insurance companies. We all know that the insurance sector is a very complicated sector for the lay person. Why am I saying this? You find most of us have insured our lives and properties. Some have taken medical insurance and

other different types of insurance. When insurance companies sell their policies, either through brokers or through whatever agencies, they use very attractive language that convinces you so that you buy that policy. However, when it comes to the time of paying out the claims, Kenyans go through hell to access part of this money. Sometimes the claimant never accesses the money even where they are supposed to be paid. So, when we have this Bill which proposes to amend some sections so that these companies become more accountable to Kenyans and the regulatory authority, it is a Bill worth supporting.

We have the Insurance Regulatory Authority (IRA) which is an authority which regulates this sector. So far they have been doing a good job. There are also other regulatory bodies in the sector. It is important when we have a legal framework which in a very clear way stipulates what is to be done by which company and when. For example, when they are expected to prepare reports and submit to the regulatory authority, it is good when we have that framework which says by what date and what is the format of that report so that the Government can also regulate this important sector. At the end of the day, when the time for getting their claims paid comes, the beneficiaries of this sector will be paid without unnecessary delay.

The other important point is that this is a sector where we have very many brokers. As the Chairman for the Departmental Committee on Finance and National Planning has said, in a situation where you expect professionals to do a professional job but there are very many brokers, there is a likelihood to get people who are not even professionals coming to the sector. It is important that Bill is mentioning the Insurance Professionals (Amendment) Bill. We need to get it to this House so that we also streamline the area of the professionals and have people who are trained on these matters being key players in this sector. Otherwise, we will have a sector which is confused, a sector where Kenyans are paying a lot of money and a sector where Kenyans do not get their benefits, more so through claims when the time for claims come.

I support this Bill and urge my colleagues to also support it so that this sector can be obligated to be accountable to Kenyans.

I support and thank you for the opportunity.

Hon. Deputy Speaker: The Hon. Member for Tetu, Hon. Geoffrey Mwangi. He is not here. Let us have Hon. David Mboni, Member for Kitui Rural.

Hon. David Mwalika (Kitui Rural, WDM): Thank you, Hon. Deputy Speaker for giving me this opportunity. I support this amendment on this Bill. We all know that this sector is very important to the economy because there are around 58 insurance companies and mortgage firms which employ a substantial number of people. It has a turnover of around Ksh240 billion annually. It contributes around 2.6 per cent of the Gross Domestic Product (GDP). It is one of the major tax revenue contributors in this country.

However, the insurance penetration rate in this country still remains very low at around 3 per cent because of challenges which our colleagues have mentioned. One of the challenges is lack of trust. A lot of people do not even trust insurance companies because when you get a policy, it matures and you claim your money, the insurance companies always bring issues. At the end of the day, you realise that you may not get your money back. That is one of the challenges and one of the reasons why many people do not get insurance policies. You realise that most of the policies people take are the ones which are compulsory like car insurance.

There is also a lot of competition. I have mentioned that there are about 58 company operators in the sector. This competition is a big challenge to some of the companies especially young companies which cannot match the big ones. You realise that most of the big insurance companies do not belong to this country. They are multinational corporations with a lot of capital base.

There is a lot of mismanagement in some of these companies. That is why most of them collapse and cannot pay their policy holders. As it has been mentioned, there is no professional

body governing insurance staff or professionals. Under the last Parliament, there was a Bill which was proposing to set up insurance professionals. It is very important we come up with this Bill just like the way accountants operate. We can have a body which can govern the professionals so that we do not lose our money.

I like the proposed notice, but as the Hon. Leader of the Majority Party has said, I do not know how the shareholders can be held responsible for mismanagement of the companies. It is a very good proposal if this shareholding amendment to this proposed Bill can remove the word “shareholders”.

With those few remarks, I support.

Hon. Wanjiku Muhia (Kipipiri, UDA): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Kipipiri, what is your point of order?

Hon. Wanjiku Muhia (Kipipiri, UDA): Hon. Deputy Speaker, I rise on a point of order regarding the order of business today, which has Motion No.22 on inspection of various one-stop border posts in the Northern Corridor of the East African Community. My point of order is that the Motion was introduced to this House on 5th July 2023 through the Order Paper. Three months down the line, it has been appearing as Order Nos.13, 14 or 15. I have been staying in the House waiting to move the debate on this Report. It is now being overtaken by events because the Cabinet Secretary for Interior and National Administration has already directed that on 1st November 2023, he will be removing all the roadblocks in the country yet this is the Report which is linked to that event.

I am requesting for your intervention. Could you ask the House Business Committee (HBC) or use any other relevant avenue to fast-track this Report?

Hon. Deputy Speaker: That is duly noted. If you approached the Clerks-at-the-Table Hon. Muhia, they would inform the House Business Committee. Do you want it rearranged today or you want it for a later date? The practice is that Members approach and explain that the matter has been pending for long. Do you want it re-ordered for today or next week?

Hon. Wanjiku Muhia (Kipipiri, UDA): If it is practical, I would prefer today. It is in the Order Paper, Hon. Deputy Speaker.

Hon. Deputy Speaker: We just started the debate on this particular one, which is going to take a couple of hours. So, maybe, we can ensure it is prioritised in the next Order Paper, next week. Thank you.

You may proceed Hon. Ferdinand Wanyonyi, Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you very much, Hon. Deputy Speaker. I rise in support of Bill No.18 by the Leader of the Majority Party. Each one of us has had a problem or the other in terms of insurance. Hopefully, once we pass this Bill, it will clear some of the problems we have had with insurance companies. A very simple case is where one has insured vehicles. When they are involved in accidents or have some problem, you repair or write-off the vehicle and you want to get a replacement, insurance companies will take you in circles until you give up.

The Insurance Authority should be very clear and have rules and regulations to, at least, compel insurance companies to settle some of the claims. We have a problem even within the health insurance companies. The other time I paid very many insurance premiums, but they were not even able to cover some illnesses. I hope this Bill will assist us to clear some of the problems we have had with insurance companies. It is very timely that the Leader of the Majority Party has come up with this Bill to clean it up and have insurance companies running. Some of these companies are just a landing place where anybody who wants to make some money goes. Crooks own insurance companies. We have had cases where you do not even know the owners of some insurance companies. Some of them operate for two or three years and disappear from the market.

This Bill will assist us in cleaning up some of the mess we have had in the past. More particularly, when you get an insurance cover, please, ensure that you know the directors so that you can access them in case there is a problem. For example, a case in mind is where we had some buildings collapsing. People were running and crying all over because although they had insured their buildings, those claims were not settled. The insurance companies ask too many questions and some of the demands are not even natural. Some of them are far-fetched.

To say the least, this Bill will clear some of the problems that we have had in the past. I hope the Leader of the Majority Party will help us by compelling insurance companies – upcoming and past ones – to clear some of the problems. I hope the Bill will go through so as to help us have proper insurance companies in this country.

With those remarks, I support.

Hon. Deputy Speaker: Next will be the Member for Dagoretti North, Hon. Beatrice Elachi. All those Members who want to contribute to this debate, press the intervention button so that I can differentiate you from the others who are there. I know we have the following Members coming up: Hon. Oundo, Hon. Mulanya of Nambale, Hon. Timothy Toroitich and Hon. Charles Ngusya, in that order. Hon. Timothy Wanyonyi of Westlands, I have seen you.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Deputy Speaker. I rise to support this Bill.

We know that this sector has a lot of challenges. First, many Kenyans do not understand this sector. Ninety or 80 per cent of Kenyans fear to engage with insurance companies because they do not trust them. They will never understand the difference between the brokers and the main insurers. I appreciate the Leader of the Majority Party for coming up with this amendment Bill to create more awareness in terms of how we deal with our insurance sector.

The other thing is excessive cost of investigations. There is a recent case where two young people had a bodaboda accident. When the case was over, they were awarded by the insurance company but the lawyers ran away with the monies of their clients. It has become an issue and that is why Kenyans lack trust in this sector.

The other thing is the weak manpower that many of us are trying to see. We have many people selling insurance policies but when you walk into their offices, you find yourself questioning a lot of things. It is only the big insurance companies that are doing well. The bodaboda riders will rely more on small companies and third parties. We would like this Bill to enhance accountability and transparency in the bodaboda sector. Many of them are even unable to take that insurance, and therefore ride their motorbikes with no insurance. When they are found in challenges, they realise that they need it. When they find themselves in accidents, the same bodaboda riders will reach out to the Honourable Members to assist them get these insurances.

There are also delays in claims and settlements. This is also a matter that many people in the insurance industry feel should change. Even if the sector would have thrived, you will always find many people questioning this; if one puts some money for education fund, you are told that it will take 14 or 15 years to mature so that you start the first principal. With this high cost of living, I know many people have stopped saving. The insurance companies will now start again deducting the principal. In the end, the whole insurance that you had paid for 10 years goes like that. Even as we are looking at this, we should ensure that going forward, if someone has given in their resources to an insurance company, for example, for an education fund of children, and at one point they realise they have no resources to continue, there must be a way where that money is saved so that you do not lose it completely. You should gain something and the insurance company remains with something small.

Mortgage is another serious issue that we have to look at. Many Kenyans are going through this challenge. With the state that we are in, I am sure many would wish that they could walk into the bank that gave them the loan to restructure it. Sometimes, insurance companies

do not even allow you to restructure. They will not even listen; they just start piling up the principal and you find yourself with a lot of penalties. At the end of the day, you just give up. Many insurance companies have taken Kenyans' monies because after such frustrations, people just decide to leave the insurance and that is how their money is lost.

We need to pass this Bill. First, we need to regulate the sector. Secondly, we should start following the Constitution. If any sector in this country is getting money from any citizen, there must be a component of public participation. They should go out there and create awareness on how they will be running their institutions. Kenyans should understand the type of insurance that the Government takes. There must be public participation on the same for citizens to be made aware of what would happen if they were unable to pay their insurance claims on time, the penalties that would be charged, and what would happen if they were incapacitated.

As I finalise, financial reporting, which is very critical, must be put in place. We must now get clear reports. We should receive annual reports on how our Bunge Health Insurance cover is performing so that we know whether it is facing the same challenges that the insurance industry is going through. You then find that when we go for health check-ups, there is a lot of back and forth with the insurance provider but they cannot say that they are facing some constraints. They instead let clients carry the burden.

I appreciate the Leader of the Majority Party. We should look into the bodaboda sector and ensure that riders get insurance which will safeguard their lives and the lives of their clients.

With those few remarks, I support the Bill.

Hon. Deputy Speaker: Member for Westlands Constituency, Hon. Timothy Wanyonyi.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Deputy Speaker. I also want to speak on this amendment Bill. Many times, the public transport sector is the biggest culprit when it comes to insurance matters. When I was a young lawyer, there was an insurance company called Access Insurance Company. Some of these companies came into existence just for speculative purposes. They were not interested in covering businesses but collecting money from unsuspecting businesspeople. Making senior managers of insurance companies responsible for their professional activities is critical and will bring order to this sector. I echo the sentiments by the Leader of the Majority Party that business is not about speculation. These people go into business because they want to earn a living and grow the economy.

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

[The Temporary Speaker (Hon. Farah Maalim) took the Chair]

In many jurisdictions outside our country, many businesses thrive because of the strength and strong foundations of insurance companies. Almost every citizen is insured. That is the way it should be. We should all have insurance covers so that those who seek medical care always know that they are covered. We have heard about people who have taken medical covers but when they go for medical check-ups, some insurance companies do not take responsibility and they are denied access to those facilities. That is something that we must bring to order so that citizens can be confident when they take insurance covers.

Matatus and bodabodas move around without insurance covers because most insurance companies have refused to cover them. They imagine that the transport sector is a very reckless business, which, if they insure, will be risky to their businesses.

This is a good amendment Bill as it will ensure that managers of insurance companies take responsibility for their activities because they cannot collect money from businesses and then let them collapse. Sometimes when they are trying to convince businesses to take

insurance, they do not tell them the whole story about insurance. They tell half of it and give out very complicated literature that people cannot even read. The ordinary person may not understand the nitty-gritty that is hidden in that insurance cover. It is only when you come to claim for compensation that you are told that you must observe a particular clause and if you do not, the insurance company will not pay you. Some ask you to pay some money before they process your compensation. Insurance companies must ensure that when people are taking an insurance cover, they must undertake due diligence to understand what they are signing up for and the type of cover that they are taking.

I support the amendment Bill.

The Temporary Speaker (Hon. Farah Maalim): Member for Marakwet West, Hon. Toroitich.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this important and progressive amendment to the Insurance Act.

Kenyans do not take the insurance business seriously. Many people have opened briefcase insurance companies, which have duped many Kenyans. I believe that this progressive amendment Bill will settle matters that have come up in the insurance industry, and that have affected many Kenyans.

Judgements have been rendered in courts of law on matters involving road traffic accidents. However, when it comes to compensation of individuals who were involved in traffic accidents, you find that a judgement has been entered by a court of law but thereafter, that particular claim is not paid by an insurance company, and yet that person may have been paying premiums to that insurance company. Therefore, we have what we call “paper judgements” in our courts of law. We have judgements that cannot be executed by insurance companies. The amendment Bill proposes that in the event that an insurance company is unable to settle a certain claim, they must pay a set penalty.

I support this amendment Bill. It will go a long way towards addressing issues to do with compensation by insurance companies. It is unfortunate that people are injured in a road accident and they approach an advocate, who files a claim before a competent court of law, which then enters a judgement. However, when it comes to payment of the award, it is not executable. In my opinion, the penalty that has been placed on the insurer is low and should be increased. The penalty should be made stiff to curtail any briefcase insurance company that does not have enough money to compensate individuals. That penalty should be higher than what has been proposed in this legislation.

Hon. Temporary Speaker, when it comes to the Second Reading, I propose that the minimum penalty that the insurer should pay should not be less than Ksh10 million or imprisonment for not less than 10 years so that nobody will run a previous company because we have a weak regulator in this country. In my opinion, the Insurance Regulatory Authority (IRA) in this country is quite weak. It must be strengthened. I have seen the amendment is not enough to strengthen that Authority.

I support this amendment. I pray that this House passes the same. Thank you.

The Temporary Speaker (Hon. Farah Maalim): Member for Mwingi West, Hon. Charles.

Hon. Charles Nguna (Mwingi West, WDM): Thank you for giving me this opportunity to add my voice to the Bill. You have caught me by surprise. I was waiting for Hon. Millie’s Bill. However, let me add my voice to these amendments.

We note with concern that all Kenyans across the divide need insurance companies in one way or another, to cushion us from different risks and even encourage a way of savings among many other reasons. I note with concern that many insurance companies in Kenya have

defrauded and even short-changed Kenyans when they make their claims after accidents or other incidents that warrant such claims.

We also note that some insurance companies that insured us recently have collapsed, including the most current Blue Shield Insurance Company. That is why we are bringing this amendment this afternoon. Let me thank the Chair of the Departmental Committee on Finance and National Planning and my friend, Hon. Kimani, for bringing this amendment. I believe it is going to cure some of the challenges we have been facing in the insurance sector.

This amendment is going to cure many of the challenges we have been facing in the insurance sector, especially those that have just insured Kenyans and end up collapsing and, therefore, Kenyans lose millions of shillings. We will also create awareness of the insurance covers available. I note that there is a low uptake of insurance policies or low penetration of insurance in this country. By doing so, we will increase the confidence of Kenyans. They will end up taking more insurance coverage.

With those few remarks, I support. Thank you.

The Temporary Speaker (Hon. Farah Maalim): Hon. Rachael Nyamai.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you very much, Hon. Temporary Speaker, for giving me this opportunity.

First, I thank the Leader of the Majority Party and the Committee for the way they have moved this Bill and the explanation they have given. They clearly indicate the importance of this Bill. I have taken time to look at the Bill. Although it may look very short, it is extremely important. It brings accountability within the insurance sector. It ensures there is responsibility in this profession. Therefore, I support this Bill from the outset.

When insurance companies and the brokers that work for them sell these insurance policies to Kenyans, they do it very well. They use very well-trained salesmen and saleswomen who are very good-looking too. They easily convince people to buy insurance policies. The problem comes when a person gets into trouble. Let us say you have been involved in an accident, your house catches fire, or someone who had life insurance cover has passed on. You will realise that the person who purchased the cover may not even know the exact insurance company to go to because they may have used a broker. It becomes very difficult to reach the broker to reach the insurance company itself.

I have looked at the most important clauses inserted to ensure the commissioner can ask for information about insurance companies or brokerage firms and later get to the company itself. It is for responsibility and making payment claims. The clauses say that the authority will ensure reports presented are accurate so that we do not have insurance companies pretending to be big and making billions in profit yet the reality of their books and how much they are making is not much. This usually happens when there are many people making claims; claims which may not be honoured.

The Bill also makes sure that the documents presented are clearly justified and that shareholders of these companies are accountable so that they do not say that they are brokerage companies and not insurance companies. I support this Bill and thank the Committee for ensuring Kenyans are protected. Most Kenyans who purchase these policies may not be well educated. Even if someone is well educated like yourself or myself, we may not have the language used by people in this sector. When these amendments pass to become law, all of us will be protected in one way or another.

It might also be very important to talk about the cost of insurance. We have too many young people riding bodabodas in this country. Some of them take group covers. Some may not even understand how to follow up on these group covers. They should be properly educated, trained or told what these group covers are all about so that they are able to follow up their claims when they fall victim to accidents.

Health insurance and education covers take quite a long time, especially education covers. You may realise that a person may take a cover for a child who is in class one. The cover matures when a child reaches class eight. Very many things can happen in between. The person who has purchased the cover may continue paying without having a way of getting feedback on how these policies are doing. This Bill is going to assist people, especially those who have taken life insurance or education covers for their children, to ensure they are given proper information and that our people are supported.

We are likely to be exposed to losses if we rely on the good stories we get from insurance companies and brokerage companies. May this Bill let the commission or the authority take charge so that our citizens are covered.

The interface between insurance companies and brokerage companies also needs to be very clear so that our people are taken care of. Group covers should be properly explained so that individuals in those groups have information on how to deal when the time of need comes.

With those remarks, I support this Bill especially the introduction of new amendments brought by the Committee to ensure insurance companies are responsible and that Kenyans do not suffer many losses from institutions on which they have spent money. People do this so that their families can benefit or get compensation in case of losses.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Eve Obara. Is it Member for Kasipul Kabondo or Kabondo?

Hon. Eve Obara (Kabondo Kasipul, ODM): Thank you very much. It is Kabondo Kasipul

The Temporary Speaker (Hon. Farah Maalim): Is it the same old thing that used to be Kasipul Kabondo when I was in the 7th Parliament?

Hon. Eve Obara (Kabondo Kasipul, ODM): Yes, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Have you interchanged the names?

Hon. Eve Obara (Kabondo Kasipul, ODM): Hon. Temporary Speaker, it used to be Kasipul Kabondo.

The Temporary Speaker (Hon. Farah Maalim): Now it is Kabondo Kasipul?

Hon. Eve Obara (Kabondo Kasipul, ODM): It became Kabondo Kasipul Constituency after the 2010 Constitution and there is Kasipul Constituency. They are two constituencies.

The Temporary Speaker (Hon. Farah Maalim): Thank you. Proceed.

Hon. Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Speaker, for the opportunity to add my voice to this amendment Bill which I support. All of us understand what insurance is all about. When we take it, we expect it to reduce the impact of loss and provide monetary reimbursement during crisis.

The reality on the ground for many people is that these companies appear big and able to reimburse when a loss occurs but that does not happen for the simple reason that books are usually doctored. What appears to be their turnover is usually not the case. That is why many Kenyans have lost money when they have crisis in their businesses, insurance of motor vehicles and when their property is burnt down. I have also been a victim of these circumstances.

We have the IRA and if they did their work in the manner they are supposed to, these issues would not be occurring. We have the Retirement Benefits Authority (RBA) for pension schemes. Why are some companies unable to pay pensions? I agree with the Committee's amendments of having penalties instituted against companies which do not honour claims. At the same time, I think we are over regulating this sector. I believe if the regulatory authorities did their work, we would not be getting all these complications and problems coming up. Once again, I support but emphasise that the regulatory authorities must do their work.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Proceed, Hon. Member.

Hon. Mary Maingi (Mwea, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to speak on this very important Bill. I support it because it will ensure that insurance companies take full responsibility in case they collapse. Increasing the amount of money held by Central Bank of Kenya (CBK) will enhance accountability of insurance firms and their ability to honour claims.

This Bill aims to increase public trust and confidence levels from potential clients as their claims are guaranteed even in instances when insurance firms collapse like Stallion Insurance Company Limited and Blue Shield Insurance Company, among others. This Bill will also ensure sanity and professionalism of directors and senior management staff in the insurance sector, through the proposed stringent penalties for any offences committed in accordance with this proposal.

Hon. Temporary Speaker, with those few remarks, I beg to support. I also thank the Leader of the Majority Party for bringing this Bill to the Floor of the House. Thank you.

The Temporary Speaker (Hon. Farah Maalim): Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to comment on the Insurance (Amendment) Bill, 2023. This Bill brings accountability into the insurance sector and enhances what is called fiduciary duties.

Actually, it brings penalties for offences created in the insurance industry by directors and shareholders. Some players in the insurance industry are rogue in that they want your money but when it comes to paying for what you insured, they are very bad people. They are very good when starting the process but when they get business from you, they become rogue.

This Bill is laying out offences and penalties relating to the management of the insurance companies. It is also cleaning and aligning issues for example, in Sections 32 and 40 of the Act. The history of this country is that if we run businesses without strict regulatory authorities, Kenyans will be defrauded, lose money, and it beats the purpose for having entered into business. Therefore, when this Bill becomes an Act of Parliament and is assented to by the President, it will bring accountability, observance of fiduciary duties and professional responsibilities in the insurance sector.

The insurance sector is one of the biggest sectors in this country because it controls millions of shillings. As it does so, lives of people are attached to it. If I insure my car, I have insured my family and everybody else. When an accident happens, I expect expeditious availability of resources to put my family into the former position it was. That is what insurance is about. It is not about making money. If you suffer a loss, you should be brought to the level you were before. There are too many brokers and people do not look at this as a profession but a way of making money. So, the Government must come in strongly and bring penalties for offences and ensure the sector is well regulated.

This Bill heightens accountability and encourages more prudent approach to risk management, financial planning and strategic decision making. It is bringing prudence in risk management and if the insurance sector does not do this, then it is dead and so, it would be very hard for us to do business.

Hon. Temporary Speaker, I know you are a big businessman and you have insured your businesses. If something happens to them because of lack of prudence in the management of risks, you suffer losses both ways; the money used to manage the risk of the business through insurance and the business is gone so, you have a double loss. Your building is gone and you cannot get money you have put in the insurance, for many years.

We need to bring prudent management of risks and strategic decision making. Many decisions made at the insurance level are not strategic because the people managing these insurances are not professionals. They are only there to make money. This Bill will align professionalism, risk management and prudence in the management of the sector. Therefore,

it is a necessary piece of legislation which Members of this House need to pass and ensure we protect this country's resources.

There was a dam being built where Hon. Murkomen comes from. One of the greatest issues was the insurance paid for it. When there was a loss, where did the insurance money go? There are buildings that are insured but after a fire brings them down, insurance companies do not pay. We lose jobs for the people who are working there, and lose revenue and tax as a Government that business would have brought. A whole country's economy can be brought down if the insurance sector is not properly regulated. You know, insurance is food for lawyers - like the one who has just passed in front of me - and actuarial scientists. Many players are brought together to have insurance. If you kill the insurance business in this country, very many professions will suffer. I am sure that Hon. Osoro - who is a lawyer - will want this Bill to be passed so that he is protected. If insurance is protected, lawyers in this country will be safe. If we play around with insurance, many lawyers will suffer. I want to ask Hon. Osoro and all those Members who are lawyers, including the Hon. Temporary Speaker, to support this Bill so that we can protect the insurance industry in this country and protect big and small businesses.

Thank you.

The Temporary Speaker (Hon. Farah Maalim): Hon. (Dr) Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker for this opportunity to weigh in on the Insurance (Amendment) Bill (National Assembly Bill No.18 of 2023). I stand to support the proposed amendment to the parent Act, the Insurance Act, subject to a few reservations that we will iron out as I make my presentation and deal with them at the Committee of the whole House. Insurance is the cornerstone of a modern economy. It dates back to many years when there was a form of exchange of goods and services between two or more people. It dates back to when people ventured out of their abodes to do business and to travel. Insurance became necessary when people started owning assets that could be destroyed, lost and in debt. Insurance as we know it in its current form is a form of risk transfer mechanism where you only transfer risks whose outcome is unknown. That is why insurance is built on the principle of many contributors, fewer claims and fewer beneficiaries in any given accounting period. Therefore, it is always desirable for every single person to have an insurance cover to cover their lives, their medical expenses, unknown loss of business and unknown loss or damage of an asset they own and cherish. However, the story about insurance compensation and processing claims in this country is replete with many sad stories and dotted with very many bad endings.

Any attempt to continuously amend the Insurance Act in order to address the emerging challenges is welcome. As the Chair of the Departmental Committee on Finance and National Planning has mentioned, if there is any Act of Parliament that has gone through tremendous amendments in every other Parliament, it is the Insurance Act. Every time new issues arise that require legislative policy and administrative intervention. Many people are persuaded to take insurance covers. However, many insurance policy holders dread the day they will go make a claim. That is when all the small prints will be shown to you. Things that you never knew are intervening factors will be brought to the fore. That is why it is important... Any attempt to continuously regulate the insurance industry is always welcome. Any attempts to continuously regulate the industry, bring accountability and professionalism, and impose sanctions for discretions either imaginary, intentional or by an act of whichever nature, is always welcome.

In Clause 3, New Section 67(h) of the Bill proposes a list of offences of commission that can be done by a director, a principal officer or management staff as well as a shareholder. I also want to support the Leader of the Majority Party in including a shareholder among the people who can commit an offence which is overreaching. It is onerous and extremely dangerous. The level of involvement of a shareholder in an incorporated company that is listed

in the Nairobi Stock Exchange is minimal. In many organisations, the level of involvement of a shareholder is minimal. That is why I concur that, during the Committee of the whole House, we must make an amendment to omit the shareholder under the proposed New Section 67(h). It will also be important to further amend this Section to include...

There are many interesting situations. You can believe that you have your insurance cover after paying your premium and meeting all the conditions of the policy. However, when time comes for making a claim, you will be told that something happened that invalidated your policy. You will be told that you delayed in remittance of premiums yet you paid them in good time. It is at that point that an insurance provider declines to honour the insurance cover. As my colleagues have mentioned, the unprofessional behaviour of many players in the insurance industry has made Kenyans to be the least insured. Actually, in most cases, Kenyans take insurance covers that are mandatory. They will always say why bother paying for a premium and when something happens you will never be compensated. I can assure you that if you did a census in this country, you will find that 90 or 70 per cent of the motor vehicles that we have, are insured with third party. Many of the motor vehicle owners believe that being compensated for even a minor accident that is already included in the policy is a long process that does not warrant any kind of intervention.

I support the Insurance (Amendment) Bill. However, I will move some basic amendments in the Committee of the whole House. With those few remarks, I support.

The Temporary Speaker (Hon. Farah Maalim): Member of Parliament for Nambale.

Hon. Geoffrey Mulanya (Nambale, Independent): Thank you, Hon. Temporary Speaker, for giving me this opportunity to add my voice to this particular debate. As my colleagues have said, insurance is supposed to be a financial safe net to help one in a misfortune that may happen but, that rule has changed in this country. After receiving premiums, insurance companies deviate from the core duty they are supposed to do to their insurers and start playing games. Having gone through the Insurance (Amendment) Bill, I believe that the penalty that is being introduced in Section 67(h) will help in protecting Kenyans from most rogue insurance companies. As a practising advocate in this country, I note that once a Kenyan has a misfortune, he will go through a court system and get a judgement. However, after the judgement, the insurance company that has participated in the case takes off leaving the claim hanging and it refuses to pay completely. In some instances, you will find that the insured who ends up being proclaimed and auctioned, loses property yet he had a good policy that he had fully paid for.

Hon. Temporary Speaker, I believe the amendments are going to help us regulate this sector. As one Member said, a majority of bodaboda operators do not have insurance. A majority of transport operators only take out insurance policies for purposes of compliance with regulations. Kenyans no longer know the purpose of insurance, which is supposed to be useful at the point of an accident. That is the reason we feel that the regulator has completely failed to perform their duties. It is high time we had strict penalties whereby if the insurer fails to meet the obligation, then they pay the penalty.

As my colleagues have said, we will propose more amendments at the Committee of the whole House stage, especially on the provision on penalties. I believe that we should not leave the penalty at the judgment stage. We must also broaden the provision to include circumstances where the insurer has been informed of an occurrence of an accident, the policy is fully paid for and they have already investigated but still fail to move ahead and compensate the involved parties. We will not just allow the parties to first go to court. Let the court be the last resort. It becomes very expensive and frustrating to Kenyans who go round in circles and spend three to four years for them to be compensated when this should have been done within two or three months as provided for by the policy cover.

With those few remarks, I beg to support the amendment as proposed in the Bill. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Next is Hon. John Mutunga, followed by Hon. Osoro.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Speaker, for the opportunity to also support the Insurance (Amendment) Bill (National Assembly Bill No.18 of 2023). I commend the Committee and the sponsor for the good work and for bringing these amendments to this Act. These amendments will create accountability in insurance companies, which is key. They also try to introduce observance of fiduciary responsibility by insurance companies. If there is no accountability or prudent management of resources, then insurance companies will not be trusted, thereby losing business. Insurance is a huge business in this country which many people rely on for survival. Insurance has been used in very many respects, including to support people in getting contracts today, especially in cases where you are required to put in a bond. Therefore, being responsible institutions and improving their credibility is key. This amendment introduces that dimension.

Amending the Insurance Act to provide for offences and penalties is also important. We realise that the functionality, efficiency and effectiveness of institutions will basically depend on who is sitting on the seat at that moment. It depends on the driver, who in this particular case is the manager. Careless handling will lead to laxity and collapse of these institutions. If there are no penalties, then we observe a lot of laxity and carelessness. If penalties are not strict or stringent, there is impunity and people do not get the services that they pay for. These amendments are key in bringing in this dimension into the Insurance Act. A deliberate definition of offences relating to the management of insurance companies, as introduced in the amendment to Section 67(h), is key. If management is prudent, then we have institutions that can be relied upon.

Requisite penalties to managers for failures are important. Insurance companies that have failed or run out of business have resulted in huge undesirable losses to Kenyans. It is important, therefore, not only to improve accountability of servants of the fiduciary responsibility but also to encourage professionalism within insurance companies, which is what these amendments seek to do. Specifically introducing marginal notes to distinguish between general surveyors and insurance surveyors is important. One can argue that insurance surveyors were not involved and therefore they were not responsible.

The Bill also strives to introduce better credence to the insurance industry. We need credible insurance companies for various reasons. Under the difficult economic times we are in right now, people rely a lot more on insurance companies. We realise that without credibility, we are not able to run insurance firms as they should. Insurance companies also cover most Kenyans who are not necessarily in the know of what happens. If you look at the documents of the insurance companies, they have big, medium and very small fonts. The small fonts define a lot of serious issues, but most people do not take time to read them. It is important to have provisions in the law that will protect our people.

Additionally, education levels of our people are different and not all of them are able to understand everything. I am looking at a case where we have introduced insurance for crops, livestock and transport systems. Most of the people who are engaged in these sectors do not really know how to interpret things. It is, therefore, important for us to curb likely mischief by insurance companies by introducing credibility in their activities and penalties that touch on the individuals who manage insurance companies. They should ensure that they adhere to fiduciary responsibility of paying the people at the right time whenever they request for their payments. They also have a responsibility to proactively deal with the issues and finish them off and to adhere to contracts. Penalties will give us the answer.

With those very few remarks, I support the amendments. Thank you very much.

The Temporary Speaker (Hon. Farah Maalim): Hon. Osoro, followed by Hon. Millie Odhiambo.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Temporary Speaker. I also support this Bill by the Leader of the Majority Party. It is important that, even as we support it, we reflect on our various encounters with different sales agents from insurance companies. You will notice that the history we have with insurance companies has made us develop some jitters and fears whenever we hear that a sales agent is at your door. We believe they come to sweet-talk us, sit with us and give us projections on the millions we will make. Eventually, when you are faced with a calamity, things go south. I am not really generalising. In most instances, you will find it very hard to recover what you are seeking. This amendment seeks to set retribution and some serious punitive measures against such people who take advantage of the statutory requirement, especially in motor vehicle insurance.

Hon. Temporary Speaker, if you listen to the stories from the people who have motor vehicles, especially those who engage in motor vehicle business—matatus, private vehicle owners and the lorry owners—they are very shocking. During registration and when insurance companies are taking premiums, they are very good. I do not know what happens. They cover you against an accident. When it happens, they set their standards of checking whether it is indeed true that the accident took place. They tell you to give them three months for investigations. Three months go to six months. They go and collect some information. They send many people whom you cannot authenticate as a client. They eventually give you a report which is not so pleasing sometimes. They tell you that there was contributory negligence. Unless you go to other arms of Government or court, there is no element of appeal within their structure. They tell you what they have decided. They decide to pay you 70 or 50 per cent of what you insured or even nothing. That is what this Bill tries to cure.

Even as we talk about setting some very strong punitive measures against those insurance companies that do not want to pay clients, it is also important for us to standardise the format. The insurance companies need to come up with a standard format, so that we know that when you get an accident, this is the channel. How high do we set the standards of checking whether the claim is true or false? There are insurance companies which are different. There is another one that pays well and another one is slow in settlement. Those are the things that we also need to cure.

The other thing that we also need to look at is the brokerage companies. You realise that this Bill is limited to the directors and those people who are in charge. We need to think through a way. Hon. Millie who will speak after me may understand better. We need a way to set vicarious liability—for lack for a better word. There is a principal insurance company. Then, there is an agent and a brokerage. We will do this so that blame is not shifted. These are two sets of directors. A brokerage company has a director but that is not the principal insurer who may be a bigger one like what we have here in the National Assembly. Which director will take direct fiduciary responsibility, Hon. Temporary Speaker? Perhaps this is the discussion that we need to have, so that we know how we will set the retribution for the agency and mother company to avoid blame games. Perhaps, we also need to go through their memorandum of understanding and see what happens. What happens if the agency decides to close down and the mother company faults the claim and decides to down the tools? Those are the things that we also need to check out.

Insurance business in this country is very easy to open and operate, but it is very hard to settle claims. Any person can register an insurance company. However, what happens to the settlement of claims, even the hospital bills? Look at what happens to salaried people like us, and the employer is obligated to pay our insurance premiums. We go to hospitals and sometimes we are told to wait for confirmation of the email they have written. It is on a Sunday. You did not order your body to be sick, but you are told to wait. You have a patient there. It takes about seven hours or so. You lose your patient, yet you are covered. This is something that we need to think through. We have really tried to limit ourselves just within one angle.

Then, they set a cap on what they can pay. They tell you that you are covered at Ksh10 million for inpatient. Then they decide today and say with your disease and the way you look, they can only cover Ksh500,000 or Ksh200,000 and you top up the rest. Is it right? We need to think through this.

What is settlement? This Bill proposes punishment on such non-committal settlement, but there is also partial commitment. You promise me Ksh10 million, if I fall sick or you will take care of my maternity care, but you limit me to Ksh150,000. I get a challenge on this maternity matter which takes me to about Ksh500,000, yet you tell me to top up the rest. However, I have been paying the entire premium.

Finally, does this Bill limit only private insurance companies? What happens to the public ones like National Health Insurance Fund (NHIF) that defines what to pay and what not to pay, and still defines what you are supposed to contribute? Who is supposed to take responsibility? Is it an element of vicarious liability where again it stretches back to the Attorney-General? Those are the lines we need to think through, so that we cover the entire area and then people will have trust with the insurance sector, do that business and invest in something. As it is right now, when you tell me about insurance and education cover for children, I only cover my vehicles and properties because it is a statutory obligation and there is a criminal element in it. However, I do all the rest with a second thought.

With those remarks Hon. Temporary Speaker, I support the Bill. Thank you very much.

(Applause)

The Temporary Speaker (Hon. Farah Maalim): Hon. Millie.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute. I wish to indicate that I support the Bill. I also want to urge the House to do what it has done today in future; giving Hon. Osoro an opportunity to speak before me. He gets inspired by my spirit and he speaks very well. Congratulations Hon. Osoro. You have spoken very well.

(Laughter)

You have spoken to a lot of issues that Kenyans go through that relate to the insurance industry. This Bill does not cover a lot of issues that you spoke to. It will be nice if you bring amendments for them to be covered, especially on discriminating against women who are having children and you treat child burp as though it is a worse disease than some of the diseases that are covered. It is not even a disease. If you can consider proposing an amendment, it will be very good. Maternity is a noble thing. It should not be a thing that people criminalise or discriminate.

Hon. Temporary Speaker, I will be very brief. Members have spoken a lot to this Bill. It seeks to ensure prompt payments, accountability by those who insure and enhance punitive measures where they evade their responsibility. Many amendments that come before this House are borne out of frustration not only because there is a poor legislative framework but also because of an implementation framework. If the law that is there now is properly implemented, then there may not have been any need to bring this amendment. Because we have enhanced a culture of impunity, then people think they can get away with anything.

I do not know how we will go about this. We need to ensure that when we pass laws in this country, they are enforced. We can also pass this Bill, and then the insurance agencies fail to do what we are urging them to do like depositing the money, then we do not even punish them. The greatest thing that we need to do is to make sure there is punishment over this. I will pick very briefly one of the things that Hon. Osoro has mentioned and leave it at that.

One of the things that Hon. Osoro is talking about is whether we can consider the possibility of vicarious liability, especially when we have the agencies. On my part, sometimes that also creates a bit of escapism. What we need to do is to be very sure that we find the person that we consider responsible. For me, it should be the mother company, not the agents.

One of the things that he has raised which has been very frustrating and you saw the Members clapping or cheering as he was talking, is the experience that Members face when they go to hospital. Sometimes you have to sit for one hour waiting for authorisation. That is not a legislative issue, it is an administrative issue. Sometimes as Members of Parliament, we need to lead by example. If we can be frustrated and we are the leaders, how do we expect Kenyans then to be treated if we are also complaining like Kenyans? For me this is an administrative issue, and if you have an insurance agency that is not meeting our standards, this is a competitive area, get another one.

We have had insurance agencies in the past that are excellent. There are some benefits that were even removed. When I came to Parliament, if you were sick, you could go out of the country. Now, I am told, I do not know *ex-gratia* and a lot of Latin and English mixed; that does not help us a lot. The Parliamentary Service Commission should also look into things like that, so that if you have an agency that is not serving the interests of parliamentarians, then we need to deal with it.

Finally, there is a very good Azimio spirit. You can see today I am wearing Azimio and my two sisters sitting over there are thoroughly Azimio. There is a very nice Azimio spirit in the House.

With those few remarks, I beg to support.

The Temporary Speaker (Hon. Farah Maalim): Member of Parliament for Mbeere North, followed by the Member for Sotik. Where is Hon. Sigei Francis?

(Hon. Members spoke off the record)

He will be followed by Hon. Muhia in his absence.

Hon. Ruku GK (Mbeere North, DP): Thank you very much, Hon. Temporary Speaker. I rise to support this amendment forwarded by the Leader of the Majority Party. These amendments speak to very important concerns of many Kenyans. For those who have been to school of business, they will tell you that insurance can be termed in layman's language as legalised stealing.

Many insurance companies have capitalised on the loopholes within the law to ensure that they take many Kenyans who have bought different types of policies to insure different risks, round and round, one year, two years, three years until many people lose the benefits. They capitalise on very small discrepancies, even a comma or full stop and tend to take advantage to ensure they do not pay the claims which come to most of these insurance companies.

These amendments will ensure that the directors take responsibilities in case the insurance company fails or collapses. We have seen a number of insurance companies in Kenya collapse in the past, an example is Blue Shield Insurance, Stallion Insurance and many others. When they collapse, they do so with many claims and policies which have not been paid, money which has been earned in very difficult ways from different economic activities by Kenyans to be able to pay or invest in some of these companies.

These amendments will ensure that there is sanity and professionalism within the sector. The way the management of the insurance sector is done as at now, we need to ensure there are more stringent penalties in case any offence is committed and this is exactly what this amendment is trying to achieve. We need more stringent penalties in case the management of these insurance companies is not done in the most appropriate and prudent way.

The fiduciary measures and strict regulation in the banking sector, which is regulated by the Central Bank of Kenya, should be seen within the insurance industry. The difference between the insurance industry and banking sector is minimal and there are many loopholes for the management of insurance companies to take advantage of. Therefore, these amendments will increase the public trust in this sector, create confidence and once the confidence of the public is created, then it means that many Kenyans are able to invest and buy policies which can take care of themselves.

In the agricultural sector which is key to the economic development of our nation, we need insurance to insure, whether it is livestock or sugar cane industry or different agricultural sectors, so that the losses which many farmers have been accruing every season are avoided. For that to happen, we need to ensure the public regains confidence and trust as far as this sector is concerned. By so doing, many farmers or Kenyans who are within the agricultural sector will be able to insure their agricultural activities and minimise the losses which may occur in their activities.

With these remarks, I support this amendment and urge this House to fully support it and when it comes to the Committee of the whole House, we see how we can make this amendment more stringent, the penalties firmer and also ensure we increase public trust and confidence levels for good investment in this sector so that we can fight all the rogue insurance companies or managers within this sector, because there are a number of them. Many Kenyans have been taken round and round and I am sure even in this House, it is not one or two, but a majority of us must have been taken round by insurance companies, I being one of them in the year 2013 when I was involved in a road accident.

Hon. Temporary Speaker, I support this amendment. Thank you.

The Temporary Speaker (Hon. Farah Maalim): Hon. Wanjiku Muhia.

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you, Hon. Temporary Speaker. From the outset, I support the debate in the House today. All things remaining constant, even when there is a statutory insurance requirement, the level of confidence in insurance matters is very low.

It means that this institution has to build and rebuild itself to gain confidence of the common mwananchi or any other person. Even when we speak about ourselves as Bunge, several Members have spoken before me and indicated how we get frustrated when we know that we have paid for, we have the cover, and the medical card but when you go to a hospital, an email has to be written for approval. Sometimes you have even taken your kids who are not feeling well. I want to give a general experience which I recently had in the last three visits to the hospital here in Nairobi. Anytime I present my medical card, it is read and then I am informed that I have zero money. Surprisingly, the very first visit to the hospital since July because the financial calendar of Government starts on 1st of July, I had never gone to the hospital and on the first appearance at the hospital I was informed I have zero money. I had to call the medical team in Parliament who indicated that we should look at some money they call *ex-gratia*.

Hon. Temporary Speaker, if there is any Commissioner in this House, I would like them to go discuss with our medical cover team in Parliament because I do not understand what *ex-gratia* means. I believe *ex-gratia* is the amount settled or paid out of favour, not on any legal obligation. However, anytime I go to the hospital, I am told my card is exhausted when indeed I have not visited the hospital. When I call M-NET they say let them look at *ex-gratia* column so, I wonder: why are we spending that? Why is my cover not automatically able to serve me at the counter? That is just an example to show the country that even at our level we cannot enjoy the insurance benefit in spite of the Government or Parliamentary Service Commission having committed so much money.

While that is administrative or otherwise, we are not getting the services that we expect and so are the many Kenyans. They really get frustrated as many Members have spoken ahead of me and I think we cannot even belabour how much Kenyans experience this kind of frustration. Even when matatus get involved in accidents, people can get old as they try to follow their claims year in and year out. They finally get frustrated and never get compensated. If there is a way we can make a policy implementable so that the insurance industry comes to this expected service delivery to mwananchi, this will be the best amendment or legislation.

With that Hon. Temporary Speaker, I support. Thank you.

The Temporary Speaker (Hon. Farah Maalim): The Member for Runyenjes followed by the MP Zamzam and Hon. Kaguchia.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Temporary Speaker. I wish to start by saying that I support this Bill. This is a very important Bill that is supposed to bring about accountability in the insurance sector. I am sure you have encountered these insurance sales people. You will agree with me that they have very nice and sweet language as they try to have you buy the insurance premiums. They promise to insure your vehicle, take care of your health insurance needs, your property but very many Kenyans have suffered in the hands of these insurance brokers and companies. Sometimes you have your property insured but the moment you lay claim on maybe after theft, fire or even accidents, then another story and journey begin. I am sure this has not happened to me alone but to several other Kenyans. I am in support of every effort to ensure the insurance sector is well regulated and that the insurance companies are more accountable to Kenyans.

It is very devastating when Kenyans have to pay monthly premiums to insurance companies but the moment they have accidents they cannot access the funds that they are supposed to be paid by these insurance companies. Sometimes these insurance companies have to be taken to court and even after, you will find that in most instances they will drag their feet and eventually not even pay as per the court orders. So, I support this because it will ensure that more Kenyans who are not insured and who would not fall in the insurance bracket get the confidence and trust so as to secure their investments either in education, health or their other properties.

Thank you, Hon. Temporary Speaker. I support.

The Temporary Speaker (Hon. Farah Maalim): The Woman MP for Mombasa, Hon. Zamzam Chimba.

Hon. Zamzam Mohammed (Mombasa County, ODM): Asante sana Mhe. Spika wa Muda. Ninaunga Mswada huu ulioletwa na Kiongozi wa Wengi ndani ya hili Bunge kuhusu maswala ya bima.

Ni dhahiri hata kutokana na vile Wabunge wamezungumza kuwa kampuni za bima zimekuwa zikiwanyanyasa Wakenya kwa miaka mingi sana. Ukienda katika afisi zao, watakukaribisha kwa lugha tamu na hawawezi wakakupa sheria na masharti kwa lugha ambayo wawezakuelewa vizuri kama yule bodaboda, mtu wa matatu anayejua tu ni sheria ikiwa sina *insurance* nitashikwa barabarani lakini itakavyomfaidi yeye haelezwi kwa kina.

Wengi wakipata ajali, wakikimbia kwenye kampuni za bima, unapata kuna vuta nikuvute: mara gari lilikuwa wapi? Uligongwa nyuma au mbele? Ulikuwa mlevi? Wanaleta masharti mengi ambayo hawaelezi mwanzo ukianza kuchukuwa hiyo bima. Kuna Wakenya wengi ambao hawaelewi sheria na masharti na unapata... Samahani kama kuna ma wakili hapa. Unasikia kampuni ya bima inamwambia nenda ukatafute wakili. Anatafuta wakili wa kumsaidia kwa sababu haelewi na amekuwa akilipa. Pesa zikitoka anapewa kitu kidogo pesa zingine nyingi ambazo zingemsaidia zinaenda kwa wakili kwa sababu naye amefanya kazi. Lakini sasa ingekuwa wanaeleza Wakenya na inakuwa wazi kuwa wewe ulikuwa umefanya kuweka bima, umepata tatizo, wameliona, wanakusaidia kwa wazi na mgao wako wote ambao utawezakukusaidia.

Nilikwama wakati mmoja hospitalini nikiwa mgonjwa hapa hapa nikiwa Bungeni karibu masaa saba nasubiri sijui kumaliziwa uhakiki wa bima yetu ya afya. Nilitamaushwa sana. Naambiwa kuwa napewa kile chombo cha kupima sukari lakini ile mashine naambiwa nikanunue mwenyewe. Sasa nikashindwa napewa bila mashine kwa sababu kampuni ya bima imekataa haishughuliki na kitu kama hicho. Nikauliza: Sasa nichukue hicho chombo niweke kwa stovu nijipime ama nifanyaje?

Kwa hivyo, utapata kampuni za bima nyingi zimekuwa zinakosa nidhamu na zimenyanyasa Wakenya miaka mingi sana. Ninapongeza haya marekebisho ya leo ambayo yameletwa ili waweze kushikwa ikiwa wanawezakosea Wakenya. Hizi *penalties* ambazo wamewekewa zitafanya wawe na nidhamu katika kuhudumia Wakenya. Wale mameneja na wakurugenzi wawe na nidhamu. Ninapongeza kipengee ambacho kimesema Benki Kuu ya Kenya iweze kushika mgao zaidi kutoka kwa kampuni za bima ili yule Mkenya ambaye atakuwa amepata matatizo na pengine hii kampuni ya bima imefilisika ikaanguka, anawezapata fidia.

Watu wengi wamepoteza mali yao kampuni za bima zikawa zimefungwa. Hawakuweza kupata fidia na hawakujua wataenda kuuliza nani. Lakini, leo ninafurahi sana kama Mama Mombasa County kuona mwisho wa hawa watu ambao wamekuwa wakiwatapeli Wakenya kwa jina la bima. Kuna kampuni ambazo zimefanya vizuri lakini zingine zimekuwa kitega uchumi kwao. Wanajua kwamba watakusanya mapeni kutoka kwa maskini na matajiri. Lakini, tatizo likitokea wanaleta masharti na ujanja mwingi. Leo hii ninataka kuwambia sheria inatungwa na kurekebishwa katika Bunge la 13. Ule utapeli ambao ulikuwa unaendelea, leo utakoma na Wakenya watapata huduma bora zaidi.

Kuna watu ambao wamepoteza nyumba zao ama zimechomeka. Mtu akienda kwa kampuni ya bima wanakuuliza ni nini kilianzisha huo moto, ilikuwa ni stima ama nini? Kabla wafanye uchunguzi mtu analala nje kwa baridi. Huo uchunguzi unachukua miaka mingi na mtu anapata shida kabla hajapata fidia. Wakenya wamehangaika kwa miaka mingi sana.

Mimi ninaweza zungumza mpaka kesho, nikiwaangalia watu wa bodaboda. Mtu amekata bima ya kubeba watu na hajaelezwa kwamba hiyo bima hama huna *helmet* ama ulikuwa mlevi, hawawezi kukupatia fidia. Lazima wapatiwe masharti yote na waelekezwe vizuri. Lakini, hizi kampuni zinachukua pesa tu na wakati wa huduma wanaleta masharti mengi madogo na kuweza kuhepa kuwapatia Wakenya fidia.

Hata kampuni za bima ambazo zinatupatia huduma za hospitali, leo nina furaha kwa sababu tutapata huduma bila kusumbuliwa. Wakenya ambao wako kule chini waliochukua bima ya afya, pia watapata huduma bila kusumbuliwa. Ni dhahiri kuwa miaka nenda, miaka rudi, wahudumu wa bima wamekuwa wakiona Wakenya kwa unyonge wao, kuwatapeli, kuwakosesha haki zao za kimsingi, kuchukua pesa na biashara zao. Wakati Mkenya anapatwa na matatizo anaanza kusukumwa na inakuwa mchezo wa kirba goji, goji kirba. Haelewi ashike wapi ama aende kwa nani. Kama sisi wasomi tulishindwa, je yule Mkenya ambaye hana habari na pesa zake zinachukuliwa kila siku? Imekuwa ni mtihani mkubwa.

Ninampongeza sana Kiongozi wa Chama cha Walio Wengi, Mhe. Kimani Ichung'wah, kwa kuleta haya mabadiliko katika sheria, ili kumfaidi Mkenya. Tunajua kampuni za bima zitapata faida cha kwao cha halali lakini, pia Mkenya aweze kufaidika kwa mapeni ambayo ameweka katika bima. Kwa vile kuna wengi ambao wanataka kuzungumza, nitakomea hapo nikisema nina pongeza sana marekebisho ya Mswada wa mambo yanayohusika na bima.

Asante sana, Mhe. Spika wa Muda.

The Temporary Speaker (Hon. Farah Maalim): Hon. John Kaguchia, followed by the Member for Wajir North.

Hon Kaguchia John (Mukurweini, UDA): Thank you, Hon. Temporary Speaker. I appreciate the opportunity to contribute to this Bill. I want to congratulate the Leader of the

Majority Party and the Government for sponsoring it so that issues of the insurance industry are addressed.

It is clear, we have been unable to seal some gaps in this industry unlike in other sectors. Most of you will bear me witness, that if you go to sectors like the Savings and Credit Cooperative Organisations (SACCOS), because of the challenges we had in that space, we have established proper professional ethics. The Government has ensured people in that industry take responsibility whenever they fail to act in a certain way, this has ensured public resources are well safeguarded.

It is high time the insurance industry smelt the coffee and realised it is not business as usual. Many people have come together to form insurance companies with the sole intention of defrauding Kenyans. Their days are numbered. This Bill is establishing an accountability system where if a manager, director or principal officer for one reason or another fails to act or acts in a way that causes loss to Kenyans, then they carry that burden as a person.

Professional ethics must be practiced, not only in other sectors but also in the insurance sector. Our insurance industries must be alive to truthfulness. Insurance sales people more often than not exaggerate data, lie and give wrong interest rates on some of the investments you are likely to take. By the time you discover you have been duped, 10 years have already passed.

Same to health insurance, whereby you take insurance and most often, you do not get the benefits promised at the point of taking the insurance. So, the issue of truthfulness is very important. These amendments must also be applied by re-insurers. Every insurance company must keep their money with a reinsurance company as backup. So, when the insurance company cannot meet claims awarded to claimants, then a reinsurance company ensures there is fairness to those claiming.

Of course, we also have issues whenever a claim is placed and the client has been awarded some amount of money. Some lawyers or advocates representing these customers get the funds and fail to remit them to claimants. Probably, this is a bigger problem in this country than with the insurance companies. So, we must go after these rogue advocates who run away with the money belonging to claimants. We must ensure those who claim benefit from the fund. Of course, not only advocates are caught in this trap. Also, some Government agencies, Principal Secretaries and Government officers have failed to make good judgment of claims awarded by courts of law on certain cases for compensation.

We must address these areas to bring back the confidence of the common people in the insurance industry and the financial sector as a whole. I am very encouraged that the Government is taking very serious steps to ensure confidence is restored. So, people can know that once you have taken an insurance policy or have legitimate expectation of compensation in a certain area you have invested your money, then when your time to benefit comes, you must benefit. This confidence will ensure the sector thrives, grows and expands. This is very important. So, I stand in support of this Bill because we are headed in the right direction.

Hon. Millie Odhiambo pointed out that there seems a 'blue spirit' in the House. We also need to read the spirit of this kind of amendment and appreciate that there seems to be a Kenya Kwanza spirit in the House of trying to take care of the common mwananchi, trying to bring back confidence in our people. In such a way that they are going to have trust in the systems and structures that exist in this country. The manifestation of blue is good but I think the spirit of this kind of amendment really places the common mwananchi at a very high pedestal to benefit and to ensure that they are being placed at a good position where they will not be cheated again. Hon. Millie Odhiambo as you appreciate the spirit of blue, please also appreciate the spirit of Kenya Kwanza in addressing the common mwananchi's problems where they have been duped for many years.

I thank you Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Ibrahim Saney.

Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Temporary Speaker. In every sector of our economy, it has become common that there are cartels who manage and run it and who complicate issues, lives and livelihoods for Kenyans. The insurance sector is not different from all other sectors. It is one of the biggest cartels that syphon premiums, the money of the insured, taking away the benefit so intended. The rot in the sector is astronomical to an extent you will first ask yourself: Who owns the insurance companies in Kenya? If you look at Upper Hill, all those tall and monumental buildings belong to insurance companies registered in different entities. They take money and reinvest. It is thievery of its kind. The insured have only one obligation, to pay premiums. Once they pay premiums, the insurer is duty bound to ensure that they meet their side of bargain and all liabilities are unto them, but that does not happen. They do a lot of book lying, accountability is not an issue, and fiduciary risk is at the highest level. In as much as I commend the work of Insurance IRA, that the Commissioner General has been doing so well following up these rogue insurance companies, nevertheless, there has been a lot of political and foreign interference in the ownership and financial management of these companies. It is about implementation, tougher implementations and following up the regulations and making sure they are held into account.

A week ago, I was involved in an accident in my car. They were calling it comprehensive plus. Every day they come with catchy words that sell. I used to know comprehensive means comprehensive. But comprehensive is never comprehensive these days; they call it comprehensive plus. I do not know what that means to the extent that up to now I am being taken round in circles to make sure that my car is restored when it is comprehensively insured. This is a business where our money is exported out of the country. If you take a casual look at all the insurance companies, 80 per cent of these companies are owned by foreign individuals or foreign companies. Some of them are not known. Without much ado it is good to say ours is to reinforce, re-energize and make sure that IRA is well funded, given the right capacity in terms of human resources, otherwise the number of brokerages and insurance companies overwhelm the implementation and enforcement of IRA. It is a multi-billion sector but hardly does it make an impact on the lives of those affected, those who have at least stalled to make sure that they pay premiums.

Do we have so much deficiencies in terms of laws? Really not, it is about politics. The political goodwill. I was privileged to be a director of the IRA and any time when an insurance company finds itself on the bad side of the law, you will get a call from the high heavens, making sure that the Commissioner General does not do his work. That has been the tradition to be honest. It is about being transparent and open to allow the Commissioner General to implement the reinforcement, supervisory and regulatory authority so far espoused within our laws; otherwise scratching the bottom of this scandal. The stench in the insurance company will be hard to undo.

With those few contributions, I support the amendment.

The Temporary Speaker (Hon. Farah Maalim): Hon. Catherine Omany followed by Hon. Melly.

Hon. Catherine Omany (Busia County, ODM): Thank you, Hon. Temporary Speaker. I support the Insurance (Amendment) Bill. It always seems like people have to cut their noses to prove that they were hurt or they were involved in an accident. In today's scenario, insurance companies put ahead cumbersome claim settlement procedures in the hope that that person can just give up. If today, maybe say a Member of Parliament got an accident and a bodaboda rider got an accident, you will find that a Member of Parliament is compensated within 48 hours but when it comes to the bodaboda rider, there will be these delay tactics where the case is taken to court and a lot is taken into record that the guy ends up giving up. This is because, even if you say you are waiting for the doctor's report or the judge to give a ruling,

the judge can never tell how hurt I was when I was involved in an accident. There are some damages that can happen that cannot be seen physically but if the insurance has to pay, let it not have excuses of not paying.

Just recently I had a problem with my eyes. I went to a hospital and I was told that whatever they were supposed to do for me to be treated, I had exploited it and I have never been treated. They told me my daughter had exploited it. I asked how much am I insured. They told me Ksh10 million. So how much did my daughter use? They said Ksh100,000. How much is the balance? They said Ksh9.9million. I said I need treatment. They said AoN-Minet Insurance Company has declined because they cannot do that. I then asked them: Are you praying that I come back with a liver, neck or another organ that is sick but not the eye? It does not just make sense. It is a little dumb. Also, there is a friend who cannot bear a child but can have a child through a surrogate. The insurance cannot accept a surrogate to get the same treatment the real insured person could have got meaning they are gender insensitive because there are ways somebody can bear a child without them actually carrying it in her womb.

Also, insurance companies have put hidden charges when the agent comes to the client. There are things that they do not say when they are selling the insurance. They say very nice things first, but immediately you sign to it, then there are hidden charges that come along with which is also not good. We need transparency and if anything happens, there should be no delay; if possible within 24 or 48 hours. Some compensation should be undertaken quickly because there are things that are urgent. If you delay, people get bigger shocks and may lose their lives.

There is also lack of trust because of the way the insurance companies have treated people seeking compensation. You can lose a house, car or something of value but what you get back does not define indemnity. If it was compensating you the exact value of what you lost to help you get back to your feet to the level you were, then there is no way they will be coming back to you. I rush to you as an insurer so that it can come in handy when I need it. And that means I do not have money at that time. It is you who is holding money on my behalf, so why are you asking me to first deposit some money before you compensate me? I like this amendment. It will help everybody; the rich and the poor.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Melly. Where is Hon. Parashina who has been on a point of order? I presume he is not in. Oh, you are in? Please note that it is your turn after Hon. Melly.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I rise to support this amendment. I want to thank the Leader of the Majority Party and by extension the National Treasury for this wise and very important Bill. This Bill stabilises the whole fiduciary sector, and more specifically gives confidence to Kenyans because many of them have stopped taking insurance covers.

The insurance sector within our country has gone too low to an extent that many Kenyans have opted to either depend on God or luck on certain issues. This is because the sector has had a lot of corruption and cartels. At times, there are no proper regulations and laws to rein in on individuals that have fleeced Kenyans.

For instance, when an insured Kenyan gets an accident and goes to hospital for treatment, you will note that he is not considered for reimbursement even when he is insured in a proper manner. These problems facing the sector have led to lack of confidence in the sector and many Kenyans are avoiding it.

The whole money market is stabilised by a strong insurance cover. Without a strong insurance cover, the motor, health, banking, agricultural and all the sectors of the economy suffer. This Bill seeks to steady the sector so as to ensure that everyone who has invested in

any form of cover has the confidence that they will be compensated in the event of any happenings.

[The Temporary Speaker (Hon. Farah Maalim) left the Chair]

[The Temporary Speaker (Hon. (Dr) Rachael Nyamai) took the Chair]

Hon. Temporary Speaker, SACCOS also take insurance cover for whatever risks. For the loans that we take, be it for commercial or farming purposes, whether in the SACCOS or banks, there is an insurance risk. However, when somebody goes back to ask the insuring company for compensation, or making good of what had been insured, he or she goes through nightmares. One is asked a lot of unnecessary questions. I ask IRA to rein in some of the fraudulent insurance companies that ask individuals to give proof that they were actually insured. That begs the question as to why the companies sold the premiums to the individuals, including signing the documents and all these other things, yet they say they need proof. This Bill will steady the sector. Even the penalties put across, especially on the top management of insurance companies, are welcome. The responsibility has to be with the officer-in-charge because he is the one who endorsed that you have signed and agreed that the agent who gave you that particular cover would be penalised in case of any incident.

This is a very important amendment to the Bill. I ask that we support it for the good of the country and the sector but I insist that the insurance sector needs proper and deeper regulations, especially in policy frameworks. This should be clearer especially on how medical insurance is administered. Many Members, including retired Members of this House, at times take insurance but when they want to be attended to in hospitals, they are turned back. These are people insured with reputable insurance companies. This is quite wrong and we need to rein in the insurance companies. We also need to have regulations. I ask the competent Chairman of the Departmental Committee on Finance and National Planning to bring regulations in the insurance sector to this House. Kenyans need to be told how the sector is run so that we restore confidence in this particular area.

Hon. Temporary Speaker, thank you. I support.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you, Member for Tinderet. Hon. Parashina Sakimba, Member for Kajiado South.

Hon. Parashina Sakimba (Kajiado South, ODM): Thank you, Hon. Temporary Speaker. I stand to also support the amendment to the Bill. Issues to do with insurance are a nightmare to many Kenyans. Kenyans have lost confidence in insurance companies. When insurance agents sell you premiums, they are like angels. They speak very well, articulate issues and promise heaven. But during the time to do a follow-up claim in case of an incident, you find out that there is no one to talk to. I have an incident where one of my constituents by the name Elvis was following up his claim with an insurance company. I went to that office to try and assist him. That was in April 2023. Up to now, nothing has happened. The sad story is that when they send their sales agents, they are good, but when you go to their offices to follow-up after an incident is when you find out that you are supposed to see the manager or the director, but those people lock themselves up. Kenyans cannot access them.

The insurance sector is becoming a cartel. It is a system where someone creates a company and once approved by IRA and licensed, they decide what to do. It is like they are only there to make money. Currently, when Kenyans take premiums for their vehicles, they choose to have a third-party cover instead of the comprehensive, and if police officers do not harass or ask Kenyans questions, they can opt to go without insurance cover. The idea behind an insurance cover in other countries is to take you back to your original position before you lost your property or had a problem with your car. This is a story for another day in this country.

Once we, as a House, pass the Insurance (Amendment) Bill, we will give it to the team that is supposed to implement it. Sometimes I do not understand why certain groups interpret the Constitution in a different way. They do not use the law and several Articles that are already there to protect Kenyans. Insurance has also become a very easy way of making money. I think that people who run insurance companies also have a very big back up from the Government. Once this House passes this Bill, we will ensure that it is followed to the letter. By doing so, we will save this country and Kenyans from losses.

I remember my case. I lost my car. I was told to fill a claim form which I did. When I went to ask for the money, I was told I would be paid in phases. The car was worth Ksh2.5 million. I was paid Ksh300, 000 and Ksh400, 000. I asked them why they had asked me to pay for a cover of Ksh200, 000. When it was almost a month to the expiry of my cover, they sent me an email and a message to remind me that it was a crime not to have it every time. When I went to get that money, I had to use a proxy. I had to look for influence and give kickbacks to be paid my money. If I went through that, what about an ordinary Kenyan?

We know that the Constitution belongs to both the consumers and insurers. I do not know what protects them. Maybe they do not have a problem with being taken to court. People in the lower cadre who use bodabodas, Uber, matatus and buses go through so much pain when they claim insurance covers. When you take an insurance cover at the initial stage, they send another team to verify. What do they verify? I do not understand the reason. The true picture is once I have taken the cover, can you pay once I have a damage? No one wants to get an accident. It is a natural occurrence that you cannot protect yourself against.

I will now go to medical covers. I do not know how they choose them. Today, Kenyans are saying that NHIF is better than an insurance cover. You have to wait for an approval for several hours and that person is in the Intensive Care Unit (ICU), which is a challenging moment or risky point. The insurance agencies need to be a little serious. There was a time they used to say there were fraud cases; people who pretended to be sick. There are collaborations between the medical officers and outpatients. The season that they are operating in is covering them. We do not know how Kenyans will be safe when they have medical covers. If you talk about medical and accidents covers, what about agriculture? I am sure that if today I take an insurance cover against my two acres of land full of tomatoes and onions but I do not have even a car they can see at a garage or a police station, how are they able to honour a claim that I lost every tomato in my land? They can take a week or two to come and report...

Hon. Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Geoffrey Ruku, you have an intervention. What is out of order?

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. I rise under Standing Order 95. Reading the mood of the House, this Bill has been debated extensively. It is good that we request the Mover to reply.

Thank you.

Hon. Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Geoffrey Ruku, I realise you had spoken on this Bill and so, you do not qualify to invoke Standing Order 95. If that is the intention of the House, then this can be done by someone else but not you. In that case, I request the Hon. Member for Kajiado to conclude his remarks. You had one-and-a-half minutes to go.

Hon. Parashina Sakimba (Kajiado South, ODM): Hon. Temporary Speaker, thank you for listening to me and giving me one-and-a-half minutes. I wish to donate to other Members because of time. I have already made my comments. I want to donate to my lecturer, Hon. Injendi. In that respect, kindly allow me to donate my one-and-a-half minutes to him.

Thank you.

Hon. Simon King'ara (Ruiru, UDA): On a point of order, Hon. Temporary Speaker.

Hon. Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. King'ara, what is out of order? Give the microphone to Hon. King'ara, Member for Ruiru Constituency.

Hon. Simon King'ara (Ruiru, UDA): Thank you, Hon. Temporary Speaker. Everybody is, indeed, aligning with what is being presented today by the Leader of the Majority Party. We have heard, and we have accepted and accommodated it. I, therefore, stand on Standing Order 95 to request that you call upon the Mover to reply.

Hon. Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, I would like to establish whether that is the mood of the House.

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

Mover.

Hon. Kuria Kimani (Molo, UDA): Thank you very much, Hon. Temporary Speaker. I thank the Members who have extensively contributed to this debate on insurance matters. This House has eloquently pronounced that the insurance sector needs to put its house in order. We, as Kenyans, want value for our money. We want to be able to take up insurance products not just because the laws or regulations require us to do so, and not just because a police officer will stop you by the roadside and ask for your car insurance, but because it is the right thing to do.

The proposals contained in this amendment, talking about stringent penalties, and including imprisonment of those officers who will have been found not to execute due diligence or to mislead or to steal from Kenyans, are very welcome on this particular matter. The Bill also makes provision that when those officers are taken to court, the court may rule that they compensate the victims with their own money. This is very welcome. We hope that that will bring sanity to the insurance sector.

As I mentioned when moving the Bill, the Insurance Act has been amended a record 38 times. Therefore, that signifies a need to repeal the current Act and have a comprehensive Insurance Act that will take care of issues of emerging technologies and accommodate some of the issues that Members have raised.

As the Departmental Committee on Finance and National Planning, which is charged with overseeing the financial sector, including the insurance sector, we are holding continuous engagements with players in the insurance sector to ensure that the correct thing is done. As earlier alluded to, we are also drafting an Insurance Professionals Bill, which will regulate the sector and professionals in the industry. It will ensure that people masquerading as insurance agents and professionals with briefcase companies are kicked out. We will then have professionals who can be held accountable if they engage in activities contrary to their code of conduct. They can be blacklisted not to mess up other companies, insurance claims, or properties of other Kenyans.

Developing countries have proven that the uptake of insurance services takes away significant risks that people would ordinarily have to accommodate. Kenya is primarily driven by agriculture and yet, agriculture insurance is one of the least obtained products by Kenyans. I am an example that most farmers who have at one time taken an agricultural policy or agricultural insurance do not get reasonable compensation when their crops do not do well or whatever insured risk happens. They are treated to what I would call "*Kiingereza mingi*." It is said that the devil is in the details of all those terms and conditions attached to your insurance policy.

Hon. Members have pronounced themselves on this matter, and I know the insurance sector is listening. When insurance agents come to sell insurance to Kenyans, they are usually very persuasive and dressed in suits. They are willing to do anything. They even buy you lunch

and convince you to buy their policies. However, once you sign up, customer care becomes a nightmare when you need your car repaired or compensation for your vehicle.

Most Members of Parliament have said that they have issues with their medical insurance. I was talking to Hon. Linet Toto, and she told me that she got involved in an accident and when she was trying to get compensation for her car, she was told that she had to use her own money to repair the vehicle and then the insurer would compensate her. She is still being taken round in circles a few months later. If this House has numerous examples of Members being taken round in circles by insurance companies regarding their claims, what about an average Kenyan? You can imagine the nightmare that they go through if we, who are in privileged positions, go through such difficulties. We even have people that we could talk to, to fast-track those processes. What about the average *Wanjiku*?

I know that the insurance sector is listening. The insurance regulator is listening. The Departmental Committee on Finance and National Planning is ready to oversee the industry to bring sanity to it so that we have continued uptake of insurance products and services. To have a secure, healthy population and spur economic growth, we need to address the issues that Members have raised about their medical insurance.

With those few remarks, I beg to reply.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Kimani Kuria, Member of Parliament for Molo.

Hon. Members, as you are aware, we concluded Order No.12 this afternoon. We will now move to Order No.13.

(Putting of the Question deferred)

THE NATIONAL YOUTH COUNCIL (AMENDMENT) BILL
(National Assembly Bill No.1 of 2023)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Joshua Kandie. Make sure that Hon. Joshua Kandie has the microphone.

Hon. Joshua Kandie (Baringo Central, UDA): Thank you, Hon. Temporary Speaker. I beg to move that this House support the National Youth Council (Amendment) Bill (National Assembly Bill No.1 of 2023).

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Joshua, I would like to ask you to move the Second reading of the Bill as per the Order Paper: “The National Youth Council (Amendment) Bill (National Assembly Bill No.1 of 2023) be now read a Second Time.” Please assist the Member with the Order Paper.

Hon. Joshua Kandie (Baringo Central, UDA): Thank you, Hon. Temporary Speaker. I beg to move:

THAT, the National Youth Council (Amendment) Bill, (National Assembly Bill No. 1 of 2023), be now read a Second Time.

The proposed amendment is very short and straightforward. It consists of only four clauses, largely seeking to align the Act with Article 260 of the Constitution. The sections to be amended are 2, 5, and 6 of the National Youth Council Act No.10 of 2009. Sections 2 and 3(a) are set to align the parent Act to Article 260 of the Constitution in reference to the terms ‘Cabinet Secretary’ and ‘Principal Secretary.’ Section 3(d) sets to have nine youths nominated through a competitive process by the Cabinet Secretary responsible for Youth Affairs. This is to depoliticise the membership of the Council. The process begins at the county level, where the director of youth nominates youths from the ward level.

Section 4 amends the principal Act by deleting the words ‘sub-location’ and replacing it with the word ‘ward’ in Section 6. This aligns the Act with the Constitution, which provides

for the devolved administration. The amendment shall be in line with the provisions of the Act that confer upon the Council the power to create branches from the ward to the national level and such other branches as it may deem necessary or desirable for the promotion of youth empowerment and development. This will align the functions of the Council with the devolved administrative structures.

I beg to move and request Hon. Ruku to second. Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. I rise to second this amendment.

You realise that it is very important for our nation to support the youth across all our constituencies in the process of honing their leadership skills. Meritocracy is extremely important regarding this matter. For it to be enhanced or enforced at the grassroots levels, we have to ensure that we do not place financial burdens on the youth. If we do not ensure that county youth directors make free and fair competence-based appointments and leave it as it is at the moment under the Act, we risk placing a financial burden on the youth when they vie for those positions. Therefore, the process will be rigged from the word go. This amendment Bill aims to ensure that the process of appointing youths to those positions is not rigged from the word go.

We need to ensure that youth leadership at the grassroots is free of politics. That is why this amendment Bill will ensure that we increase or enhance transparency and, at the same time, uphold merit.

I urge the House to look at this amendment Bill and its highlighted merits.

I beg to second.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Ruku.

(Question proposed)

Hon. Members, please press the intervention button if you intend to speak on this Bill. Hon. Wilberforce Oundo, Member for Funyula. Is Hon. Francis Sigei in the House? Hon. Millie Odhiambo, Member for Suba North.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. I wish to support this amendment Bill. This is a straightforward Bill that does not require us to talk too much. I have listened very keenly to hear or understand the mischief that the amendment Bill seeks to address, and I have gleaned what you are trying to do from a political perspective. We are giving the Cabinet Secretary greater powers. I am not opposed to that because we have not fully entrenched the issue of public participation. Otherwise, we should empower the youth to elect themselves even though it is onerous, difficult and challenging. However, that is how we nurture their leadership skills and give them a chance to learn how to compete and participate in leadership issues. Past processes may have been wrought with challenges. Therefore, I have no problem as long as we are talking about an open and competitive process.

I support the Bill.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Kassim Tandaza, Member for Matuga.

Hon. Kassim Tandaza (Matuga, ANC): Ahsante, Mhe. Spika wa Muda, kwa kunipatia fursa hii. Kwanza kabisa, ninakubaliana na aliyetoa Mswada huu, nikisimama kuuunga mkono. Ni kweli kuwa kulikuwa na ubaguzi katika hili jopo la vijana, na ipo haja ya kuhakikisha kuwa watateuliwa. Lakini bado kutakuwepo na kazi wakati wa kuwapatia habari kwa sababu tunajua kuwa nchi hii ina sehemu mbali mbali. Kuna sehemu ambazo mpaka sasa huwezi kupata

network kwa urahisi. Bado kuna vijana wanaoishi sehemu zisizo na mtandao wa simu. Kama ni kuwasiliana nao katika mitandao ya kijamii, kuna sehemu ambako *network* hazishiki. Tunaposema vijana hawa wateuliwe kutoka kwa *wards* – jambo ambalo ninaunga mkono – itakuwa bado kuna changamoto ya kuona ni vipi vijana wote katika *ward* zote zaidi ya 1,000 watapata habari kwa wakati mmoja ili waweze kutoa maombi kupitia hawa *directors* wa vijana katika kila kaunti. Tutafute mbinu ili habari hizo ziweifike wakati wowote nao wapate nafasi hii.

Mbali na marekebisho haya ambayo ni mazuri, yafaa ifike wakati kuwe na utaratibu zaidi wa kuhakikisha vijana wote wanajumuishwa. Isitokee kwamba ni walio mijini tu ndio watapatikana kwa wingi, na hivyo kuchukua nafasi hizi. Pengine itakuwa wale ambao familia zao zina uwezo kwa sababu ndio watakuwa wanapata habari hizi. Isitokee kwamba vijana wengi ambao familia zao hazina uwezo wakose habari hizi, ilhali wana vipawa ambavyo vingeweza kusaidia katika mikutano na maendelezi vijana.

Kwa hivyo, ninaunga Mswada huu mkono. Ahsante, Mhe. Spika wa Muda.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Nafasi hii nitaipatia Mhe. Lilian Gogo, Mbunge wa Rangwe.

Hon. (Dr) Lilian Gogo (Rangwe, ODM): Thank you very much for giving me the opportunity to add my voice to matters of youth.

The youth of this country are very important. It warms my heart anytime we legislate on matters that affect the youth. Therefore, I rise to support the amendments that have been brought by my senior and brother. It is always important that any law we make in this House or any existing law is aligned with the supreme law of the land, which is our Constitution of Kenya, 2010. What is done is to align this law with constitutional requirements. We are changing words so that wards are reflected. It is a noble thing.

The only thing I had an issue with was putting a lot of power on the Cabinet Secretary to get those youths appointed from their office, probably from a given suggestion from the grassroots. However, it is also important that the Cabinet Secretary is involved so that we sharpen the skills of youths. At the same time and for coordination purposes, the activity must be housed in a certain ministry. I support this amendment. I hope our youth will get the voice they deserve in managing their activities at the council.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Naomi Waqo, Member for Marsabit.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you for allowing me to add my voice to this very important amendment by Hon. Joshua. I also congratulate him for coming up with this amendment.

The amendment is quite brief. I support this amendment because Sub-section 3(b) seeks to appoint nine youths through a competitive process by the Cabinet Secretary responsible for youth affairs. Anything to do with our youth or young people is important because we know very well that young people are future leaders. Many of them are educated and yet, they sit at home. Their good certificates have not earned them much.

Therefore, I support it. However, I only propose that nine youths are minimal compared to our country and the different regions and areas. Even so, I suggest that we consider different regions and gender balance so that we have the face of Kenya and representatives come from almost every region. As we do this, let us not handpick people but elect people who will add value, and their nomination will benefit the entire nation. Those nine people should represent the whole nation, not the regions so that we can build and grow our nation together.

Hon. Temporary Speaker, I support and congratulate Mhe. Joshua.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Titus Lotee, Member for Kacheliba.

Hon. Titus Lotee (Kacheliba, KUP): Thank you, Hon. Temporary Speaker. I congratulate Hon. Joshua for bringing this National Youth Council (Amendment) Bill. I rise to support it because it aims to do two things. First, the council will be aligned with the Constitution by inserting the word 'wards' and deleting locations and sub-locations as it is now. Secondly, it will allow the youth to get leadership through elections at the grassroots level. In this country, we always look at the youth...

Most Members do not understand there is a National Youth Council in this country. Its aim is to bring the youths under one leadership. We always say that the leaders of tomorrow are the youth. Tomorrow never comes and it is a day we will always chase. If we allow the youth to hold elections at the ward level, those who will get a chance to be leaders of tomorrow should practice leadership in this council.

I want to make a comparison with the bodaboda riders because they are everywhere in this country. They elect their leaders irrespective of their level of education or social influence, but with respect to their leadership qualities. As the National Youth Council holds elections in the wards, they should not insist on degrees or levels of education but on a person's leadership qualities. We know many people went to school because they had capacity; but others never went to school but have leadership qualities.

I wish the proposer would also include a little bit of... So, when holding elections in the wards, they should not look at the level of education but leadership qualities. If we are to nurture leaders, we must look at their qualities. I am saying this with respect to constituencies where many people never went to school.

I come from Kacheliba Constituency, where many people never went to school but can be outstanding leaders. I wish they could be given a chance so the National Youth Council is not an elitist youth leadership.

Lastly, the Cabinet Secretary is supposed to appoint nine members through a competitive process. In this country, this process is always subjective. Most of the time, we see people who are well connected as the most competitive and yet, they may not be the leaders we want. In this competitive process, are we placing a tag on women? For most appointments, the Constitution clearly states that more than two-thirds of one gender cannot be allowed to be in leadership. I have not seen this coming out. This needs to be looked into so that the competitive process also puts a tag on the other gender being represented as per the Constitution and regions. As it is now, people living in well-connected cities are the ones who get those positions. People from my constituency will not get those positions if we use the subjective competitive process.

We need it to come down to a level where it will also allow a child from Kacheliba to be a leader. I laud the sponsor of this Bill, and I support it. However, we should look at how we can bring into leadership those who may not be competitive as per the given terms.

Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Wilberforce Oundo, Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. My apologies! I had stepped out when you called me to contribute. I must laud my friend, Hon. Kandie, for bringing this amendment Bill to the floor of the House for us to ventilate and decide on the way forward. It has always been my pleasure to see a colleague process a Bill to this level because it is not easy. The process is very vigorous, and it can be discouraging.

The role of the youth in this country cannot be gainsaid. The youth literally light up our lives. They are the leaders of today. We stopped calling them the leaders of tomorrow. That is why the previous Parliament, in its wisdom, came up with the National Youth Council Act to give the youth a forum to ventilate and participate in the national political, social and economic

spheres. It is also why we see a number of young leaders and some youthful older men doing their bit inside this House.

As you are aware, we have not had the National Youth Council since the term of the Council expired in 2019. It was due to be held in 2020. However, it was not held because of the COVID-19, and the regulations were not in place. They came much later. I appreciate the efforts by my colleague to change the composition of the National Youth Council under Clause 5 of the parent Act from eight youths selected by the youth in such a manner as may be prescribed and appointed by the Minister, to nine youths nominated through a competitive process by the Cabinet Secretary responsible for youth affairs. There is a trap therein. There is a danger of robbing the youth of their democratic right of electing people of their choice. However competitive the process is, it is very unlikely that the youth from Rhamu at the tip of Mandera, youth from Moyale in Marsabit County, youth from Karongo towards Tanzania, and youth from Loitokitok will be considered for appointment. Chances are that it will end up being the most voluble noise makers all over social forums - through their political networks - that get those positions. I will consult my colleagues on the sides before we go to the Committee of the whole House stage so that, instead of having youth nominated through a competitive process by the Cabinet Secretary responsible for youth affairs, we cluster the country into zones. The youth elect their representatives who will come to sit in the council, where the voice of the youth will be heard squarely.

The sponsor of the Bill has changed (g) of subsection 1, and he has left (h) intact. In the same manner... Essentially, we will still have a problem. I will request him to retain the election but ensure that we cluster the country into zones so that each section of this country is represented to avoid discrimination and continued marginalisation of some regions. As my colleague has observed, how will the Cabinet Secretary know a youth in Kacheliba or a youth deep in the interior of this country? We need to have a look at the Bill. I hope the Member is listening.

Secondly, there is a typo in Clause 4 of the Bill, which will probably be corrected in the Committee of the Whole House. What is referred to in Section 6, where we are talking about changing from the word “sub-location” to “wards,” is Section 6(1)(f) and not Section 6(1)(g). Those are amendments that we can make. But I want to urge my colleagues that we need to continuously empower our youth by giving them the opportunity and the forum to be heard and to exhibit and test their talents and skills. The National Youth Council was the best opportunity for them to exhibit their talents and skills. I would, therefore, urge the Cabinet Secretary to move with speed to hasten and reinstate the National Youth Council now that there is no COVID-19. I hope the regulations we passed in the last term are active and can be used.

With those few remarks, I support, subject to the proposed amendments. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Dido Raso, Member for Saku.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Temporary Speaker. I wish to support this amendment to the existing law, and I congratulate Hon. Kandie for bringing this proposal. If you look at Article 260 of the Constitution, it is largely about the interpretation of several things, including affirmative action, which addresses matters of inequity. When we talk about one Kenya, one people, one destiny, we are talking about the growth of this nation. At the heart of the growth of this nation is the youth. This is because of the youth's vibrancy, energy and intellect. Individuals or groups put their heads together and burnt the midnight oil to improve existing laws.

Youth governors exist in this country, and they are elected. They are not nominated or competitively picked from across the country. They represent all 47 counties of Kenya and form the Youth Congress. As Hon. Oundo has said, any attempt to usurp the youth's powers to

elect those they feel will represent their issues, concerns and future and give the powers to the Cabinet Secretary is wrong. We live in Kenya and, sometimes, get surprised when we make appointments. Those who are visible, available and within reach, get the few available opportunities. For that reason, I think the owner of this Bill – although it now belongs to the House – must reflect deeply on giving back powers to the Cabinet Secretary.

Hon. Temporary Speaker, Article 10(2) of the Constitution on national values and principles of governance – read together with Article 260 – addresses the issue of equity, social justice, inclusiveness and equality. With devolution, we thought many issues of concern to the youth of Kenya would be addressed more robustly because they live in counties, our constituencies and wards. This Bill is an attempt to try and mobilise a body that will come up with a system where there is a fair representation of youths in the Republic of Kenya in the future.

I support this Bill largely on one principle: Anyone addressing youth matters addresses the issues at the heart of this country. When we all give bursaries in our constituencies and talk about education, we rarely speak about the adult population. We only talk about the growth of youth. Therefore, I support these suggested amendments and request the House to support them equally.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Andrew Okuome, Member for Karachuonyo.

Hon. Adipo Okuome (Karachuonyo, ODM): Thank you, Hon. Temporary Speaker, for allowing me to contribute to this Bill. I thank my friend, Hon. Kandie. Firstly, the National Youth Council is not well known by the youth in this country. I urge the Cabinet Secretary concerned to ensure that publicity is done well for the youth to know they have a Council that they can use for various purposes. It provides them with an opportunity to identify what they can make use of in this country. It allows them to develop ideas on what can be beneficial to them. I feel it is a tool for the development of their talents.

Usually, when we talk about the National Youth Council, many people think of politics more than anything else. The idea is to create development for them in all the spheres. This will enable them to develop their talents in anything, including politics, that many people think is the only one they cover. If this happens, our youths will have a good start. I agree with my colleagues who have said that youths are told that they are the leaders of tomorrow a number of times. As youths, they are also leaders in their rights. You do not have to be a leader in politics to be considered one. They are leaders where they are. The Council should provide talent development and opportunities for any other kind of leadership they would like to have.

Our youths are lucky because this opportunity is being given to them. When appointed or elected in various positions, they should be gender sensitive and reflect the face of Kenya. I support the idea that those youths should elect their leaders right from the grassroots going up. If they elect their leaders, they elect people they feel can serve them. You should not dump everything on the Cabinet Secretary concerned because they need to know those youth who can be useful to their colleagues.

I am in total support, and I urge my colleague, Hon. Kandie, to consider some of the points we have raised so that he can have a final draft that can be useful to the Bill.

Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this Bill.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you. Hon. John Kaguchia, Member for Mukurweini.

Hon. Kaguchia John (Mukurweini, UDA): Thank you, Hon. Temporary Speaker. Once again, I congratulate Hon. Kandie for making this proposal to revive the National Youth Council, which we all know has not worked as it should have. In fact, I dare say it looks like it has become more of a moribund institution. This institution is crucial in ensuring that we are

mainstreaming young people into the leadership of this country, but for one reason or another, we have not got it right over the years. For that reason, the National Youth Council has remained ineffective and has not achieved the goals and intentions that it was created to achieve. For that reason, I congratulate my brother for bringing this amendment because this is, by and large, going to unlock a situation that has been moving from bad to worse and worse to worst.

The issue of our young people is not an issue that we can put under the carpet. We cannot downplay it, as young people are important in running this nation. They are the hope of our tomorrow. They are the generation that is taking over the leadership of this nation, and they must get the proper training, have the capacity built, and get the exposure necessary to help them prepare as leaders with integrity. It will also ensure that they become a bundle of value in their leadership role in our nation.

The National Youth Council can play this role very well if it is properly organised, prepared, structured, funded and capacitated. One of the ways is by ensuring that the structures are working and the human resource or capacity in it is enhanced so that it can deliver.

One thing we lack as a country is a proper mentorship system. As a Government, there exists an internship programme that takes care of our young people who are coming from college. But we need a structure that should be appropriately guided through the National Youth Council to mentor our young people. Once they have done the internship in the marketplace, there is also another opportunity for them to do job shadowing so that they can job-shadow senior corporate leaders, political leaders, lawyers, advocates and doctors in this country so that the young people can get proper exposure.

They will also understand that as they prepare for life, things are not automatically earned because some young people today have a challenge that they want to succeed here and now. This job-shadowing, mentorship, internship programmes and properly guiding them through established structures – which we must ensure they work – is one of the ways to help our young people understand how to be effective and be leaders in this nation in an appropriate manner.

Hon. Temporary Speaker, I encourage our political parties to ensure they also have young people in their ranks. Ensure that the young people become key components in leadership at all stages, from the top, mid and lower levels. We should ensure that the young people are properly embedded into that system. I am glad that we have young leaders in the National Assembly. In fact, the 13th Parliament is probably one of the youngest we have had in the history of this Republic, where the average age of our leaders this time round does not go beyond 50 years. It is actually in the range of 40 years.

This is a good thing, and it shows that young people are now coming alive to the fact that they are supposed to be taking the reins of leadership in this country. Therefore, we as leaders, must ensure that we amend this law today to ensure that young people are brought on board through the National Youth Council (NYC). We must also walk the talk in a way we can encompass and mainstream young people's leadership into our political parties, institutions, commissions, boards and whatever level of governance we have in this nation. We usually say that a country or a nation that does not take care of the young generation is a country that is planning to fail because it will not have leadership in future.

I want to support this amendment and say that we expect the Cabinet Secretary to exercise objectivity when addressing this issue of how to competitively bring on board the young people in National Youth Council by ensuring there is representation, the gender issue is addressed, marginalised societies, communities and people are well taken care of. We must look beyond the political divides to ensure all people from all corners of this country are brought on board because young people matter and are key and important in running this nation.

Hon. Temporary Speaker, as I finish, I point out that as we prepare young people in leadership, they also need to understand that youth is a very transient status that passes with time. Before you know it, with the age we have as a youth bracket in this country, you have passed that.

I want to encourage them to continue adding value in their lives so that when you do not have years on your side, they have that value they added when they were young that will keep them going and experience that they gain from the exposure we have talked about.

Hon. Temporary Speaker, I thank you very much. I support this amendment.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): The Hon. Linet Chepkorir. Member for Bomet County.

Hon. Linet Chepkorir (Bomet County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to contribute. I congratulate Hon. Kandie for coming up with this amendment. I also want to support the Motion and say that young people are supposed to be considered. As you can see, or as you all know, I am the youngest Member of Parliament in the 13th Parliament. We face a lot of challenges as young people. When I vied for the Women Representative position, I encountered many challenges. You are told you are too young to run for the position, you are not experienced, you do not have money, or you are not married. My question is: If those people are saying we are not experienced, where else will we get experience if not for us to be allowed to serve?

There is a quote that says: “The journey of a thousand miles starts with one step.” Through this position, young people will be represented, gain experience and be great people in the near future. I also want to support by saying that you cannot compare an old *mama* or man to someone who has just finished university. They cannot reason together. It would be good to amend this Constitution to have the youth represented from that level in the county assemblies and the National Assembly. As a young leader and many others in this House, we support the Motion. We need more young people in leadership. We will be empowering many youths by doing so.

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

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Members. As indicated earlier, we will go to intervention for this Bill. I do not see any other interest in this Bill. I call upon the Mover to reply. Hon. Joshua Kandie.

Hon. Joshua Kandie (Baringo Central, UDA): Thank you, Hon. Temporary Speaker. Once again, I thank Members for their contribution, and especially for supporting the Bill. The Bill is fundamental to our youth. I have taken note of all the contributions and the amendments that Members are proposing to bring. I am ready to go and look at all the proposed amendments and make sure that I make the necessary amendments before it comes for the Third Reading. Once again, I thank all the Members. We have done justice to our youths this time around.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Kandie. Hon. Members, we will not put the question now. It will be put in another session as scheduled by the House Business Committee.

(Putting of the question deferred)

Next Order.

THE LAND (AMENDMENT) BILL
(National Assembly Bill No.40 of 2022)

Hon. Simon King'ara (Ruiru, UDA): Thank you, Hon. Temporary Speaker.
I beg to move:

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THAT, the Land (Amendment) Bill, (National Assembly Bill No.40 of 2022), be now read a Second Time.

From the onset, I take this opportunity to thank this honourable House for allowing me to come back with the Land (Amendment) Bill that was here during the 12th Parliament. Before I proceed, I am grateful to the National Assembly for helping this Bill to go through all the three stages up to the Third Reading, until we lost it at the Senate.

This Bill is concerned with Section 12 to Section 16. I will quote the amendment I am proposing that we carry on. In Section 13, I am proposing the same to read as follows: “A public body or institution shall apply to a Registrar for registration of public land allocated to the commission in the prescribed form”.

In Section 14, I am proposing it reads as follows: “The Registrar shall register public land allocated to a public body or institution by the commission”. I go on to propose that Section 15 reads as follows:

“Pursuant to Section 58 and paragraph 7 of the Third Schedule to the Physical Land Use and Planning Act, 2019, the Registrar shall register land set aside by the persons or land buying companies for a public purpose consequent upon a proposal for development.”

I end with Section 16, which I propose to read as follows:

“Upon registration of land under sub-Sections 14 and 15, the Registrar shall issue a certificate of title deed.”

I am dividing Section 16 into three portions (a), (b) and (c). I am proposing paragraph (a) to read as follows:

“In the case of an incorporated public entity, the certificate of title shall be issued in the name of the entity.”

I proceed to paragraph (b).

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

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): What is out of order, Hon. Millie Odhiambo?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. I did not wish to interrupt the Member moving an important Bill. Instead of reading out what is in the Bill, which we can read for ourselves, he could spend that time explaining the purpose of the amendments. We have read the Bill.

Thank you.

Hon. Simon King'ara (Ruiru, UDA): Well guided.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. King'ara, please take seriously the comments made by Hon. Millie.

Hon. Simon King'ara (Ruiru, UDA): I have taken note. I did not want those who do not have the Bill to say that I have left out some things. I picked this from what was said by a Member who noted some issues which were left out. All the same, Section 16(c) will provide that in the case of a county government, the land title will be given to the county government. As you all know, land in Kenya is divided into three categories. They are public land, private land and community land. Community land is where we have a big chunk of land.

What is the objective of this amendment? The objective of this amendment is to secure public land. What I have come to note, and that engineered my coming up with this amendment, is that when private land is divided into small portions, the law allows that, at least, a portion, maybe 10 per cent, is secured for public utility. That is very much in order. But you find that the land set aside for public utility is not secured at the sub-division level. When the people are done with their private portions, they start encroaching into the public land. That is why you see cases like what is happening in Athi River. If that land had been secured immediately after

the sub-division started, we would not have experienced what we have experienced in Athi River.

That notwithstanding, today, the Government and the public are fighting for public land to put up public institutions. I can pick a case in Ruiru, where big chunks of land were sub-divided for private use, and then public land was set aside for public development. But the same land was not locked. After the legitimate land was sold out, those people started selling what they had secured as public land. That is why the Government finds it very hard to put up public institutions. For instance, we now want to put up *huduma* centres, Technical Training Institutes (TTIs), hospitals and police stations, but there is no land. The Government is going back to buy what it previously owned. What if that land had been locked? The same case applies to roads. The Government has spent a lot of money to buy back land to construct the Eastern Bypass. That land was very wide, but the same Government, through scrupulous people, made it private and issued documents which could allow them to secure the land as theirs. However, when the same Government comes to do development for the public, it is told that the land is not there. What happens? Since those people have enough money to file cases, the Government normally loses. In our villages, poor people cannot even fight for their land because they cannot afford a lawyer to take care of their sentiments. So, they find themselves losing. They are sometimes fined, and that becomes a double loss.

How can we cure this? The land is still sub-divided. I want to give a case study that I can justify. As I speak, we have Tatu City, a coffee plantation owning about 15,000 Acres. I assume they are supposed to give us 1,500 acres of public utility land. That is what we will need in the initial documentation. But who is there to follow up on the 1,500 acres in 20 years to come? That is how we are losing our land and why we cannot develop.

In Kenya, it is very tedious to secure a title deed or a certificate to lease land. What happens is this: If the land was secured and a document was not issued, when we come with development on the same land, especially where we have Corporate Social Responsibilities (CSRs) coming in to assist us in putting up projects, those people will ask for a legit document. When the document is not produced, people go to court to challenge the ownership of that land. So, you lose development because the donor might not wait forever for you to secure the document. However, if the documents were secured at the initial stage and were waiting for the development to come, we would have many developments.

I also want to give another case of Ruiru Girls in my place, Ruiru Constituency. The land was nine acres, but it is less than six acres as I stand here. The same school got donations from the Japanese Government, which I can quote. We were asked to give legit documents so that they could do construction. We did not have any records because it was public land. The title deed was not issued. The land is just there, and the school secured it so that it is not grabbed. But if somebody went to court, since we do not have any documents, we could just be removed from the land like what happened in Athi River. It is the same case with Ruiru Boys, where I schooled. That land was divided into four portions. We were only able to secure the land, but we will not be there forever.

Hon. Temporary Speaker, public land should have a legitimate document so that we can secure it. This will give tidiness to matters of public land. This is because you will find that the land starts getting owners whenever development comes. We have idle land in our country with huge chunks in Kilifi, Lamu and several other places, but if you try to come up with a Government development, you will see the real owners of that land. The Government's development ends up stalling. That is what is happening in Kenya and maybe in other parts of the world.

I looked at what was happening in other jurisdictions while coming up with this amendment. I found out that many countries, including African countries, have come up with methods of securing public land by issuing documents and accommodating any development

that might come their way. I discussed this matter in the 12th Parliament, and by God's grace, I convinced Members to pass this amendment Bill. I request Members present, and even those who are not currently in the House but are listening to me, to support this amendment Bill to save Kenyans and create room for development.

Vision 2030 touches on matters of development. Where will we come up with development if we have not secured the land? The Jubilee Government, led by our President, Dr Samoei Ruto, came up with affordable housing.

(A Member spoke off the record)

I am sorry for that. I meant the Kenya Kwanza Government. The Kenya Kwanza Government, led by Hon. Samoei Ruto, came up with a good proposal for affordable housing. Affordable housing is not a new phenomenon. It has been there before. For instance, we had the Majengo Estate in Ruiru, which the Government did. We also had the Kangangi Estate Houses, which were done in 1976. The proposal for affordable housing that the Ruto administration has come up with is not a new phenomenon. We should embrace it.

As much as we want to embrace affordable housing, where will we construct houses if we do not have land? To support the Kenya Kwanza development agenda, we have to start by securing land, which the Government can develop.

The new model for conducting business today is through public-private partnerships (PPPs), where private institutions provide funds to develop dams, hospitals and technical institutions. As much as the Ruto administration wants to develop such projects, including roads, which will be done under PPPs, there is no land. Why not take this opportunity to amend the Land Act to secure the little remaining land?

On behalf of all people of Ruiru, I request the House to see it fit to support this amendment Bill so that we can develop our land.

[The Temporary Speaker (Hon. (Dr) Rachael Nyamai) left the Chair]

[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]

Hon. Temporary Speaker, I also want to thank President Ruto's administration, through the Kenya Kwanza Government, for allowing us to come here and discuss how to develop our country, Kenya. I also take this opportunity to thank the community out there which has stood firm and secured the remaining land as much as they do not have documentation. The people of goodwill will not be there forever. Let us take charge now that there is remaining land, including in Ruiru. I have mentioned areas with public utilities, and the land has not been grabbed yet because of goodwill. However, we cannot depend on goodwill forever when we have a Parliament where we can align matters affecting the public.

With those remarks, I hope you are convinced this is a good amendment to secure and lock our land and save money, especially when people are conned and put up big projects on public land. When the Government wants to secure the same public land from development, demolition will occur. If the land is locked, no demolition will cost this economy a lot of money.

We are many here, and we have read the Bill. I welcome any amendment that suits and beautifies this Bill, which is good for our country.

Hon. Temporary Speaker, I now take this opportunity to move and ask Hon. John Kaguchia to second this Bill. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon Kaguchia.

Hon. Kaguchia John (Mukurweini, UDA): Thank you very much, Hon. Temporary Speaker. I second the Land (Amendment) Bill, which amends the Land Act by Hon. Simon King'ara. It is a timely and necessary amendment as it seeks to address issues that will bring good order and planning in our cities and country. They will help us have well-coordinated development in our Republic.

The issues that Hon. King'ara has raised are fundamental in ensuring that we have development in our country. Development must be well-intentioned, deliberate, coordinated and well organised so that it does not encroach into public space and bring disorder. As you have seen so far, we have development in our country which has, by and large, brought disorder in other areas. For example, if you are going to develop a nice and well-organised estate, you leave some piece of land for public utilities like sporting activities, a public school, a hospital and a church. The moment you complete the demarcation and sub-division of that estate land, you go ahead to sell out the land that was demarcated for church, sporting activities and public utilities. That kind of development jeopardizes the same good order we seek to achieve through those gated communities and our establishments in different estates in this Republic. This is one of the City's most common and recurring challenges and problems. That is how we have ended up having slums. That is also how we have ended up having estates where you cannot have sporting activities going on because that land has already been re-subdivided and sold to other people.

If you compare what we do in our country with other jurisdictions, you will be surprised that we are sometimes not very careful. In fact, we are careless. If you go to other jurisdictions, you will find that even when you have to do some little concreting of your own space in your own home and house, you must apply for a permit. You must prove to the council or county government that the storm water you will have in that concreted area will be directed to a certain kind of drainage. You must show that the type of waste generated from that establishment is, in one way or another, catered for and handled in the plans you seek approval for. But in our country, we have neglected all this. Then we stand surprised when we find ourselves in a highly disorganised system and uncoordinated developments in the cities and rural areas. We stand surprised at how we got here. Correcting those kinds of ills is definitely an extremely difficult situation. That is why I support this amendment.

Hon. Temporary Speaker, the problem of public land being encroached on and sold to private individuals is common in the cities. If you go to the rural areas, for example, Mukurweini, where I come from, one of the biggest challenges we have today when we want to develop and expand our roads is that we do not have any more reserve for the roads we want to expand. It is a huge problem. Every moment you want to expand a small farm road, it has already been eaten up by the adjacent pieces of land. It has been taken up by other people who are already using it to cultivate napier grass and have done fences almost at the middle of the road. For that reason, it becomes tough for you to achieve the 12-metre road, 9-metre road and even the 20-metre road. It becomes an extremely difficult case.

For that reason, I support that whenever you have done sub-division of whatever piece of land you have, you must have the road reserve registered by the county government or any other government organisation or body that has authority over that road. If it is Kenya Urban Roads Authority (KURA), Kenya Rural Roads Authority (KeRRA), or Kenya National Highways Authority (KeNHA), then that land must be properly demarcated and registered by that particular institution. As much as we are also going to be doing the same for the land that land-buying companies will leave out, housing developing companies, and all those kinds of arrangements, let us have that piece of land registered by the Government so that the moment you have sub-divided your estate, then that public land that you have seized and set aside ceases being the property of that institution; it ceases being a property of that land-buying company;

and, it ceases being a private piece of land. Hence, you cannot access it anymore. It must be transferred to the entity concerned with that aspect.

Lastly, we must take extremely serious punitive measures against unscrupulous dealers who resell and re-subdivide the public land they had already set aside. Not only must we take action against those unscrupulous dealers, but we must also take serious action against government entities and civil servants who encourage this. There are those who connive and collude with those unscrupulous dealers to ensure they sub-divide the land and give titles to those lands so that it ends up disadvantaging the community that went ahead to invest in that estate or land. That action must be taken to ensure we are putting punitive measures as a deterrent to that in future.

I encourage Hon. King'ara to go ahead and look at fractional ownership of houses in the city. I know we have had serious complaints from some people who have bought apartments in upmarket and other areas. Sometimes, you buy the apartment with the promise that they have left for you some space for a gym in the basement, some room for sporting activities and other activities as a common area. After buying all that land or house and occupying it in a sectional occupation arrangement, only to find that the seller of the property engages that public and common area that you had been promised when you signed your contract. This must also be brought into the purview of this law. That is so that we do not allow land-buying companies and property developers to take advantage of the people seeking to own property in the city. Many people have been left with a bad taste in their mouths. It is only the people who are having their houses demolished in areas like Mavoko that have been left with extremely bad experiences after they have spent colossal amounts of money. People living in some of these areas are already experiencing that terrible situation.

I second.

The Temporary Speaker (Hon. Peter Kaluma): Before you second, I will add you time. I see your time is running out. Do not worry about this. Do you have this Bill? I regret not raising the issue with the Mover of the Bill. Nowadays, I do not do a lot of conveyancing. I hope you still do. Could you look at Clause 3 of the Bill? The proposed Sections 13 and 14.

Hon. Kaguchia John (Mukurweini, UDA): Yes, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): If you look at it, it appears to indicate that a public body or institution shall apply to the registrar for registration of public land that is allocated by the commission in the prescribed form. In the proposed new section 14, you also see the idea of allocation by the commission. This is an excellent provision. My worry is whether we do not have public lands allocated by the commission. How can this also be captured?

For instance, I am thinking of schools in my area. Communities set those parcels of land aside, and schools were established long before we even established the National Land Commission. I imagine that this is the commission this law is speaking to. How do we ensure that such parcels of land not allocated by the National Land Commission that came into being later are also registrable under this provision so that they are already catered for? I am just thinking aloud to pick your thoughts. I know you have much expertise, just like the Mover of the Bill, the great Hon. Simon King'ara. Could we have that clarity to guide Members as they continue with the debate to ensure that all those public lands can be registrable if there are no provisions around them now?

Proceed.

Hon. Kaguchia John (Mukurweini, UDA): Thank you, Hon. Temporary Speaker. Indeed, you have raised an important clarification. It is something that I am sure Hon. King'ara, as the Mover of this amendment will consider to ensure that we are not only looking at what we expect to happen as we move on, but also at what already exists. Your clarification is very important because most shopping centres in most areas, even though they are held by county

governments, in some cases, you cannot know the boundaries and demarcations. They have not been re-surveyed. There is no proper planning, and sometimes people still encroach. At the time when we had councillors, most of them would allocate themselves lands. I have an experience in my village; in Kiiyo Shopping Centre, the councillor had allocated himself, those days, the slaughterhouse. When you go looking at the minutes, you will find the allocation in the name of the councillor, but it is a public utility. It is public land.

That clarification is important and something that the Mover of this amendment would be glad to consider. This will correct a lot of mischief we have with property dealers and land-buying companies. I know Ruiru Sub County is one of this country's extremely affected sub-counties. Of course, other rural counties and constituencies are also affected, especially when it comes to shopping centre planning, public utilities, or also when it comes to road reserves.

Thank you, Hon. Temporary Speaker. I beg to second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Millie Odhiambo.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I thank Hon. King'ara for bringing this Bill. It is very good and timely but also very straightforward. I will be very brief.

The issue of public land is a very significant one for this country. As populations grow and the fight for resources heightens, people tend to look at public land. This is because many people cannot afford land because it is very expensive. When they find land idle for a while, most people invade it, lay claim to it, and take control. It is important that you have a registration process for public land. Above that, I wish there was also a clear way of demarcating it. Perhaps, you can provide for that; once the title is given, there should be a clear demarcation. When I got in as a Member of Parliament, I discovered a school where the public had donated land. It is actually the biggest public school in my constituency in Kasungu Ward, called Usare. When I got in, and very graciously, my predecessor had done a lot of work at that school, but it was being sold. There was a court order to sell the public school. Why? Because there was no title to the land. It was never handed over. Therefore, people take advantage, even those who have donated. Sometimes, it is a grandfather who donated the land. When the children come later and do not have resources, or some of them are careless or have misused resources they inherited, they want to take over and sell what their grandparents gave to the community.

However, I want to agree with Hon. Temporary Speaker, that the way it is worded excludes the kind of land that would be of utmost significance to some of us who come from areas where pieces of land are grabbed the most. In the case of the school I am talking about, we had to re-buy the land even after we knew that land was already purchased, but there were no records. Even after re-purchasing the land, a portion of it was stolen. I am a Member of Parliament. That pits you against the people who are trying to grab the land. We should propose an amendment to include instances where the community donates land, not only when it is allocated by the National Land Commission (NLC).

The other issue of concern arising from what I have just said is the issue of the depository of titles and the sanctity of title deeds. I want to emphasise the depository of titles. The reason I say that is because I helped several schools get titles. Once they got the titles, some would ask me who they should give them to. Some schools do not have administration blocks. Therefore, they have nowhere to deposit those titles. Who is the depository of titles? We can amend the Bill to ensure that we protect those titles.

I also want to comment on the issue that the Seconder talked about on sectional properties. It is a new and emerging issue that stems from greed. Someone can buy an apartment

on the second floor of a building. However, I was notified of a case where somebody went and sold the land. The challenge is that if you have sold the land because you have the main title deed, what happens to those people? We may need to amend a different legislative framework so that when people own titles to their premises, there should be a shared title deed to the ground around it that may deal with that issue.

One issue of concern to me is that of shared natural resources. I am happy that I have seen it in another Bill coming from the Senate. You can see that we are talking a lot about land. Two weeks ago, I was dealing with fishermen from Litare and Kiumba beaches. They have been fighting over the water, and sometimes people die. One major issue is that there is no longer enough water. When I say that, people might think that it is crazy, but there are not enough water spaces for people to fish. Therefore, they end up fighting because of the different types of fishing.

You can demarcate land and state that your title extends from one point to another. How can we demarcate water? I know that, that is a totally different legislative framework. That is why I am happy that I saw a Bill from the Senate on shared natural resources. We must look at how to deal with those issues. Of course, multiple issues arose from my meeting with the fishermen, but that is one of the issues we must consider to reduce the conflict.

Finally, one other concern is public beaches. For instance, the closest beach to where my family comes from is called Mikuna Beach on Rusinga Island. It has been lying idle for a long time because the Government introduced hippopotamuses, which threatened people and sent them away. Recently, when developers came to do aquaculture, there was a push and pull between them and the communities because of that idle land. The fishermen thought that they could use it. That issue would not arise if Mikuna Beach had a title. That takes us to another legal framework that we must look into on the issue of riparian land and the right to beaches. It is still not very clear what is private land and what is public land.

Otherwise, this is a very good piece of legislation. I urge our Speaker to talk to the Speaker of the Senate because my Bills have suffered the same fate twice. We pass Bills from the Senate. Just yesterday, we passed the Primary Healthcare Bill and others, but most of our Bills go to the Senate and die. This issue must be sorted out in this Parliament so that we do not suffer the fate that we suffered in previous Parliaments. Otherwise, congratulations. It is a good job. I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Millie, your counsel is taken. I know you were taught by Prof. Okoth Ogendo HWO before you went to that university in New York. Was it New York University?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Yes, it was New York University.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Kaguchia also remembers a doctrine. It was *quic quid plantatur solo solo cedit* in the context of sectional property.

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

The Temporary Speaker (Hon. Peter Kaluma): I am happy Hon. Kaguchia has raised it. You are also raising it. What it means is that whatever is attached to the land belongs to the land. Whoever owns the land owns it to the high heavens and to the very depths of the earth. What do you own if you have title to a sectional property and reversionary interest to the land is still with the developer?

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

The Temporary Speaker (Hon. Peter Kaluma): You get it. That is a thought. I think Hon. Kaguchia and Hon. Millie, working together with Hon. King'ara, should also bring it up because it is disturbing many people across the country. I think, including several Members here.

I want to give a chance to Hon. Kassim Tandaza, Member of Parliament for Matuga.

Hon Kassim Tandaza (Matuga, ANC): Ahsante, Mhe. Spika wa Muda. Nimekaa sana nikisubiri kuchangia Hoja hii muhimu ambayo Mhe. King'ara ameleta. Kama hungenipa nafasi, nina imani kwamba mizimu ya mababu zangu kule Kwale haingeniruhusu kulala leo. Kwa nini? Suala la ardhi na kupeana stakabadhi limeumiza Wakenya sana, hasa watu wa Kaunti ya Kwale.

Kumbukumbu tulizo nazo ni kwamba ardhi ya Kwale ilifanyiwa ukaguzi na kupewa hatimiliki miaka ya sabini. Serikali iliyokuwepo wakati ule ikawaambia wenyeji kwamba kilomita mbili kutoka ufuo wa bahari ni mali ya Serikali. Kwa hivyo, hawangepewa. Watu wakapewa hatimiliki nje ya kilomita mbili kutoka ufuo wa bahari. Hatimaye, mabwenyenye waliokuwa ni hao hao Serikali walikuja wakapeana hatimiliki kwa wageni bila kutambua kwamba wenyeji walikuwa wameishi katika ardhi ile au kuwa wenyeji wamepanda miti ya kudumu. Kuna mikorosho, minazi, makaburi, na visima. Kwa sababu wenyeji waliambiwa ile ardhi inatakikana iwe ya Serikali, Serikali ilitumia nafasi hiyo na kupeana ardhi ile.

Nikizungumzia upande wa Kaunti ya Kwale kuanzia Likoni mpaka Shimoni, mahoteli ambayo yamejengwa katika fuo za bahari yako katika ardhi ambazo zilipeanwa na Serikali baadaye. Zilipewa mabwenyenye licha ya kuwa wenyeji walikuwa pale. Mpaka sasa, hali hii bado inaendelea. Kuna hizi sehemu zinaitwa kaya kwa sababu wenyeji walikuwa wanahifadhi misitu na wanajua umuhimu wa kuhifadhi mazingira wakati ule. Watu wanachukua labda kaya ni sehemu ya wachawi au matambiko. Ukweli ni kwamba kaya ni sehemu ambazo wazee wetu walijua zilihifadhiwa. Kuna misitu, miti muhimu ya dawa, na mazingira mazuri ya kufanya hivyo. Kuanzia wakati huo wa miaka ya sabini na mbili, wenyeji walisema wataziacha sehemu hizo kwa sababu ni kaya zetu. Pengine wengine walikuwa wanasema wanaenda kwa maombi. Muhimu ni kwamba hizi ni sehemu ambazo zilikuwa misitu na zinahifadhi mazingira.

Nikiwa hapa, baada ya miaka arubaini au hamsini iliyopita, kuna mabwenyenye ambao wamekuja eneo bunge langu pale Tiwi na kuwafurusha wazee. Walikuja na hatimiliki kutoka Nairobi, kwamba wao sasa ndio wanamiliki sehemu hizo za kaya. Waliweka ua hata la stima kwa sababu hawa sio watu wa kawaida katika eneo nzima la kaya. Sasa wao wana hatimiliki. Hili linawanyima watu kutumia rasilimali hii. Wazee hawawezi kuenda. Mabwenyenye hawa wameanza kuleta uchafuzi wa mazingira kwani wameanza kukata ile miti bila kufikiria hili ni eneo ambalo wenyeji walitenga kwa hifadhi mazingira wakati ule hatimiliki zikipeanwa miaka ya sabini. Kuna sehemu ambazo kaya zimeweza kutolewa na hatimiliki kupewa mtu binafsi ili aweze kumiliki sehemu hizi licha ya kwamba hatimiliki zikitolewa, wakaazi waliziacha kwa matumizi ya pamoja. Wakati sheria hii itakubalika na kutiwa kidole inavyostahili, tatizo kama hili halitatokea.

Ninamshukuru sana Mhe. King'ara kwa kuleta Mswada huu ijapokuwa umechelewa. Pengine tukiambatanisha na miswada mingine ya kuangalia suala zima la dhuluma za kihistoria, na sheria hii ikipita, ninafikiri suluhu itapatikana. Katika mjadala huu, kuna suala ambalo ni muhimu na limezungumziwa kwamba endapo *commissioner* ama ofisi husika itapeana ardhi ambayo ilikuwa ya umma kwa mtu binafsi ama shirika, basi ardhi hiyo itatumika kulingana na yale matarajio ama maombi yaliyotolewa.

Ni jambo la kuhuzunisha hasa ukiangalia sehemu kama Vipingo Sisal Estate iliyo Kilifi. Hii ilikuwa ardhi ya umma. Wenyeji walikuwa wanaishi pale. Ilipewa wazungu waliotaka kulima mkonge. Hilo lilikuwa ni wazo zuri lakini inavyotendeka saa hizi ni kwamba mkonge haulimwi tena. Wameanza kukata kata ploti na kuuza kwa bei ya juu ilhali ni ardhi ambayo walipewa bure, wenyeji wakifurushwa ili walime mkonge. Hili limetamausha sana watu wa sehemu zile. Linatatiza kwa sababu wakati huu konge halina thamani. Basi mzungu ameona hana haja tena ya kulima. Basi airejeshe ardhi ile siyo kwa Serikali ama county lakini kwa wenyewe. Bado vizazi vipo na kila mtu anajua sehemu yake ilikuwa wapi. Ikiwa ni kuuza, basi wenyeji wauuze. Si kwamba mtu alipatiwa ardhi bure kwa malengo ya kudanganya, kisha

baadaye aweze kupata faida kubwa kiasi cha kwamba wenyeji hawataweza kupitia sehemu hiyo ya ardhi tena.

Kuna suala lingine ambalo ninafikiri lingeingia katika mswada huu na linahusu wawekezaji ambao hupata ardhi wakafanya mradi kisha baadaye wakimaliza huondoka. Ardhi hii inarudi kwa nani? Kwa mfano, ile kampuni kubwa ya Kwale ambayo inaitwa *Base Titanium*, waliweza kuchukua ardhi, wakaelewana na wenyeji, wakachimba, wamemaliza na wameondoka. Kulikuwa taratibu kwamba waweze kurekebisha ardhi ile. Lakini hatimaye, kwa sababu wale ni wazungu wawekezaji na watarudi kwao, ardhi hii itarudi kwa nani? Stakabadhi hii itabaki wapi? Kwa sababu ikibaki hivyo, hata baada ya kuirekebisha utapata ni wale mabwenyenye watakuja na hatimiliki kwamba sasa wao ndio wenyewe.

Ningetaka kuangalia kifungu cha 22(2) cha Mswada huu ambacho kinasema kwamba ardhi ya umma isiweze kupeanwa ikiwa kuna mmomonyoko wa ardhi, mafuriko na mambo kama hayo. Hapa ninaona Mhe. King'ara kulingana na utaratibu ama uweledi, mimi kama mhandisi wa masuala haya, isiwe ni kigezo kisichoweza kutolewa. Iwapo yule anayepatiwa, malengo yake... Isiwe kwamba wenyeji hawawezi kuitumia ardhi kwa sababu kuna mafuriko ama mmomonyoko wa ardhi. Lengo ni ardhi kurekebisha ili iweze kuleta faida kwa wananchi. Basi, hili ni suala ambalo lingetaka kuangaziwa kitofauti badala ya kusema moja kwa moja eti sehemu kama hizo haziwezi kupeanwa.

Hali kadhalika, nikiangalia kifungu 22(2)(c) kinazungumzia sehemu ambazo zina maji pia zisiweze kupeanwa. Kwa sababu huu ni wakati wa mtandao wazi, ukiweza kuenda kwa huyu jamaa anayelitwa *Google* na kuangalia hoteli za kifahari ulimwenguni, utakuta kuna hoteli ambazo zimejengwa chini ya bahari ama kwenye maji. Hizi ni hoteli ambazo wengi wangukuwa na hela za kutosha, wangetamani kulala ndani kabla ya kwenda mbinguni. Kwa hivyo, ukisema moja kwa moja kwamba sehemu kama hizo ziwekewe sheria zisiweze kutolewa, inamaanisha kisheria haitawezekana wawekezaji kuwekeza katika sekta hii ya utalii kwa kujenga mahoteli ya kifahari katikati ya bahari, chini ya maji. Hapo tutakuwa tunawanyima wawekezaji nafasi. Sisi tutajinyima mapato kutoka nchi za kigeni na ajira katika sehemu nyingi - kama sehemu za kwetu - ambazo uchumi zinazotegemea sana ni uchumi wa utalii. Ninaunga mkono Mswada huu.

Asante.

The Temporary Speaker (Hon. Peter Kaluma): Asante. Mheshimiwa Rashid Bedzimba Mjumbe wa Kisauni.

Hon. Rashid Bedzimba (Kisauni, ODM): Asante sana, Mhe. Naibu Spika. Nimesubiri ya kutosha ili niweze kutia shime mswada huu ambao umeletwa na Mhe. King'ara. Mimi pia ninaungana na wenzangu kuunga mkono kwamba ardhi za umma ziweze kupata stakabadhi. Ni aibu sana kuwa mpaka sasa, miaka 50 tangu tupate uhuru, shule zote za umma hazina hatimiliki. Ziko tu na zinasemekana ni za umma lakini haijulikani stakabadhi zake zipo wapi na ardhi zao ni za aina gani.

Nikitilia mkazo maneno yaliyozungumzwa na Mhe. King'ara, imefika wakati hata miradi ya Serikali haina mahali pa kujengwa kwa sababu hakuna ardhi. Hata sisi upande wa National Government Constituencies Development Fund (NG-CDF) inatubidi mara nyingi tununue ardhi ilhali Serikali ni tajiri kwa ardhi. Ardhi za umma zitolewe stakabadhi. Kisheria, ukiwa na ardhi binafsi ya kiwango fulani lazima itolewe kama *public utility*. Ikiwa *public utility*, ni *automatic* itakuwa ardhi ya umma. Shida iliyoko ni kwamba lazima tuhakikishe ufisadi katika Wizara ya Ardhi umebanwa ili ufisadi uishe pale. Nina imani utajiri wa ardhi utapatikana. Kwa sababu sisi tuna ardhi ya kutosha, ardhi ya *community* tayari ni ya umma.

Mtu mwenye ardhi ya kibinafsi akijenga *estate* ya nyumba zaidi ya 30 au 40 za kuuza, pale patakuwa na watoto na ni lazima atawatengeneza mahali pa kucheze. Lazima atatengeneza mahali pa kumwaga taka, mahali pa kuweka zahanati na mahali pa maabadi kwa sababu ya watu watakao kuwa pale kuabudu. Kwa sababu ya ufisadi, hizi sehemu haziko katika

majengo mengi. Haya mambo hayakuanza leo; yalianza wakati wa manisipaa kabla ya serikali za ugatuzi. Ugawanyaji wa ardhi hauwezi kupita bila kuonyesha *public utility* ni zipi. Kwa kuwa mpangaji atapangisha wananchi, hawatatoka juu mbinguni wakianguka chini. ni muhimu wawe na barabara ya kutoka nje na kurudi ndani. Ni muhimu wawe na sehemu maalum ya taka ambayo si ya mpangaji bali mali ya umma. Wale wanaoenda kanisani na muskitini lazima wawe na sehemu ya kuabudu. Wale wanaoabudu Jumamosi pia wawe na sehemu yao ya kuabudu.

Ikiwezekana, ardhi za umma zifanyiwe *auditing* kuanzia wakati manisipaa zilipokuwepo, ili kama ardhi hizo zingalipo zirudi kwa umiliki wa Serikali. Leo tunapozipatia pesa za NG-CDF – ambazo si nyingi – tunalazimika kuzitumia kununua ardhi. Mheshimiwa King'ara atilie mkazo stakabadhi hatimiliki iwe na nguvu kwa sababu leo unaweza kuwa na hatimiliki na kesho aje mtu aseme hiyo ni karatasi tu uliyobeba. Itakuwa haina maana wewe kuwa na hiyo stakabadhi. Kwa hivyo, ni lazima tutilie mkazo kuwa ikiwa ni hatimiliki, iwe ina nguvu. Ukipewa kutoka kwa Serikali, hakuna mtu atakayekuja akuambie jambo lolote kuihusu. Utapata kuwa mahospitali yetu hayana hatimiliki. Mtu yeyote anaweza kuja akasema ardhi ya hospitali ni yake na wagonjwa wote wakatolewa mbio.

Kuhusu suala la uvunjaji, sioni kama ni jambo la busara. Hii ni kwa sababu nchi hii inaongozwa na sheria. Ikiwa mtu anachimba msingi, huwa amepata stakabadhi kutoka serikali ya kaunti. Anachimba msingi na kujenga akiwa na ruhusa zote kisha akishamaliza wewe unakuja kusema ni yako. Hapo ni makosa sana. Hilo siwezi kubaliana nalo. Kwa huu Mswada, ninakubaliana kwamba stakabadhi zitolewe lakini zipewe nguvu. Utakapokuwa nayo, kisheria, hakuna mtu ambaye atakuja kukutingiza. Kwangu Kisauni, kuna matatizo makubwa ya ardhi. Watu wamejenga wakamaliza kisha mtu anakuja anasema atawavunjia nyumba. Hakuna! Wewe ulikuwa wapi wakati ambao walikuwa wakichimba msingi. Ulikuwa wapi wakati walikuwa wanatia jiwe la kwanza? Ulikuwa wapi wakati walikuwa wanatia umeme? Ulikuwa wapi mpaka jengo liwe limeisha ndiposa uje? Utaua watu ambao wamefanya kazi mpaka wamestaafu. Wameweka pesa zao pale na wakachukua rehani na mikopo kutoka benki. Mtawaua Wakenya. Sikubaliani na uvunjaji lakini ninakubaliana na Mswada huu wa ardhi. Mhe. King'ara, umefanya kazi nzuri na nina imani Bunge lote litakuunga mkono.

Kwa hayo mengi, asante sana, Mhe. Spika wa Muda.

The Temporary Speaker (Hon. Peter Kaluma): Turudi Eneo Bunge la Dagoretti Kaskazini katika Nairobi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to also support this Bill and to really thank Hon. King'ara. Indeed, if there is an issue that is hurting Nairobi, it is the issue of public land. Most of the public land we have, especially schools, have been grabbed until we have reached a point where we are left to negotiate with the grabbers for whatever is remaining. Very many senior people have built houses and estates on public land like Lavington Primary School, which is currently remaining with only 21 acres. Others have also been encroached. As my senior, Hon. Millie Odhiambo said, even as we look at this Bill, how do we ensure that we safeguard title deeds? The other day, we tried looking for title deeds and we got a few, but the schools are wondering where to keep them. Do we keep them in banks? Where do we deposit these title deeds? This is a very key question. This is the time we can rectify a few of the mistakes that we have made. If you go into town, there are public toilets that gangs decided to take over. They are the ones who run them. They are now like private entities and not public utilities where you can say they support the county and the county is able to collect revenue from them.

The other place is Gikomba. When you see everyone fighting and burning everything, it is because it is public land that has no title deed. Everyone wishes to take and privatise the 38 acres and build huge buildings. The other areas are Kilimani and Kileleshwa. When you talk of shared title deeds, that is where the biggest challenge is. The Chinese have come and

built apartments. When you come together as a team and ask for title deeds after sale, the titles are unavailable because the Chinese still own them. You pay them for maintenance yet you bought the land from them.

Hon. Temporary Speaker, we must deal with it so that they know we have laws that can safeguard Kenyans in this country. We thought we bought land where our children would be playing. It is not only there, but also these townhouses you see. The sellers still hold on to the title deeds. You cannot sell them. If you want to sell them, you have to go through the process to look for the same seller. They create companies that they use for selling the houses which they keep to manage the estate.

I can see we are now pushing in the issue of environment and planting trees. I doubt whether we still have riparian land anymore in Nairobi City County. It is gone, yet it was public land that was meant to safeguard the water not to enter into houses and ensure the river is clean and safe.

As we look at the whole Bill, Hon. King'ara needs to help us to ensure that when we go to the Committee of the whole House, we must amend and put in some very critical amendments that will safeguard public land and utilities. We will give a chance to schools to have their title deeds and safeguard them. Any person or principal who either leaves or comes in will always find the title deed of the school. If we do that, we will close Christmas knowing we have safeguarded issues like what happened in Mavoko Constituency.

This Mavoko issue should be the first and last. It teaches us that we must deal with this matter of public land in this House. There is this matter of third-party ownership. The first person bought the land and then he sold it. When it is on the third party, you cannot ask any question and the title deed is gone. That is how public land disappears in this country. We urge the courts that when dealing with public land where people have built and sold land for close to seven times, it is important for the judge to go on the ground to see how the situation is before he or she decides to give a court order to evict people.

Today, Hon. King'ara gives us an opportunity to go back and see this sickness that we have of land issues. When people see any empty space or road reserve, they grab it. I think all towns in this country have gone through these challenges.

As I finalise, during devolution transition, we missed something on how to safeguard public assets. So, the governors and everyone who was in defunct county councils took advantage and they carried everything. You see public land, but it is gone.

With those remarks, Hon. Temporary Speaker, we can resolve land issues. Thank you once again, Hon. King'ara. I support the Bill.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Beatrice Elachi. That matter of sectional property, more so in your area of representation, is a big crisis. You are the third Member mentioning it. Let us think beyond what Hon. King'ara has raised in this Bill.

Sit with him and deal with the Sectional Property Act, particularly because of Chinese who are building all over. They continue to manage the properties. They are being paid money, but they do not provide any service. You ask them even for title deeds for sectional property, but they do not give you, yet they continue to move from place to place. We need a solution from Parliament, beyond the declaration made so far in law and by the courts.

I want to recognise the Member of Parliament who is from the community which is most affected by land grabbing in the country, Hon. Julius ole Sunkuli, Member for Kilgoris.

Hon. Julius Sunkuli (Kilgoris, JP): Thank you very much, Hon. Temporary Speaker, for recognising me. Speaking after very eloquent presentation by the Member for Dagoretti North and those others who have spoken before, I wish to underline the importance of this Bill brought by our friend, Hon. King'ara.

From the outset, we should register public land. It is very important and when the Bill comes to the Committee of the whole House, Hon. King'ara must accept an amendment that will introduce a depository. It has been said, but it would be necessary to create a department or a registrar of public lands within the National Land Commission (NLC), so that we have one person who has possession of the information and titles relating to public land. This is very important.

My point relates a lot from what I get from my experience, that apart from just registering public land which already exists as such, it will be incumbent upon the House in subsequent amendments, to make sure that there is public land and for particular purposes. The fact that people actually die is not planned. For now, we are burying our people in our homes. However, there is an increasing number of Kenyans who are moving to urban areas, and I know from where you come from, every time somebody dies, they will take that person to Nyanza. But there will come a time when that will not be tenable, even in Nyanza.

We have a habit which we got from our bantu neighbours, that when a person dies, the body is brought to stay in a house overnight. But now, if you are living on the 15th floor of an apartment, that may not be physically possible. It is time we compelled every town planner to ensure that there are some utilities beginning from cemeteries, so that we can plan for a future where people will be buried in cemeteries rather than on their private land because private land is diminishing. If you go to areas like Kisii, our neighbors, that facility will soon disappear. You can no longer bury people at home because the land is diminishing. Every town should have public land for that purpose.

For those of us who come from the Maasai Community, we need a lot of land to be used for cultural purposes. Just a few months ago, we had a ceremony called the Eunoto Ceremony, which requires use of land over time. Now, we have resorted to asking certain elders to give us their land so that we can use it for the ceremony, and then we degrade their land environmentally and so on. This could be sorted out by ensuring that there is public land which is going to be used for every Eunoto Ceremony and other subsequent ceremony that is going to be done.

Apart from just registering land that already exists, it is important that we create such land and register it. The question still begs: who will be the depository of that title? who will hold that title? We have an oxymoron called community land. When you ask who the community is, nobody tells you.

We used to have pieces of land called group ranches. These were pieces of land that were registered under the Group Lands Registration Act. Those officials of the group ranch took the land as if it belonged to them.

Hon. Temporary Speaker, the groups have more or less disappeared, but according to the law, we have community land. What is community land? Who actually owns community land? That is why it becomes very important that public land be registered and there is one person or office that is going to be responsible and going to be referred to as the office that is holding titles of such land. There are too many pieces of land that we used to have. I see buildings in Mavoko being demolished, but what happened to public land called holding grounds? We who trade in livestock used to drive our cattle close to Athi River, and before the cows could be bought, there was holding ground. Such ground was also in Dagoretti, but today we do not know what happened. People have grabbed holding grounds and built apartments there. When you bring your cows, you take them to the Kenya Meat Commission (KMC) starving and emaciated. Those holding grounds where you could restore them back to their normal condition after a long drive from say Marsabit or Mandera no longer exist now. That is one of the reasons this Bill is important. It should have sorted out the issue of grabbing of our holding grounds because they are still very important. We must say that when public land is

created, let it be adaptive to the environment that it exists. Let public land also exist in order to sort out issues that are there.

Hon. Temporary Speaker, today when we think of public land, we think maybe of registering schools land as public land. Yes, that is true, but there is also land that is held by the public for future use that may not be exactly described now, but in the year 2030, the society will require that land. We have to find a way of registering that land because we cannot leave land under this regime called trust land because we no longer trust anybody. Trust land used to be there when people were trustworthy, but now the person who holds land in trust for the community is the same person who is going to sell it with total breach of the trust. So, the only way to do it is to lock this thing by lock and key by registering that land as public land, creating a depository where the title will be held and unlock it for use when that particular time arrives.

In addition, I think the law that is created for releasing public land for any other use other than public use must be very tight. We cannot make it quite liberal because if you leave that transition between public and private land only to the land control boards, I think that is not going to be good. That is why it is important if we draft a law and create a need for it to go to one of the assemblies either the National or the county assemblies. This is so that it does not become very easy for us to turn public land to private land. We need to be very tight with it. I have seen in some of our towns like the famous town of Kilgoris that you can hardly get land anymore for the public yet people own their private lands.

There is a forest that we have called Nyakweri Forest which was not Government forest and because it was not, people treated it as private and now it is depleted. The charcoal that was burned out of it has made its way to Kisii and we no longer have forests.

Hon. Temporary Speaker, I beg to support and thank Hon. Kang'ara for bringing this Bill.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Julius Sunkuli.

Hon. Amos Maina (Starehe, JP): Thank you Hon. Temporary Speaker, for giving me an opportunity to contribute to this Bill brought by my friend, the Member for Ruiru Constituency which I fully support.

First of all, I believe I came to Parliament to play politics of the future which seeks to address perennial issues in a conclusive way and incorporate the digitisation processes of this world to solve issues, including matters discussed in this House since its inception. The youth can do a lot for the future of this nation by tackling perennial issues once and for all.

This amendment Bill is very much welcome because it is looking into the future. We have too many issues to do with land in this country. One of the ways of sorting them is by adopting an absolute technology policy on all the land in this country. Google, under Google Maps, was able to map our country per street, stream, and lane. What makes it very difficult for us to invest in technology so as to absolutely map out issues to do with title deeds and all matters land?

I believe the way to go is digitising all the processes dealing with land so as to curb issues of land grabbing and conflicts. I would like to bring markets to your attention. There are several markets in Starehe Constituency like Marikiti, Muthurwa and many others which lack title deeds. I support this Bill because any public land allocated to institutions will have titles deeds, so that people can invest and articulate issues with absoluteness while holding their future in their hands.

There are several public schools in Nairobi. As you know, land in Nairobi is very expensive. We have very many land grabbers hovering around because they know these schools do not have title deeds. We have people encroaching schools because no one understands the shape of the land. I support this Bill because these institutions will get absolute ownership. So, once and for all, we will do away with encroachers and those who prey for this land.

There is a school facing a challenge in Pangani because a private investor has encroached it and wants to build modern stalls along its fence. There is contention because the geographical map of the school shows that that area is beyond the fence. So, the investor has built in the school compound. Also, Race Course Primary School has an issue because some people have built modern stalls in the school which does not possess a title deed. I support this Bill so that public institutions can be given title deeds and be answerable for activities that go on in schools.

My sister has talked about public toilets and utilities in Nairobi County. I want to indulge you on the same and say we need absoluteness in terms of control. This is because some of these utilities were constructed to bring affirmative action but have ended up in the wrong hands. Maybe, they were meant to support people living with disabilities, women or the youth. More often than not, we see them being controlled by other people who do not stand for the affirmative action. I really support this Bill to regularise everything in terms of matters lands that have been allocated to people living in the slums.

There are people who have lived in some slums for more than 30 years. We advocate for regularisation of these lands because you cannot relocate a person who has lived in a place for maybe 30 or 40 years. Like what you have seen, people living in Marigu-ini Settlement Scheme in South B now being urged by the National Housing Corporation or the Ministry of Housing to relocate from that place without prior planning or definite plans on where they are going. However, if this land had been licensed to them, believe you me they would have developed very firm structures like you have seen in the estate of Pipeline and Embakasi South. They would have built a more developed settlement because of the titling. Unfortunately, now they are being forced to move from that place without certainty of where they are going. It is also a challenge for them because a person who has lived in an area for more than 40 years relocating to another place is also a big challenge. This amendment comes at a timely period where we need to address the issue of land in absoluteness.

You can see we also need to address the issue of some of those institutions that have large chunks of land that they do not utilise. A case in point is the Kenya Railways Corporation Limited which has been allocated a lot of land by the Government. Some of the land is not utilised in a productive way, it lies idle. Given the challenge we have as Nairobi County, you see there is a big chunk of land that Railways own just behind the very congested Marikiti Market, very congested Muthurwa Market and the very congested Muthurwa residence area. This land lies idle while we have so much congestion in Marikiti and Muthurwa markets that makes even the trucks that bring goods to Marikiti Market park on the roadside. Traders have put their wares on the road at Haile Selassie Avenue at the behest of these huge chunks of land that Railway owns. Just behind them an area had been opened for trade until a private investor came on board and through, let us not call them scrupulous means, but through means that be, obtained that land and forced traders off that area.

We need to be realistic as a people and as a Government, and we need to be progressive. In matters market, we need to have a policy that states clearly after every five years, there has to be more of Government land allocated to markets. We live in a progressive society, the population grows, the number of traders on our areas grows by day. We really need to have a progressive policy that puts aside land every five years for the population that grows to build markets especially in Nairobi, mostly in Starehe Constituency. All the areas that were demarcated for markets in Nairobi should be developed, and those markets licensed to individual market management committees that should be established by traders themselves. So that for posterity, even if there are those regular changes of the markets management committees, the titles will ever stay in the custody of the traders.

I want to bring to your attention the issue of Mavoko that has been brought about by entitlement, by other people who believe that the East Africa Portland Cement if it had been

given titles and regularly advertised being the holders of the title of the land, there would not have been these issues. However, if you dig deep, you see even the people who are called invaders, people who have invested there, something had to have been done by this corporation...

The Temporary Speaker (Hon. Peter Kaluma): You believe one minute will be sufficient, or two? I will give you two minutes, but ensure your contribution is relevant.

Hon. Amos Maina (Starehe, JP): I am privy to information that some of the people who are being called invaders had a court order that had barred the East African Portland Cement from interfering with that land. That gave confidence to the people who invested in that land.

Hon. Temporary Speaker, the so-called invasion started in 2003. You cannot tell me that these people were blind to all the happenings up to now. It is very disheartening for people to lose their property in such a scenario. All the Government agencies were silent when everything was happening. I visited that place and saw more than 700 high-rise buildings and more than 2,000 temporary shelters. There must have been a very big information lapse in whatever happened. That problem can only be addressed by fully digitising the whole Ministry of Lands and land matters in this country; that at the touch of a button on your phone, you can tell whether this land is legit or not. You should tell the seller and the owner of the land. That is the only way to go.

Thank you, Hon. Temporary Speaker. I submit.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mwago, I had indicated that you will be the last speaker, but interest has been shown by Hon. Julius Rutto, the Member of Parliament for Kesses. Would you make your contribution before we call the Mover to reply?

Hon. Julius Rutto (Kesses, UDA): Thank you very much, Hon. Temporary Speaker, for according me this moment to comment on this Land (Amendment) Bill by Hon. Simon King'ara.

First of all, I want to thank the Mover for coming at the right time, and understanding the current challenges public institutions are going through on matters land. We have experienced a lot of challenges regarding squatters and people taking over public land that is idle without registration documents. Subsequently, when Government institutions realise that the specific lands allocated to them have been taken over through scrupulous processes, they want to use force infringing on the human rights of the occupants of the land who were innocently duped to acquire the same.

It is very important to note that this amendment Bill seeks to address existing gaps. For quite some time, public land has arisen through many processes. Most of them were acquired through the normal process of procurement for a specific purpose. Thereafter, the commencement of the same purpose or objective might have taken time and the land remained idle. Some particular public utilities have arisen through subdivision as guided by the Physical and Land Use Planning Act on matters to do with the two per cent provided for, or four per cent in case of municipalities, but this particular land remains idle. At some point, an individual with a motive or intention of grabbing it develops some plans and converts the ownership only on a paper supported by public servants, more so the registrar of lands. You only come to realise much later that the land is no more. It has been acted upon by subsequently being sold and somebody else has taken occupation. It becomes a problem to reclaim it.

Therefore, this Bill seeks to hasten the issue of registration of land. It provides that after a particular matter has been adjudicated upon, land has been administered and the process completed, either by the guidance of the National Land Commission, or by any other process, it is incumbent upon the land registrar to give priority to that particular parcel to be registered forthwith in the name of the given institution, or the particular purpose that it is meant to serve.

In my view, we are at the moment facing a lot of challenges. In my constituency, Kesses, we have an upcoming residential area in Eldoret called Annex. This is a huge chunk of land. The company sub-divided the land for the purpose of disposing it of when it was time for them to exit. The people who participated in that sub-division decided to hide the public utility which was meant to provide services like security, learning institutions, markets and public administration for purposes of service delivery. We are now faced with difficulties in managing the situation. This is a town area and there is no land to buy in the first place. The situation is dire. There is need for security and to build schools for the children of the area residents. The people who administered the specific parcel of land knowingly, after sub-division, provided it for public use as far as the Physical and Land Use Planning Act dictates. But because of the unscrupulous minds and the fact that nobody in the public sector had shown interest in the land, it has gone. We now have a challenge.

Learning from this, it is high time we caused the State Department for Lands and Physical Planning to initiate a process of undertaking a rapid response initiative (RRI) to register every existing public utility. Even if the land has many challenges, no land in this country has no title, be it a title for a mega land under LR or under NR or lease. Whatever it is, every land has its own information. Whenever we come across a particular parcel of land that belongs to a public institution, it should be protected so that it is not misused. If that is not done, the original interest may be taken up by a third-party and that will result in a challenge thereafter. For example, most of the public schools that we fund using NG-CDF are going through a lot of challenges in terms of changes to boundaries because of scarcity of land or because of people driven by negative motive of trying to take over what belongs to the public.

I call upon the State Department for Lands and Physical Planning, as they do their budget, to deliberately and intentionally focus on titling every existing public utility, starting with primary schools, secondary schools, tertiary colleges and forests so that in future, people do not trespass or encroach public utilities, which becomes a challenge thereafter. Can we manage this problem? It looks like issues of land will be there for ever. As long as people are born and population increases, land challenges will still exist for the foreseeable future. So, why can we not use this moment and opportunity, as a House, to pass laws that will deal with these issues?

Additionally, let the executors take up their role. The problem we face is the aspect of collusion. All these troubles we are going through are because of collusion. In fact, the Departmental Committee on Lands need to up their game on oversight. Most challenges, like the issue with the Portland land, arise from the Ministry of Lands. If you analyse the situation, where did the title that was used to dupe people come from? It came from the Ministry of Lands. Those are the people who facilitated the process. Let us learn from this issue so that we can fix the issue of land once and for all, more so where public utilities are concerned.

I am a Christian. Jesus said that if you send the devil away and it comes back and finds an empty space, it will come back with seven other demons. Sometimes we should not blame people when they find bare land that can be used. They get into it and use it for economic activities. Once someone stays on a piece of land for more than 10 years, how do you ask that person to move out? How do you say the person does not own the land yet they have been there for 10 years without anyone asking any question? If the land had been registered before, no one would have any reason or justification to move into it. That would amount to trespass. And there are legal provisions that protect against trespass.

I submit my support to this particular amendment. We must relook at the land issue in terms of legislation. I also encourage the Senate to introduce Bills that support county governments. As we speak, I do not know what has happened in Eldoret where I come from. All of a sudden, there is a lot of land grabbing left, right and centre. The other day we saw someone building on a whole street of open land reserved for service delivery. Who is this

person with the guts to approve construction on that particular land? This is an open land reserved for roads and other service delivery purposes. In case of fires, this is where ambulances and fire engines will use.

Hon. Temporary Speaker, where has our conscience, as human beings, gone. However much we desire to have everything, we should not go to an extent where we lose our morality by grabbing everything, including what can support you or rescue your brother or sister. This is just a tip of the iceberg. We now need to pick up from this one and get serious while looking at the land laws and fix this problem once and for all.

We also need to ensure that all agencies up their game. On the issue of Athi River land, the Director of Criminal Investigations (DCI) has shortlisted people with interest to be questioned and give further evidence on what happened. In the event, public servants are caught, there should be dire consequence by law. We should look at this law and provide additional consequences for the culprits, enablers, colluders and those who facilitate knowingly or unknowingly by abusing the role or position they have been given by law to serve competently. They were employed and selected competently. They went through all the panel, vetting and demonstrated competence in using the law. What happened thereafter?

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Mover, there is no opposition in your Bill which appears to be very direct. Will you reply now?

Hon. Simon King'ara (Ruiru, UDA): Hon. Temporary Speaker, I beg to reply to the debate on the Land (Amendment) Bill (National Assembly Bill No.40 of 2022). At the outset, I take this opportunity to thank every Member who contributed, especially Hon. Millie who brought up an accurate concern on what will happen to the land which was there before the NLC or any other Government department which was taking care of public land. I am open to any amendment which comes our way. I have picked the amendments of Hon. Nyamoko, Hon. Elachi, Hon. Kaguchia and Engineer from Kilifi County.

The Temporary Speaker (Hon. Peter Kaluma): Kwale.

Hon. Simon King'ara (Ruiru, UDA): He talked about Kilifi land. It is true that when Kilifi people gave out that land, it was meant for plantation. I do not know at what level it turned into residential land. Even if it was turned into residential land to be sold to people, why not start with the indigenous owners who provided space for the sisal plantation?

Hon. Temporary Speaker, I do not want to dwell much on that because Hon. Members are very positive on this matter. However, I want to pick some few issues which are real time in this Bill. It is anticipated that to actualise Vision 2030, about 50 per cent of Kenyans will be living in urban settlement. They will need recreation areas and Export Processing Zones (EPZ) where we can do production development matters. At the same time, we need industrial parks where we can create employment for our young ones. For the agricultural sector, we need aggregation centres where we can secure our food for future use. If we do not have public land to put that in place, then how do we go about development?

I said earlier that the Kenya Kwanza administration wants a lot of land for development, especially housing which I understand is happening all over the country without leaving anybody behind. All this development will only take place where we have pieces of land. Sometimes people say that development does not come their way. I will give a case study of what is happening in Delmonte. As much as Delmonte people want to give out public land, there is no document for us to put development in it. The land is lying there and we can develop it for employment. However, there is no document. Imagine if the land was secured for agricultural reasons and, of course, public land left behind. We have health centres and schools there. I wish they secured those schools and police posts, because I see them there. They should acquire documents - a title deed or a certificate - which ascertains that it is public land. If the other land which was left for recreation or other development would be secured by our

Government, people will not go to court. I am afraid that people might go to court and even hinder development.

With that said, Hon. Temporary Speaker, I wish to quote Standing Order 53(3), that putting of the question be deferred...

The Temporary Speaker (Hon. Peter Kaluma): Would you first beg to reply before you move in the manner you are proposing?

Hon. Simon King'ara (Ruiru, UDA): Thank you, Hon. Temporary Speaker, for your wisdom. I beg to reply. At the same time, I quote Standing Order 53(3), and wish that putting of the Question is deferred to the next sitting.

The Temporary Speaker (Hon. Peter Kaluma): Your request is acceded to. The Question on the Bill shall be put when the matter will be next scheduled by the House Business Committee.

(Putting of the Question deferred)

Next Order.

THE PUBLIC SERVICE COMMISSION (AMENDMENT) BILL
(National Assembly Bill No.6 Of 2023)

The Temporary Speaker (Hon. Peter Kaluma): Is this the one in which the Mover requested permission of the House to be away? Stand it down.

(Bill deferred)

Call out the next Order.

THE ASSISTED REPRODUCTIVE TECHNOLOGY (AMENDMENT) BILL
(National Assembly Bill No.61 of 2022)

Hon. Millie Odhiambo-Mabona (Suba North): Hon. Temporary Speaker, I beg to move that the Assisted Reproductive Technology Bill (National Assembly Bill No.61 of 2022) be now read a Second Time.

Just for correction, I have noticed that the Order Paper indicates that it is an amendment Bill. It is not an amendment Bill. This Bill seeks to provide for the regulation of assisted reproductive technology to prohibit certain practices in connection with assisted reproductive technology, to establish an assisted reproductive technology directorate, to make provision in relation to children born of assisted reproductive technology process, and for connected purposes.

This is the third time this Bill is coming before Parliament. The first time that it came, it passed overwhelmingly and it was supported by every Member who spoke. Unfortunately, when it went to the Senate, it was defeated because the Senate then had a Bill that had a portion or a component of this Bill. So, they said that it was a duplication. Unfortunately, their Bill did not make it to this House.

The second time, which was the last Parliament, it, again, passed overwhelmingly with amendments and when it went to the Senate it was not introduced before the House. Therefore, it lapsed. I thank the National Assembly for making amendments in the Standing Orders that has enabled us to fast-track Bills that had already passed this House. This has enabled this Bill to be here.

Hon. Temporary Speaker, the reason I am saying it is erroneous that this is brought as an amendment Bill is because there is no legal framework on assisted reproduction in this country. What that means is that people are free to undertake assisted reproduction because it is also not prohibited. There is no law against it and there is no law for it. What we are doing, therefore, is to provide a framework for assisted reproduction. There are many childless people in this country, both men and women. Some are in their reproductive ages and have struggled. Some have passed their reproductive ages and cannot have children the natural way. I have met many women who have been divorced because they are not able to have children. It is even worse for men because women are free to talk about it. Because of the way the society is, men cannot even talk about it.

During the two Parliaments when I brought this Bill, I was surprised that very many Members of Parliament would see me in private and say either they have benefited from assisted reproduction or that they are unable to because of the stigma around childlessness. Some were brave enough to come up, including Hon. Joyce Lay. For those who remember, she broke down and cried when she was speaking to this Bill. It is because of the challenges she was facing when she got somebody to help her carry her baby. She still had to go through an adoption process for her own child. Even though that is her biological child, from her husband and herself, the records of the country show that she actually adopted her own child.

We also have Hon. Shakeel Shabbir who has also said that he has had children through assisted reproduction. A Member of the last Parliament who was not willing to disclose herself, spoke to me before she came to Parliament. In fact, that is how I started this process. A group of evangelical women in a fellowship called me. They are struggling to have children. The only option they have is to pray and fast. Sometimes prayer and fasting alone are not enough because even the Bible tells us faith without works is dead. If the works God has given us to have children through sex are not working, sometimes we have to help people who are struggling to have children.

I thank God that I have the privilege of being childless. When I say that, people think I am mad. I consider it a privilege because most people will not come and stand in a forum like this and declare that they are childless. Hon. Temporary Speaker, I will give you the reason. My constituency has a very high incidence of HIV and AIDS. Many people are stigmatised by having HIV and AIDS. When I have community gatherings and I talk to people, they will want to identify according to their categories. Fishermen come as fishermen. Farmers will come as farmers and different categories. The people who have HIV and AIDS lift their hands and say, "Honourable, do not forget us. We, the *wan jondilo*, are also here. We are the ones who swallow." They are not embarrassed. However, the women who do not have children will not raise their hands. They will not address me in public. They will go behind when I am leaving. They cannot even mention it because of the Luo word for a childless woman. People get shocked when I tell them about my condition. When I go to the public and I tell them I am *lur*, women cry. They tell me "Do not say that".

I know there are too many people who keep praying for me. The other day when I was with the Kenya Young Parliamentarians Association (KYPA) at the Coast, I was saying that I had stopped having my periods. Suddenly, courtesy of people praying for me, I started having my periods after I had stopped having them for 10 years. I say those things in public because people will not say them. I am not struggling to have a child despite the fact that now I have my periods. It is because there are people who are praying for me. Not many people have people praying for them. For me, it is because people know how I am abused or how I am ridiculed. Again, I proudly say that I feel privileged that I am childless because then I can be the voice of the women and men who cannot stand here and deal with the stigma. I will keep talking until people get used to the fact that there is nothing wrong with being childless and that we should not treat any childless person any more differently. God gave me a very special

gift. Things like that do not concern me. However, I have talked to people at individual levels. People go through depression. People's lives are destroyed just because they do not have children.

What this Bill seeks to do is to help people who are having those challenges. I thank the Departmental Committee on Health. I can see the Chairman was here much earlier. I am sure he will make his presentation much later on this Bill, but I want to thank them because they invited me before the Committee. I am very happy because that Committee has a lot of professionals. They gave me a lot of input in terms of things I did not understand could improve this Bill.

Some of the issues that are of concern in relation to this Bill include the fact that there are many people who try to get assisted reproduction, but the costs are prohibitive. I was giving you an example of a Member of Parliament in the last Parliament who told me the first time she tried to get a child through assisted reproduction, many years ago, she spent Ksh300,000. It did not succeed, and she spent another Ksh300,000. It did not succeed again, and she went to South Africa, where it did not also succeed. I thank God she now has a child through assisted reproduction. What about the ordinary person in Homa Bay County, who would like to have a child and cannot afford Ksh300,000; cannot even afford to open a WhatsApp group because of the stigma to raise money for that? You heard Hon. Catherine talking earlier and saying that even her insurance does not cover that. We are even discriminating people, even in insurance coverage, which cannot cover that. At least, for maternity they can cover a little bit. For assisted reproduction, they cover nothing. Those are the things that we need to look at here.

One of the issues that has been a challenge is that of parentage of a child born of assisted reproduction. Sometimes, you have a surrogate mother, who is willing to carry a child for you, and upon the birth of a child, she decides that they love the child and they will not let the child off to you. The Bill seeks to provide a legal framework for the parentage of a child born of assisted reproduction. It seeks to provide for registration of a child born of assisted reproduction. We had varied views. There were people who felt that the process must go to court. Some of us felt that we should not go to court. It should go directly to the registry; when a woman goes to the hospital, she declares that this child is born of assisted reproduction. It should be from the beginning. That can be done through a lawyer from the beginning. We should shorten the process so that parents do not have to struggle to go to court. Again, we are talking about stigma. Why do you want to expose people who are not as brave as me? Who wants to go and say that they do not have a child and are struggling to get one? I have seen people who are abused and told that you have bought a child. Why would you want to expose people like that again?

There are also ethical issues. I want to reiterate that this Bill, because of the Standing Orders, has come in the form that was amended. The voice of the church was heard through this amendment, especially the Catholic Church, through Jennifer Shamalla, Chris Wamalwa, the Speaker and many others who brought amendments so that issues that may be of concern to the church and religious leaders were captured here. The Committee will bring further amendments. As I have said, there are ethical issues that need to be looked into.

Some of the issues that the Bill looks at is the age that a person can undertake assisted reproduction and those allowed to undertake it. We are very careful to adhere to the Constitution. We are not introducing any new constitutional standards. Hon. Temporary Speaker, I know your pet subject is Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, or another diverse gender identity (LGBTQ+). This Bill only deals with the I of the LGBTQ+. We know that a lot of persons who are intersex have challenges. For people who do not understand, intersex has nothing to do with lesbianism, gay or transgender. Intersex are just people who are born with two organs; male and female. We met some of them in Mombasa.

For those of us who were with the Departmental Committee on Health, we saw the challenges they go through. This Bill makes it easier for them to have children.

Of course, the Bill talks about the issue of commercialisation. Do we commercialise or not? Many people were persuaded towards adequate compensation, but not commercialisation and also to ensure that anybody who is a surrogate mother is taken care of even for any subsequent problems. There is also the issue of storage of gametes. For instance, if I have donated my eggs, how long should they stay? Can they stay for one hundred years? What about a man who has donated his sperms and then he dies? Can his sperms be used posthumously? The Bill addresses those issues and Members will have a chance to speak to them. The Committee has done an excellent job.

There is also the issue of parental consent where a child is involved. As a parent, you may find out that your child has cancer and you know that chemotherapy will dry up their eggs. In that case, you can give them an opportunity to store their eggs.

Hon. Temporary Speaker, the Bill addresses all those issues in a nutshell. I do not want to take a lot of time because I have previously spoken a lot on this Bill if you check the *Hansard*.

Part I of the Bill contains preliminary provisions. Part II provides for the Assisted Reproductive Technology Directorate.

Part III provides for prohibited activities, including the use of embryos, consent of parties, posthumous use without consent, circumstances for undertaking assisted reproductive technology, circumstances under which assisted reproductive technology is precluded, for instance, in the use of animals. It also provides for the use of embryo in a woman, gametes obtained from a minor and the use of gametes. I had already mentioned some of these provisions.

Part IV provides for the rights of parents, donors and children, including the use of sperm after the death of a man, the right to assisted reproductive technology, the right to assisted reproductive technology by intersex persons, amongst other things. It also provides for restriction on sale of human gametes, zygotes and embryos and prohibition of commercial artificial reproductive technology. Those are some of the ethical issues that I was talking about.

Part V of the Bill provides for access to information, including the assisted reproductive technology register, provision of information by the directorate, a minor not to be given information, information from the directorate, and restriction on disclosure of information. There are only a few circumstances in which information can be disclosed, for instance, you can be informed of situations where a donor has a genetic condition. However, information should not be disclosed beyond that.

Part VI of the Bill provides for licensing, including requirements for a license, application for a license, and inspection of premises before a license is issued, amongst other things.

Part VIII of the Bill provides for miscellaneous provisions, including offenses and general penalty.

Part IX of the Bill provides for regulations.

Hon. Temporary Speaker, I thank the Departmental Committee on Health for inviting me. I also thank Members. I can see that some of the Members I was with are here. They have been waiting up to now because the Bill has generated a lot of interest. Thank you all.

I beg to move.

The Temporary Speaker (Hon. Peter Kaluma): Who is seconding?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Sorry, Hon. Temporary Speaker. I call up on Hon. Beatrice Elachi to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Beatrice Elachi, before you second, let me compliment the Mover for very passionately moving this Bill. The Bill is not well understood. I wish the House was full as you moved the Bill, with all 350 Members

present, including the Speaker. Members would have been properly informed as they contribute.

I also thank you for clarifying that intersex persons are not part of the LGBTQ. The LGBTQ like adding the letter “I” to their moniker to represent intersex persons. Even in the matter before the Supreme Court, which gave rise to the infamous ruling, intersex persons were on the other side saying that they were against the things that the LGBTQ were seeking. Being intersex is natural. They are people who were born with ambiguous sex organs. They are not part of the LGBTQ. They are not LGBTQ persons. You understand I will reserve my thoughts on LGBTQ persons for now so that this important Bill is addressed for the important matters it seeks to deal with.

Hon. Beatrice Elachi, proceed and second.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker.

I also want to thank my senior who has really taught us a lesson that you must be very persistent in what you push. I thank God for the grace she has always had when dealing with this matter.

As I second, I want to say that parenthood is one of the most remarkable things or transformations that men and women go through. However, if there is something that also brings you down as a human being then it is the moment you realise you cannot have a child. That is the time you go into a mental health challenge which many of the families Hon. Millie has talked about have gone through. At the time, you find that many of them are unable even to sit with their relatives just because their relatives are talking about them every day. They see you get married then you go year one and year two without a child and the family and parents start nagging. It becomes very challenging. They will not even care whether it is the woman or the man. Usually, women go ninety per cent into that mental challenge. Even if it is the problem of men, they will never come out to say. That is why, in the old days, you would see families go around and make sure the wife is able to get a child through their own family ways and keep quiet when they know their son is the problem. If it is a woman, the challenge we face as women is that the family will not even want you. They will never remember what they normally do for their sons.

Even as we speak about this, let us appreciate that this Bill now comes in to bring that dignity and a chance for any woman or family in this country to have a healthy baby. You can go through the five methods in the Bill and be certain that one of them will work for you. You will have a child hence the dignity we look at.

The one thing I appreciate about this Bill is that it brings in a directorate that gives us regulations. The agony women go through in search of treatment is one thing even doctors have taken advantage of. The doctor will not care when you have this treatment and it does not work. Besides, you already paid him the Ksh500,000 or Ksh300,000. You will go home and start afresh and you will have no place to go and say what really happened. You will have no place to question. There will be no regulations to guide you or awareness on the right clinic you need to go to or if this is the wrong clinic. You find that we move from here to India and come back. We are there when it backfires.

As I speak on this, a girl was in the county assembly, and went through this process, but it backfired on her. It turned around and became the worst nightmare until the end. We buried her. To date, it is still very painful. If we have this Bill becoming an Act to guide us, then we will follow the process and with the doctors.

The other challenge to be cured by this Bill is the matter of the surrogate mothers agreeing to carry the baby. This is another challenge many families have gone through. You will come in, agree and start the process. After delivery, the surrogate mother says, “I want to stay with the baby and breastfeed”. You have to agree to bring her in. When she bonds with

the child, it will be very difficult for you to say this is your baby. We have no regulations. It becomes very difficult.

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Elachi! When this matter will be scheduled for deliberations before the House in future, you will have six additional minutes to second the Bill. It should be five because I interrupted you. I am saying it will be six according to what I am seeing.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Members! The time being 9.00 p.m., this House stands adjourned until Thursday, 19th October 2023 at 2.30 p.m.

The House rose at 9.00 p.m.

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