



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. II NO. 117**

## THE HANSARD

Wednesday, 29<sup>th</sup> November 2023

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

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

*(The Quorum Bell was rung)*

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

Hon. Members, take your seats. Hon. Mukunji take your seat.

### COMMUNICATION FROM THE CHAIR

#### APPOINTMENT OF MEMBERS TO MEDIATION COMMITTEE

Hon. Members, I have a short communication to make on the appointment of Members to the Mediation Committee on the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023).

Hon. Members, you may recall that during the Afternoon Sitting of Thursday, 23<sup>rd</sup> November 2023, the House rejected all the Senate amendments to the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023). In line with the provisions of Standing Order 148, this essentially commits the Bill to a Mediation Committee to be established in accordance with Article 113 of the Constitution.

It is important to note that this is not the first time that Senate amendments to a Bill originating in the National Assembly have suffered such a fate. Indeed, in all previous cases, the Bills so affected have been referred to Mediation Committees as part of our bicameral legislative process.

In this regard, I wish to inform the House that, pursuant to the provisions of Standing Order 149, the Senate amendments to the County Governments Additional Allocations Bill (National Assembly Bill No.23 of 2023) stand referred to a Mediation Committee. Further, in consultation with the leadership of the Majority Party and the Minority Party in the House, I hereby appoint the following Members to represent the National Assembly in the Mediation Committee:

1. Hon. Ndindi Nyoro - Co-Chairperson
2. Hon. GK Kariuki
3. Hon. Mary Emaase
4. Hon. Kipchumba Toroitich
5. Hon. Anthony Oluoch
6. Hon. Joshua Kimilu
7. Hon. Catherine Omanyo

Given that the National Assembly is scheduled to proceed on its long recess, I urge the Members appointed to the Mediation Committee to liaise with their Senate counterparts to ensure timely consideration of the contested clauses. It is with a view to developing a version of a Bill that may be agreeable to the two Houses of Parliament within the timelines set out in Article 113 (4) of the Constitution. For clarity and in keeping with our practice, the 30-day period will start running upon the first meeting of the Committee. The Mediation Committee is expected to confine itself to the contentious clauses of the Bill only.

The House is accordingly guided.

## PAPERS

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Legal Notice No.158 of 2023 relating to the Capital Markets (Licensing Requirements) (General) (Amendment) Regulations, 2023 and the explanatory memorandum from the National Treasury and Economic Planning.
2. Legal Notice No.159 of 2023 relating to the Capital Markets (Real Estate Investment Trusts) (Collective Investments Schemes) (Amendment) Regulations, 2023 and the explanatory memorandum from the National Treasury and Economic Planning.
3. Legal Notice No.160 of 2023 relating to the Capital Markets Online Forex Exchange Trading (Amendment) Regulations, 2023 and the explanatory memorandum from the National Treasury and Economic Planning.
4. Reports of the Auditor-General and financial statements for the years ended 30<sup>th</sup> June 2021 and 30<sup>th</sup> June 2022 and the certificates therein in respect of:
  - (a) Wahundura High School.
  - (b) Rigoma Girls Secondary School.
  - (c) Our Lady of Mercy–Rang’enyoo Girls Secondary School.
  - (d) St. Pauls Nyandoche Ibere Girls Secondary School.
  - (e) Friends Boys High School–Misikhu.
  - (f) Ndivisi Girls High School.
  - (g) Maranda High School.
  - (h) Nyamira Girls High School.

Hon. Speaker, I beg to lay. Just to remind Members, we have a sitting tomorrow in the morning

**Hon. Speaker:** Pardon?

**Hon. Owen Baa** (Kilifi North, UDA): I remind Members that tomorrow, Thursday, we have a sitting in the morning. That is so that we begin business on time.

I thank you.

**Hon. Speaker:** It is already on the parliamentary wall. I expect every Member to read. For the avoidance of any doubt, there will be a sitting from 9.30 a.m. tomorrow.

Hon. Members, the Papers laid as numbers one, two and three are referred to the Committee on Delegated Legislation for further action.

Next, we have the Chairperson of the Committee on Regional Integration, Hon. Wanjiku.

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Committee on Regional Integration on its consideration of the inspection visit to the Semi-Autonomous Institutions of the East African Community in the Republic of Uganda.

**Hon. Speaker:** Thank you. Next is the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations.

**Hon. Major (Rtd) Abdullahi Sheikh** (Mandera North, UDM): Hon. Speaker, I beg to lay the following Papers on the Table:

Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its oversight visit to:

1. The Permanent Mission of the Republic of Kenya to the United Nations Office at Nairobi (UNON) and the UN-Habitat.
2. The Uhuru Gardens National Monument and Museum Project in Nairobi.

Thank you.

**Hon. Speaker:** Thank you. Next is the Chairperson of the Committee on Regional Development. Give him the microphone. There you are, Hon. Member.

**Hon. Peter Lochakapong** (Sigor, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

Reports of the Departmental Committee on Regional Development on its consideration of:

1. The Regional Development Authorities Bill (National Assembly Bill No.7 of 2023).
2. The National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023).

Thank you.

**Hon. Speaker:** Next Order.

### NOTICES OF MOTIONS

**Hon. Speaker:** Chairperson, Committee on Regional Integration.

#### ADOPTION OF REPORT ON INSPECTION VISIT TO SEMI-AUTONOMOUS INSTITUTIONS OF THE EAC IN UGANDA

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Regional Integration on its consideration of the inspection visit to the semi-autonomous institutions of the East African Community in Uganda, laid on the Table of the House on Wednesday, 29<sup>th</sup> November 2023.

**Hon. Speaker:** Thank you. Chairperson of Departmental Committee on Defence, Intelligence and Foreign Relations.

#### ADOPTION OF REPORT ON OVERSIGHT VISITS TO THE PERMANENT MISSION OF THE REPUBLIC OF KENYA TO UNON, UNEP AND UN-HABITAT

**Hon. Major (Rtd) Abdullahi Sheikh** (Mandera North, UDM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its oversight visits to the Permanent Mission of the Republic of Kenya to the United Nations Office in

Nairobi (UNON), the United Nations Environment Programme (UNEP) and the UN-Habitat, laid on the Table of the House on Wednesday, 29<sup>th</sup> November 2023.

ADOPTION OF REPORT ON OVERSIGHT VISIT TO THE UHURU  
GARDENS NATIONAL MONUMENT AND MUSEUM PROJECT

**Hon. Major (Rtd) Abdullahi Sheikh** (Mandera North, UDM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its consideration of an oversight visit to the Uhuru Gardens National Monument and Museum Project in Nairobi, laid on the Table of the House on Wednesday, 29<sup>th</sup> November 2023.

Thank you.

**Hon. Speaker:** Member for Manyatta. Is it Manyatta or Manyatte?

**Hon. Gitonga Mukunji** (Manyatta, UDA): It is Manyatta, Hon. Speaker.

**Hon. Speaker:** The Clerk-at-the-Table has misspelt the name of the constituency.

NOTICE OF ADJOURNMENT ON A MATTER  
OF URGENT NATIONAL IMPORTANCE

REPORTED IRREGULARITIES IN 2023 KCPE EXAMINATION RESULTS

**Hon. Gitonga Mukunji** (Manyatta, UDA): Hon. Speaker, I request the House for an adjournment under Standing Order 33 to discuss the 2023 Kenya Certificate of Primary Education (KCPE) examination results.

Pursuant to Standing Order 33, I rise to seek leave for adjournment of the House in order to discuss a definite matter of urgent national importance regarding reported irregularities in the 2023 KCPE examination results. The results were released on Thursday, 23<sup>rd</sup> November 2023 with great pomp and colour. However, this has been quickly dampened following the reported inconsistencies across the country. The discrepancies in the results range from awarding wrong marks to candidates, assigning candidates marks for subjects they did not sit for, schools being assigned different grades and in other instances candidates receiving higher grades for lower scores and vice versa.

It is noted that a total of 1.4 million students sat for the 2023 KCPE examinations with the hope of joining secondary schools. However, these discrepancies will not only delay the secondary school placement of these candidates but also compromise the integrity of the Kenya National Examinations Council (KNEC) in delivering credible results, moving forward. It is, therefore, imperative that this matter is addressed to safeguard the future of these candidates.

It is against this background that I seek leave for the adjournment of the House to discuss this matter of national concern with a view of exploring possible ways of resolving the reported irregularities across the country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Do you have the requisite support numbers?

*(Several Hon. Members stood in their places)*

Thank you, Members. The support is overwhelming. You may take your seats.

Hon. Mukunji, we are sitting up to 9.00 p.m. today. I will allocate your Motion time to be moved at 7.30 p.m. You are all obligated until 9.00 p.m.

Thank you. Next Order.

## QUESTIONS AND STATEMENTS

**Hon. Speaker:** Hon. Members, I have notices of three statement requests. Ordinarily, we do not debate statements. Hon. Justice Kemei has asked me to give him an opportunity to make comments on the Statement by Hon. Beatrice Kemei. However, we will take all the three statement requests first and then I will give you the requested opportunity.

Hon. Kemei, Member for Kericho County.

## REQUESTS FOR STATEMENTS

### TRAGIC DROWNING OF TWO RESIDENTS OF SIGOWET/SOIN

**Hon. Beatrice Kemei** (Kericho County, UDA): Hon. Speaker, I rise to request for a Statement regarding the tragic drowning of two residents of Sigowet/Soin Constituency in Kericho County.

Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Regional Development regarding the tragic drowning of two residents of Koislir and Tuiyobei in Sigowet/Soin on Tuesday, 21<sup>st</sup> November 2023. Members of the public in Koislir and Tuiyobei in Sigowet/Soin are in distress following the drowning of Mr Julius Tonui and Mr Peter Terer at the convergence of Kipsonoi and Chemosit rivers. Despite dedicated rescue efforts by local divers, the bodies of the victims remain unrecovered, intensifying the anguish of their families and the community at large.

This unfortunate incident underscores a broader and persistent issue in the region – that is the absence of a bridge connecting Sigowet/Soin Constituency, Bureti Constituency and Nyamira County over the Kipsonoi and Chemosit rivers. The lack of a bridge has not only resulted in the recent loss of lives but has also claimed over 20 lives in similar incidents over the years. The community has continued to suffer repeated tragedies due to the disastrous conditions around these rivers.

For the past one week, the families of the victims and the entire community have been in an excruciating state of waiting for closure. The impact of this tragedy is magnified as Mr Terer and Mr Tonui leave behind widows and six children each. The families are grappling with heart-wrenching uncertainty.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Regional Development on the following–

1. What immediate measures is the Government taking to expedite the retrieval of the bodies of Mr Peter Terer and Mr Julius Tonui to provide closure to the grieving families?
2. What comprehensive measures are being put in place to address disaster risk in the area and enhance the safety of the community?
3. What plans are in place to address compensation of the families of the victims?

I thank you, Hon. Speaker.

**Hon. Speaker:** Member for Likuyani, Hon. Innocent Mugabe.

### THE STATE OF KENYA'S BEACHES

**Hon. Innocent Mugabe** (Likuyani, ODM): Hon. Speaker, pursuant to Standing Order 44 (2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Tourism and Wildlife regarding the state of Kenya's beaches, which are one of the country's major tourism products.

Beach tourism is the main social economic activity and source of livelihood for the coastal people. However, it has become a tired and less competitive product in today's marketplace. In the last two decades, Kenyan beaches have been invaded by aggressive, local and informal operators. They engage in a variety of tourism-related businesses—both regulated and unregulated—and harass visitors. This has a negative impact on the beach tourism industry in Kenya. Moreover, this has led to increased insecurity, poor waste management that threatens marine parks and beach ecology, lack of necessary infrastructure at the beaches and increased conflict among beach users.

These issues have contributed to making Kenyan beaches unattractive and uncompetitive, resulting in significant economic losses to the counties that depend on beach tourism and the national Exchequer. The coastal and inland tourism sectors, which rely on the beaches, face stiff competition from other more attractive beach destinations around the globe.

It is for this reason that I request for a Statement from the Chairperson of the Departmental Committee on Tourism and Wildlife on the following matters:

1. The plans that the Ministry has put in place to protect, rehabilitate and promote beach tourism in Kenya.
2. The sustainable management programmes that the Ministry has initiated to protect the environment and contribute to climate change mitigation and adaptation measures.
3. Any specific policy and legislative proposals that the Ministry has developed to guide beach management in Kenya.

I thank you, Hon. Speaker.

**Hon. Speaker:** Member for Turbo, Hon. Janet Sitienei.

#### KILLING AND MAIMING OF RESIDENTS OF KAMAGUT WARD IN TURBO CONSTITUENCY BY KDF

**Hon. Janet Sitienei** (Turbo, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations regarding killing and maiming of residents of Kamagut and Kiplombe Wards in Turbo Constituency by Kenya Defence Forces (KDF) soldiers on 26<sup>th</sup> November 2023.

The killings happened when the victims allegedly trespassed into a KDF maize farm situated on a contested buffer zone that the KDF hived off the land that it ought to have fully surrendered to squatters from Kiplombe and Kamagut settlement schemes in 2002. The KDF dug a deep, 5-metre wide unfenced trench around the zone and has been using it for cultivation under the Kenya Ordinance Factories Corporation (KOFC). Sadly, the trench has become a death trap for residents. It claimed four lives of school children in 2021. Three of them at once, and recently, on 21<sup>st</sup> July 2023, an 8-year-old minor fell in the trench and died.

Four persons were killed by KDF on 26<sup>th</sup> November 2023. Several others were maimed and are hospitalised. The attacks by KDF on residents have been happening over time. On 25<sup>th</sup> December 2021, two people were shot and five others were maimed by KDF soldiers for protesting the erection of boundary beacons by KDF without involving residents or their leaders. They have also been hit by stray bullets from the KDF shooting range, which has caused loss of lives, pain and suffering to the people of Kiplombe.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations on the following:

1. What prompted the Kenya Defence Forces soldiers (KDF) to use live ammunition on residents who were unarmed?

2. What measures is the Ministry of Defence, Intelligence and Foreign Relations taking to ensure amicable coexistence between the KDF and residents?
3. What steps has the KDF in Eldoret instituted to address the loss of lives, especially minors who have lost their lives in trenches around the barracks since 2021?
4. What disciplinary and legal actions have been taken against the KDF soldiers involved in the alleged killing and maiming of residents in the various incidences?
5. When does the Ministry intend to conclude the process of relinquishing the disputed portion of the land to Kamagut and Kiplombe settlement schemes to squatters and compensate the residents for the loss of their loved ones and livestock over the years?

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, go on.

**Hon. Janet Sitienei** (Turbo, UDA): Hon. Speaker, I seek your indulgence to allow a few Members who may have similar situations in the places where there is conflict between the KDF and the communities. I also note that life is very precious. Life is very important and we should take care of it. It is paradoxical that the very officers who are mandated to protect our nation and the lives of people are the ones killing and maiming community members. We lost lives before, on Christmas Day, and we lost lives last week. This has brought a lot of distress within the community instead of a good coexistence between the community and the KDF. Furthermore, the community is supposed to act...

**Hon. Speaker:** You are now debating your statement. Janet, the rules require that you just read the Statement as you have brought it. I have allowed you some latitude and you can end there. I give you 30 seconds to finish what you are saying.

**Hon. Janet Sitienei** (Turbo, UDA): Thank you, Hon. Speaker. I was saying that they had an opportunity to arrest and prosecute the community members in court if there was trespass. They did not have to kill people because life is very sacred.

Thank you, Hon. Speaker.

**Hon. Speaker:** Justice Kemei, you have two minutes.

**Hon. Justice Kemei** (Sigowet/Soin, UDA): Thank you, Hon. Speaker, for giving me an opportunity to add my voice to the Statement sought by Hon. Beatrice Kemei from Kericho County. For over seven days now, the people of Koislir, Cheptuyeit and indeed the people of Sigowet have been living in anguish as they seek to find out where Julius and Peter are. They have used rudimentary technologies and local divers to try and find out where the two people are. As of yesterday, representatives of the families went all the way to Odino in Rachuonyo, where there was a report of recovery of some bodies.

It has been very difficult for them. Much as the issue has been directed to the Chairperson of the Select Committee on Regional Integration, we would have also wanted the Office of the President to say something. We raised the matter before the District Security Committees of Sigowet/Soin Constituency and Nyakach on Monday. We wish to get help from the Government so that the bodies of the two can be retrieved.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Pukose. You have two minutes.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Speaker, I sympathise with the Member for Turbo for the incident that occurred in Kamagut. I am also a farmer. The issue of "murokoto" is very serious during the time of harvesting our maize, and the people are on standby. As much as we want to be sympathetic, we would want to ask those people who want to pick whatever has remained after harvesting to be organised and allow the process of



harvesting to be completed. I would also want to encourage our disciplined forces to have a good relationship with the neighbouring community

There is a place in my area called ‘Chepkengen’, where mothers go to fetch firewood from the forest. Recently, I got a report that young officers from the Kenya Forest Service are beating up mothers and other people who go to that forest. That is something that must stop. The officers in the disciplined forces, whether you are police or Kenya Forest Service, must cultivate a good relationship with the neighbouring communities. You cannot beat up mothers who have gone to pick firewood in Chepkengen Forest, Kimothon Forest or any other forest in Endebess. That should never happen.

I sympathise with the Hon. Member and ask that the Government looks for a way to act responsibly and compensate those who have been killed in Kamagut.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Member for Kesses.

**Hon. Julius Rutto** (Kesses, UDA): Thank you very much, Hon. Speaker, for giving me this opportunity to also weigh in on the Statement sought by Hon. Janet Sitienei, Member for Turbo. I want to make a statement of witness on the fateful day when I got the news that people had been brutally killed in the Recruits Training School (RTS) area. I managed to go there personally to confirm and witness as I convey my condolences to the people. It is so painful to see what happened on that day. The bodies were scattered like dog carcasses. They were killed brutally with crude weapons. It was not a case of an attack where the military personnel were defending themselves. It was an intentional attack on the people, who were maimed and killed like stray dogs.

Hon. Speaker, this is a matter that requires a serious inquiry. We have to understand the situation under which military personnel, who have been given the responsibility of protecting the citizens from external atrocities, turned out to attack the same people yet they need to co-exist. There are serious allegations by women around there of assault and rape on repeated occasions. The same soldiers have been raping the women whenever they find them walking back to their huts at night. This is a situation where there are villages on the edges of the particular parcel of land. The communities have to visit each other on either side of that parcel of land, and the soldiers have been perpetrating all these inhuman activities to them.

I want to add my voice as I condemn this act and ask the relevant Committee to go in-depth to understand the matter. They should probably visit that area and get the views of the people so that we get a conclusive report that will ensure that these problems are sorted out once and for all. The aspect of people using excessive force on the citizens of the Republic of Kenya, instead of protecting them, is not acceptable.

**Hon. Speaker:** Thank you. Yes, Member for Sigor Constituency.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Speaker, for giving me this opportunity. I feel for the Member for Kericho County, who is seeking a Statement from the Select Committee on Regional Development about the two people who drowned in her county. Equally, the incidents of the people who have been killed by KDF soldiers in Turbo Constituency, as reported by the Member, are unfortunate.

It was also reported on Monday – and I think it happened – that, the KDF killed four people on the border between Turkana County and Pokot. Those people were not bandits but we lost them in the hands of KDF. That was a similar situation to what happened at RTS. It is unfortunate that whereas we think that KDF personnel are well trained, they have taken to the habit of taking shortcuts and killing innocent Kenyans instead of arresting them. I want to say that an inquiry needs to be done so that we know who gave instructions to the KDF soldiers to do that. Were they given instructions to go and kill or to restore peace and bring about order in those areas?

As we talk about this, it is our belief that either our forces are not well trained or they are not well equipped to arrest suspected criminals or bandits. I want to say that an inquiry needs to be undertaken into the work, behaviour and the way the KDF soldiers conduct themselves, especially when dealing with citizens wherever they have been sent to undertake security activities.

Thank you, Hon. Speaker.

**Hon. Speaker:** Umulkher.

**Hon. Umulkher Harun** (Nominated, ODM): Thank you, Hon. Speaker. I would like to sympathise with the Hon. Member on this particular issue. I truly feel the impact of having to coexist with KDF soldiers in our communities. They have military bases across the country. The same case is happening even in Boni Forest. Three days ago, they killed a gentleman by the name of Mr Abdikadir Abdow, who was herding his cattle there. It is quite unfortunate as the justice system also becomes a very long process. We are still having cases of families who have not even been compensated.

The issue of compensation should not even come if the military and the KDF are able to conduct themselves in a manner that is respectable to the communities while offering the services that we need from them. This is a matter that is of concern, and I would want to urge the Government to intervene so that we get answers on the same.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Liza Chelule.

**Hon. Liza Chelule** (Nakuru County, UDA): Asante sana Mhe. Spika kwa kunipatia hii nafasi ili nichangie hoja hii ya mauaji yaliyofanyika Eneo Bunge la Turbo. Kwanza kabisa, ninatoa risala za rambirambi kwa niaba yangu, na kwa niaba ya wakazi wa *County* ya Nakuru kwa Mhe. Janet, ambaye ni Mjumbe wa Eneo Bunge hilo. Pia, ninawaambia wananchi wa Kamagut pole kwa shida ambayo iliwapata.

Ni ajabu kubwa kusikia kwamba maafisa ambao wanahitajika kudumisha usalama wa wananchi pamoja na mali yao ndio wanatekeleza mauaji kinyama. Hata kama watu walienda kuiba, hawastahili kuuawa. Katika Jamii zetu, baada ya kuvunwa kwa mahindi, watoto na baadhi ya watu wazima huenda mle shambani kuokota mahindi yaliyosalia. Hii ni mambo ya kijamii na ya kibiblia. Kama waliouliwa walienda kufanya hivyo, hayo si makosa. Na hata kama ni wizi, haifai wauawe. Inafaa washikwe, wapelekwe kwenye kituo cha polisi na wafunguliwe mashtaka kortini.

Kwa hivyo, nina imani kuwa Serikali yetu itawachukulia hatua na kuwaadhibu, na hata kuwafuta kazi maafisa waliohusika kwenye mauaji hayo. Huwezi kulinganisha maisha na mahindi ama kitu kingine kile. Maisha yanafaa kuchukuliwa na Mwenyezi Mungu peke yake wala sio binadamu.

Asante, Mheshimiwa Spika.

**Hon. Speaker:** Hon. Members, given the gravity of the matter raised by the Member for Kericho, the Statement has been misdirected because what you are describing is a matter of security. When bodies are lodged into water bodies, the people who retrieve them are the police, not anybody else. I will, therefore, redirect your Statement to the Departmental Committee on Administration and Internal Affairs. I also refer the Statement by the Member for Turbo, Hon. Janet Sitienei, to the Departmental Committee on Defence, Intelligence and Foreign Relations. I direct that the three Statements, including the one by the Member for Likuyani, be brought to the House next week on Wednesday. Leader of the Majority Party, ensure that we get Statements on the issue of the two people who drowned in Kericho and those who were allegedly shot by KDF soldiers in Turbo, on Wednesday since we will be recessing for two months on Thursday.

Next is the Member for Turkana, Hon. Protus Akujah.

**Hon. David Kiplagat** (Soy, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. David Kiplagat, what is your point of order? Give him the microphone. There is one next to you.

**Hon. David Kiplagat** (Soy, UDA): Thank you, Hon. Speaker. Two weeks ago, you directed the Chairperson of the Departmental Committee on Finance and National Planning to give a Statement on the sale of Uchumi Lang'ata Hyper. I note that today is Wednesday, which is the day when Statements should be brought to the House. I am told that there are other developments – that, a court has gone ahead to make a ruling on the case. Chances are that the Government might lose approximately Ksh1.4 billion. Maybe, the Chairperson can apprise us on what is happening to this very important matter. If this matter is not checked, due to complacency and collusion between the National Treasury and whoever wants to sell the plot...

**Hon. Speaker:** Hon. David Kiplagat, take your seat. Yesterday, the Chairman of the Committee was ready with your Statement but you were not here at the time. You now appear to be blaming the Chairman and the House for not bringing your Statement, which is not quite fair. In fact, you should have apologised to the House for not being here at the time the Statement was to be issued by the Chairman. I direct the Chairperson of the Departmental Committee on Finance and National Planning to issue that Statement tomorrow morning. Avail yourself so that you do not blame anybody thereafter.

**Hon. Dekow Mohamed** (Garissa Township, UDA): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Member. Are you on a point of order?

**Hon. Dekow Mohamed** (Garissa Township, UDA): Yes, Hon. Speaker.

**Hon. Speaker:** What is out of order?

**Hon. Dekow Mohamed** (Garissa Township, UDA): I had previously raised this same issue. On the 18<sup>th</sup> of October, I requested for a Statement, in respect of which you directed the Departmental Committee on Labour and Social Protection to bring a reply in two weeks' time. On the 8<sup>th</sup> of this month, I requested for another Statement, in respect of which you also directed the Chairperson of the Departmental Committee on Administration and Internal Affairs to bring a reply within two weeks.

A week ago, I stood on a point of order on the same and I was promised that the replies would be delivered to the House on Tuesday of this week. To date, and as we go for recess, nothing is forthcoming. I have been to the Office of the Clerk to find out whether we have a written reply. I need your direction.

Thank you.

**Hon. Speaker:** Could you liaise with the Leader of the Majority Party to inquire from the chairpersons of those committees? Leader of the Majority Party, speak with the Hon. Member and direct the chairpersons to bring those Statements tomorrow morning.

Next is Hon. Akujah. Give him the microphone. Use the adjacent one.

## TRIBUTES TO FALLEN FORMER MEMBERS OF PARLIAMENT

### DEMISE OF HON. CHRISTOPHER EBENYO LOWONIYO, MP

**Hon. Protus Akujah** (Loima, UDA): Thank you, Hon. Speaker. Pursuant to Standing Order 259 (d), I rise to pay tribute to the late Hon. Christopher Ebenyo Lowoniyo, a distinguished former Member for Turkana East Constituency, who passed away on Wednesday, 15<sup>th</sup> November 2023 at his residence in Nakamane, Turkwel Ward, Loima Constituency.

The late Hon. Christopher Ebenyo Lowoniyo was born in 1944 in Lodwar, Turkana County. He attended Lodwar Primary School from 1956 to 1959 where he sat for Common Entrance Examination (CEE) in Grade Four. The late Hon. Lowoniyo proceeded to Kapenguria School in 1960 and completed Grade Seven in 1962. In pursuit of his career, he joined Kenya

Medical Training College in Nairobi in 1963, where he trained as a public health technician. Upon completion of his studies, the late Hon. Lowoniyo was posted to Lokitaung Health Centre, where he worked as a public health technician until he joined politics.

In 1974, Hon. Lowoniyo vied for the parliamentary seat for Turkana East Constituency, which he won and served diligently in the 3<sup>rd</sup> Parliament up to 1979. He was an astute legislator whose contribution to Parliament, its committees and the plenary were invaluable and his colleagues held him in high esteem.

He later left the political arena and transitioned to establishing and managing his business at Turkwel Trading Centre. In his death, we celebrate a life of a well-respected leader who laid the foundation for enhancing access to health care in Turkana.

On my own behalf and that of my constituents, I wish to extend my deepest condolences to his family and the people of Turkana for the loss of a remarkable leader.

Hon. Speaker, with your indulgence, may I request that we all stand to observe a minute of silence in honour of our departed colleague?

**Hon. Speaker:** That is the Speaker's mandate.

**Hon. Protus Akujah** (Loima, UDA): I thank you, Hon. Speaker.

**Hon. Speaker:** The Member for West Mugirango has another tribute to a fallen former colleague. Thereafter, we will observe a minute of silence in honour of our two fallen former colleagues.

Proceed, Hon Mogaka.

#### DEMISE OF HON. BENSON KEGORO, MP

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Speaker for giving me this opportunity to pay tribute to the late Hon. Benson Kegoro, who preceded me as the Member of Parliament for West Mugirango in the 1970s. He passed on last week in his sleep. He will be laid to rest on Sunday at his home in Borabu Constituency. I also want to condole with the family and the constituents of the late Benson Kegoro.

Besides having been a Member of the National Assembly, he also served as a councillor in Nyamira County. He was a leader who traversed several regimes – the regimes of the late Jomo Kenyatta, the late Daniel arap Moi, the late Mwai Kibaki and retired President Uhuru Kenyatta – and passed on during the reign of the Kenya Kwanza Government, led by President Samoei Ruto.

On behalf of the people of West Mugirango, I celebrate the distinguished service that Hon. Benson Kegoro rendered to the people of West Mugirango and indeed the people of Kenya. I also plead with you, Hon. Speaker, that you invite the House to observe a minute of silence in honour of this great leader.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, in honour of the late Hon. Ebenyo of Turkana East and the late Hon. Kegoro of West Mugirango, can we observe a minute of silence?

*(Hon. Members rose and observed a minute of silence)*

May their souls rest in eternal peace. Thank you.

Yes, *Omong'ina*. We are done with that. Do you want to speak about Kegoro? Okay.

**Hon Jerusha Momanyi** (Nyamira County, JP): Thank you Hon. Speaker for allowing me to mourn this hero from Nyamira County.

The late Hon. Kegoro served in all the terms of the five presidents. He was a man who lived a life to be emulated. We learnt a lot from him. I know this time the family is in great pain because Kegoro was not sick, but he died suddenly. I pay my tribute and give hope to the

family that death is the last enemy that God will destroy when he will come and take us to where He lives.

May the Lord take care of the family. May the Lord comfort all the people of Nyamira and West Mugirango.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Yes, Chiforomodo.

**Hon. Chiforomodo Mangale** (Lungalunga, UDM): Thank you, Hon. Speaker. I rise on Standing Order 227.

On Tuesday, 15<sup>th</sup> August 2023, I presented a Petition concerning a land issue at Kidomaya/Miungoni Village. Pursuant to the Standing Orders, the Public Petitions Committee was supposed to deal with the matter within 90 days and present a report to this House. That period was to be on 15<sup>th</sup> November 2023. As the Member who presented the Petition, I have not received any response. I have not seen anything done on the same.

Hon. Speaker, I plead for your indulgence that you intervene and give direction on the matter.

Thank you.

**Hon. Speaker:** Leader of the Majority Party, where is the Chairman of the Public Petitions Committee?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): He normally sits here.

**Hon. Speaker:** Today is not normal.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Today is one of those bad days. The Chairman of the Public Petitions Committee is very diligent. He is always here.

**Hon. Speaker:** I see him there all the time. Can you direct him to bring the response to the Petition by Chiforomodo before we recess?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I will relay the information to him or the Vice-Chairperson of the Committee.

**Hon. Speaker:** Leader of Majority Party, advise the chairpersons that when we have time bound business, if for any reason they are not concluded and it is possible that they may not be concluded within the given time, they should communicate with the Petitioners or the Members who brought the Petitions so that they know that there is still some work going on.

Yes, Bashir. What is it?

**Hon. Major (Rtd) Abdullahi Sheikh** (Mandera North, UDM): Hon. Speaker, I am fully aware that yesterday you gave an order to ban *kaunda* suits. Some of us have invested in expensive tailor-made *kaunda* suits for attending Sittings in this House. What do we do with these costly *kaunda* suits we made for purposes of attending Sittings in this House? They are original because some of us do not wear *mitumba*. I do not know whether you can allow an appeal on that matter so that we can continue wearing our expensive tailor-made *kaunda* suits.

Thank you, Hon. Speaker.

**Hon. Speaker:** Honourable Bashir, you are here only three days a week. You can use those suits out there. If you have no opportunity to use them, you can also donate them to your deprived neighbours so that they use them.

Next Order.

## BILL

### *Second Reading*

#### THE NATIONAL LOTTERY BILL (National Assembly Bill No.69 of 2023)

**Hon. Speaker:** Hon. Members, I have been advised that the matter at Order 8 was dispensed of already. So, we will skip it. Before we go to Order 9, allow me to give some direction on Order 10 on consideration of the Conflict of Interest Bill.

### COMMUNICATION FROM THE CHAIR

#### GUIDANCE ON CONSIDERATION OF THE CONFLICT OF INTEREST BILL IN THE COMMITTEE OF THE WHOLE HOUSE

**Hon. Speaker:** Hon. Members, you will recall that during the afternoon sitting of Tuesday, 28<sup>th</sup> November 2023, I allowed the Member of Parliament for Rarieda, Hon. (Dr) Otiende Amollo, Senior Counsel, EBS, to raise concerns on the contents of the Conflict of Interest Bill (National Assembly Bill No.12 of 2023). The concerns were also contained in his two letters to the Speaker dated 21<sup>st</sup> November 2023.

In prosecuting the matter, the Hon. Member queried the constitutionality of various provisions of the Bill and highlighted particular concerns with a number of provisions. These included the definition of the term ‘public officer’ and the singling out of Members of Parliament and Members of county assemblies in the Bill, the shift from self-regulation of public bodies to the supervision of all public officers by the Ethics and Anti-Corruption Commission (EACC) and the obligation on public officers to include their spouses in their wealth declarations.

During yesterday's Sitting, I also allowed the Leader of the Majority Party, as the sponsor of the Bill and other Members, to ventilate on the concerns raised by Hon. Otiende Amollo. In the ensuing debate, it was reported that the Departmental Committee on Justice and Legal Affairs was at an advanced stage of reconsidering the Bill. The Vice-Chairperson of the Committee, Hon. Mwengi Mutuse, confirmed that the Committee was seized of the matter and the concerns, and had taken them into account in consideration of the Bill. Consequently, I guided the House to await the tabling of an Addendum to the Report of the Departmental Committee on Justice and Legal Affairs on the Bill. The Report and the Addendum would inform my ruling on the concerns raised by the Member for Rarieda.

I note that the Chairperson of the Departmental Committee on Justice and Legal Affairs tabled an Addendum to their Report on the Conflict of Interest Bill (National Assembly Bill No.12 of 2023) during today's Morning Sitting. From a perusal of the Addendum, it is clear that the Committee has addressed itself to the concerns raised by Hon. (Dr) Otiende Amollo and indicated its views on the said concerns.

Additionally, arising partly from the concerns of the Member, the Committee has proposed amendments for consideration by the House. As a Member of the Departmental Committee on Justice and Legal Affairs, Hon. (Dr) Otiende Amollo confirmed yesterday that he participated in the deliberations of the Committee during its re-consideration of the Bill.

I am, therefore, satisfied that the tabling of the Addendum and proposal of further amendments by the Committee sufficiently allow the House to consider the Bill and the amendments at the Committee of the whole House.

As I conclude, permit me to reiterate the significance of the Conflict of Interest Bill, 2023. As aptly put by the Leader of the Majority Party, the Bill seeks to breathe life into the provisions of Chapter Six of the Constitution on Leadership and Integrity, with a particular focus on conflict of interest. As the House is aware, the Bill seeks to repeal and replace the Public Officer Ethics Act, 2003, which has never been fully updated to accord with the Constitution. The importance of the ongoing deliberations on the form and content of the Bill cannot be overstated. I thank the Member for Rarieda for raising pertinent issues, which can

only assist the House to actualise a critical Chapter of the Constitution. I am satisfied that the House may proceed to consider the Bill in the Committee of the whole House.

The House is accordingly guided.

Allow me to thank the Member for Rarieda for a thorough reading, understanding and appreciation of the Bill; and the Leader of the Majority Party for equally rising to the occasion to meet the expectations bestowed on him. I direct that you consider all amendments filed by whichever party during the Committee of the whole House so that the Bill can move to the next stage.

Thank you.

*(Applause)*

Next Order.

## BILL

### *Second Reading*

#### THE GAMBLING CONTROL BILL (National Assembly Bill No.70 of 2023)

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move that the Gambling Control Bill (National Assembly Bill No.70 of 2023) be now read a Second Time.

This Bill is related to the National Lottery Bill, 2023, which went through its Second Reading in today's Morning Sitting. This Bill will help us to control and regulate the gambling industry. I do not need to speak much on it because a lot has been said, and Members contributed on matters that touch on this Bill as they contributed to the National Lottery Bill, 2023.

I take this opportunity to thank Members of the Departmental Committee on Sports and Culture for taking their time to consider this Bill, including spending the entire weekend holed up in Mlolongo.

I have gone through their Report, which has very good recommendations, with the exception of one or two, which I do not agree with. For instance, the Committee proposes to amend Clause 45 to reduce the gambling tax chargeable rate from 15 per cent to 13 per cent. Clause 45 was imposing a gambling tax chargeable rate of 15 per cent on gross gambling revenue. The Committee proposes to reduce it to 13 per cent in their recommendations. There is absolutely no way I would agree to a reduction in tax on gambling. Taxes charged on gambling, just like on smoking and alcohol, are considered "sin taxes". You cannot reduce "sin taxes" under the pretext of increasing Government revenue. That is why we are introducing new legislation to control gambling. I do not want to call gambling "a menace."

I want to persuade Members of the Departmental Committee on Sports and Culture not to reduce taxes at such a time when we are looking for opportunities to tap into the resources that people invest in gambling through the National Lottery. We should increase the gambling tax chargeable rate and not reduce it from 15 per cent to 13 per cent. I will propose that we increase it to 25 per cent. That will enable us to collect more revenue through the National Lottery, which will be channeled to good causes that include rehabilitation of gambling addicts.

We all know gambling addicts even in our families. Gambling is extremely addictive. It is even more addictive than alcohol or smoking, not that I have ever smoked or gambled. However, I used to drink and I know how addictive it can be. I have never smoked, but I have

seen how addictive smoking can be. I am a teetotaller and a confessed tea addict. I cannot leave my house without taking a sip of Kenyan tea. Some people are pushing me to say Kericho tea, but I said Kenyan tea. There is a new saying that no conversation is complete, or subject too difficult that it cannot be settled over a good cup of Kenyan tea. My tea addiction is a good thing. I know what addictions can do. You become dysfunctional when you have not taken your usual drink. Unlike tea addiction, gambling addiction comes at a huge cost, not just to the addict but to their families as well. Gambling addicts spend money meant for their children's school fees and medication on gambling.

Most Members will tell you that there are certain people in their constituencies who wake up in the morning and go to their local shopping centres to gamble the whole day. They will be at street corners and at their shopping centres waiting for their *Waheshimiwa*, Members of County Assemblies (MCAs) and Members of Parliament to pass by so that they can ask for handouts not for anything productive but to gamble with hopes that they will make it in life.

We must ensure that we discourage our youth from pursuing unproductive economic activities like gambling and instead encourage them to pursue more economically productive activities. We will not achieve that by lowering taxes on gambling revenue, which will make it very easy for them to gamble.

The other argument I saw in the presentations by industry players is that once we raise taxes on gambling in the country, people will start gambling online. If governments around the world can stop people from using WhatsApp, how difficult is it for a government to stop people from gambling online? It is possible. You do not even need to stop them. Tax them when they gamble online. They will have to remit money at the end of the day, whether through PayPal or M-Pesa, depending on the platform that they are gambling on. It does not matter whether they are gambling on a platform based in the United Kingdom (UK), the United States of America (USA) or South Africa as long as they remit money. The Government can institute mechanisms through which such a person can pay tax. Those are some of the new innovations that I was hoping the Departmental Committee on Sports and Culture would come up with.

Since tax matters are better handled by the Departmental Committee on Finance and National Planning, I hope the Committee will be innovative during consideration of the next Finance Bill. The Departmental Committee on Finance and National Planning and the National Treasury must begin to think of how they can tax individuals who gamble online. The Government should also get a cut of the winnings that such individuals get, so that we handle the defeatist argument that if we raise our taxes, people will go and gamble online in companies outside Kenya. We will still be getting tax money even from those gambling outside Kenya.

I said I do not want to dwell so much on this Bill because we said a lot yesterday on the Lottery Bill. I really want to plead with Members to help us pass this Bill because it is dealing with a known national vice that is now in Kenya. Gambling is just not for the young. I have seen around the country very elderly men and women who spend all their time gambling. Yesterday, I said our radio stations, especially the vernacular stations, have made it a norm to promote gambling after every two sentences that they make.

I hope the measures to control the advertisement of gambling companies in this Bill will come to fruition when we pass this Bill so that Kenyans are not encouraged to gamble by bombarding them with advertisements on television and vernacular radio stations. That is how the very elderly are roped in. They are made to believe that the easiest way to make half a million shillings is by texting their phone number to some radio stations. These stations are collecting billions of shillings. Yesterday, I said it was being reported that most of our mainstream media stations are making more money from gambling than from their core business of broadcast or even from advertisement of corporates. We must protect our people from being taken advantage of. Unfortunately, it is not me and you who gamble although I know – without naming names – in the last Parliament we had one Member who was an addict.



He would leave the Chamber and run to some casino somewhere. I have not seen that in this Parliament.

**Hon. Speaker:** You knew one, I knew three.

*(Laughter)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I did not say where they come from. I have heard somebody say: "The one from somewhere." You know three?

**Hon. Speaker:** I knew three.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Unfortunately, it is three in a population of 349 Members of the National Assembly and about 67 Senators. So, in a population of about 500 people, you can count three or four Members. If you go to the population outside there in our villages, it is the most vulnerable people in the society who are being taken advantage of. It is actually immoral that money is taken from the poorest of the poor. Gambling is made to look like one only needs Ksh10, Ksh30 or Ksh50. It has become customary for one to try their luck with Ksh10 in the morning, another Ksh10 at lunch time and another Ksh10 in the evening, then the following day they up their stakes to Ksh30 and the day after to Ksh50. They are then lured by being made to win Ksh100 with a bet of Ksh10. When one wins the Ksh100, they spend it in betting hoping that they will win Ksh1,000. The day they will win the Ksh1,000 will be after spending Ksh3,000. When they win Ksh5,000 they bet with it hoping that they will be the ones who will eventually win the half a million or one million shillings that is being promoted on television.

I particularly support the provision to regulate the advertisement of gambling and betting so that we protect the most vulnerable. We will not just protect our youth and the elderly, but also the very poor in our society, who are being taken advantage of. Unfortunately, if you look at the people who run these gambling companies, they are people who are filthy rich. They are making more money from the poorest of the poor in our society. Therefore, we have an obligation to protect our poor people from being taken advantage of by ensuring that we have good laws that will protect them and will not make gambling look like it is a very good thing.

I know that gambling is considered a sin in some religions. That is the reason why I said that in taxation, gambling should be classified as sin tax. We cannot encourage reduction of tax on gambling. I said that I completely disagree with that proposal. I know Hon. Wamacukuru, the Vice-Chair was here. I had indicated to the Committee that I disagree with the proposal in their Report to reduce tax on gambling. If anything, today we have an Excise Duty of 12 per cent that was in the last Finance Bill, which we passed in July this year. We had 5 per cent Withholding Tax. The Committee is proposing a tax cut of a gross of 17.5 per cent to 13 per cent. We cannot allow that during these difficult economic times. We should be looking for avenues to raise extra shillings. I will be proposing amendments to the Bill at the right time in relation to Clauses 45 and 46 on levies and taxes.

With those remarks, I beg to move and request the Deputy Whip of the Majority Party, who is also a Member of the Committee, to second. She was designated by the Chair of the Committee to second.

Thank you.

**Hon. Speaker:** Hon. Naomi Waqo, proceed.

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you, Hon. Speaker. I rise to support the Leader of the Majority Party in moving the Gambling Control Bill (National Assembly Bill No.70 of 2023) as it was read. It is clear that gambling is attracting a lot of attention and it has many people who practice it in our country. That is why the Gambling Control Bill, 2023 is here to replace the Betting, Lotteries and Gaming Act of 1960. This Act

was passed a long time ago. I believe that many of the people who are here were not born at that time.

The Bill seeks to institute a comprehensive legislative framework for the regulation of gambling in Kenya with specific emphasis on incorporating safe gambling principles within the sector. Additionally, the Bill seeks to establish a gambling regulatory authority, which shall bear the responsibility of licensing and regulating the gambling sector.

As I said yesterday on lottery, we have a lot of challenges with gambling. Many people have ruined their lives because of wasting their money anticipating to be rich the next day from gambling. In a way, gambling has made people lazy. They believe that they will wake up in the morning to gamble and get rich without working hard. So, this Bill will help us put in place all the measures and the legislative framework that is needed to guide and regulate gambling in Kenya, have gambling principles within the sector and have the gambling regulatory authority that will regularise and investigate gambling, and act appropriately in case of non-compliance by any actor in the sector.

The Departmental Committee on Sports and Culture, in its consideration of the Bill, noted the inadequacy of the current legal and institutional framework in addressing modern challenges within the gambling sector. Additionally, the Committee expressed concerns about the organisation enforcement and consumer protection aspects of gambling activities in Kenya. Therefore, the Committee acknowledges the need for comprehensive overhaul of the legal framework relating to gambling in Kenya.

Those who have been practising gambling in our country have been exposed in many ways and they have not had any protection. Many of them have lost their property and some were not given their due rights. That is the reason why many of the people who have been in gambling have been frustrated and some have ended up in depression and many other bad things. Many of them keep complaining about the practice. If this Bill is passed, their protection will be assured. The people who own gambling companies will live within the provision of the law and give people their due rights.

Hon. Speaker, the Bill recognises that gambling is a shared function between the national Government and the county governments. It is a shared function because most of the people who practise gambling are within our counties at the grassroots level. This Bill will help our country because it supports the Fourth Schedule to the Constitution. The Bill, therefore, assigns specific roles to the two levels of government and proposes concurrent regulatory functions for the national and county governments as concerns gambling activity.

The Bill also seeks to provide a framework for the regulation and control of gambling activity. Once we do that, we will have protected the interest of the people who continue to gamble and invest in this particular thing. Even though most of us are not for the idea, a majority of Kenyans are practising gambling. Some of them believe that it is the only way through which they can earn a living. Therefore, the only honourable thing that this House can do is to pass this Bill so that they can be well protected.

The Bill expressly provides for gambling activities that shall be legal in Kenya while prohibiting illegal forms of gambling. Others have taken advantage by doing illegal business. This Bill seeks to protect those who have invested, registered and have licences, so that others will not be practising illegally.

The Bill will also promote the development of a responsible gambling industry. In the past, some people have been cheating and conning Kenyans in different ways but this Bill will bring that to an end. It will also minimise social harm associated with gambling because Kenyans will be given enough education.

Lastly, the Bill provides for establishment of mechanisms for the resolution of disputes relating to gambling. Many people have had conflicts. For us to have peaceful coexistence

among our people, and for those who are practising this to enjoy, we can only put this into practice.

In as much as gambling is considered a demerit good, its regulation brings forth some advantages to Kenya. One of the main highlights of the Bill, is that it seeks to provide an avenue for the generation of essential revenue for the Government. Clause 45 of the Bill provides for the payment of gambling tax, which will be at 15 per cent of the gross gambling revenue and which funds shall be remitted to the Sports, Arts and Social Development Fund. The net effect of this will be positive, because through that revenue, many people such as artists, people practising sports and young people who are talented in different ways will be able to transform their lives.

Today, we have many people who are negatively affected by drugs because drug addiction is quite high due to lack of jobs. Rehabilitation centres will be built, people will be counselled and rehabilitated and maybe we can even come up with a proposal where all the people who are rehabilitated can be given some seed money so that they can go and begin better lives by doing small businesses so that they can improve their lives. Because of that, we need to support this Bill so that it can have that positive impact on our people.

For those who will be registering and have licences, it is good for them to give back to the society. This is an area where those people who do not have a lot are engaged in because they believe in creating their wealth through this way and, therefore, invest a lot. Let the people who will be licensed give back to society by going back to the communities to improve their lives, support the poor, vulnerable people like orphans and institutions that take care of vulnerable children in our midst.

Another key aspect of the Bill is that it provides measures to mitigate the harm associated with gambling. These measures include public sensitisation, self-exclusion, enforcement against illegal gambling, promotion of responsible gambling, advertisement restriction and criminalisation of gambling by young persons. Further, the Bill proposes stricter measures to mitigate issues related to gambling addiction.

The Departmental Committee on Sports and Culture has had enough interactions with stakeholders. Submissions have been made. Different ministries such as the Ministry of Youth Affairs and Sports and others have participated and given their views. The Committee has considered this and I take note that gambling...

**Hon. Speaker:** Give her one minute to wind up.

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you. Hon. Speaker, I take note that the Gambling Control Bill presents comprehensive and modernised approach to the regulation of gambling in Kenya. It also aims to balance the economic benefits of the industry.

With those few remarks, I beg to second.

**Hon. Speaker:** Thank you. Hon. Naomi.

*(Question proposed)*

Hon. Caroli Omondi.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Speaker. I am a Member of the Committee.

I rise to support the Bill, first, by recognising that it has a very solid policy foundation. I think we have the Gambling Policy in place, having been passed in 2022, which among other things, seeks to balance between the need for a friendly investment climate and establishing a very robust regulatory regime for this particular sector by transforming gambling into a force for social development. One of the key plans of that policy is how to raise additional revenues for the national Government and the county government. So, this particular Bill is very timely. It gives life to that particular policy.

Gambling, like tobacco, alcohol, prostitution, drugs, junk food and all the other demerit goods tend to present challenges to many governments. Their consumption is generally considered to be socially unacceptable or undesirable but at the same time, it is almost impossible to stamp them out completely because of their perceived negative effects to the consumers. Consequently, a balance has to be struck as to how to limit their over-consumption to mitigate cases of addiction, damage to health and dysfunctional social life they cause plus also a lot of external costs to third parties.

Gambling also provides avenue for emerging and transnational crimes like tax evasion, money laundering and financing of terrorism. In Kenya today, the gross revenue for gambling is in excess of US\$250 million, and the sector is growing at 27 per cent to 30 per cent annually. You can imagine how much money is circulating in it.

This particular Bill also seeks to establish the Gambling Authority of Kenya, the Gambling Appeals Tribunal and a gambling tax, which as you have heard, the Leader of the Majority Party would like to propose a higher regime. From our analysis, gambling tax ranges from 15 per cent to 25 per cent. So, we will debate that aspect at the right time.

The Bill seeks to generate revenue for good causes, including promotion and development of activities related to culture, sports, arts, recreation, heritage and protection of vulnerable groups such as Persons With Disabilities (PWDs), old people and orphans. More importantly, the Bill seeks to protect and rehabilitate people with problems of gambling, the environment, climate change, relief, innovation, education, entrepreneurship, libraries and supporting emergencies. We also looked at the policy and incorporated certain safety measures that will help create sanity in this sector. For instance, we are proposing restriction on gambling advertisement both by news companies and gambling companies. We are also restricting gambling advertisement in terms of the times and the regime of how gambling advertisement should be handled so as to protect children and other vulnerable groups.

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

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

We also proposed regulation of online gambling. This is where people gamble through the internet or through use of remote communication. This is very addictive. It also presents transnational issues on jurisdiction and opportunities for money laundering and financing of terrorism. We are proposing very strict deposit limits so that people gamble in small amounts to avoid impulsive gambling.

We have also proposed restriction on use of prediction apps. In fact, we had a small group of very good Kenyans from the Gaming Awareness Society of Kenya, led by a gentleman called Nelson Bwire and his friend Kiptoo. They educated us on these prediction apps where they give people false sense of comfort as they continue gambling very heavily. There are also issues of public awareness. We have introduced insurance surety schemes equivalent to what obtains in the banking industry depositors protection. This will ensure that those who come to establish gambling businesses in Kenya provide security so that those who have won prizes do not lose out when they run away. There are also new provisions on savings. When people gamble, there will be an amount of money that will be deducted to be saved for their own personal use at a later date.

Hon. Deputy Speaker, I would like to note that we still need to do a lot of work in this sector because there are very many challenges, including tax evasion, money laundering and financing of terrorism. There is a requirement that if you want to license somebody, you must vet and undertake security checks and heavy due diligence on their backgrounds.

We have had lapses in enforcement mechanisms so as to curb illegal gambling and ensure effectiveness of self-exclusion measures. This is where a person acknowledges that he is an addict or close family members record that he is addicted to gambling and we put him in a programme to be excluded from going into casinos and other places. We also require strong enforcement to do public awareness campaigns, promote responsible gambling behaviour and protect the young, vulnerable and other members of society. Consequently, we are appealing to the Ministry of Interior and National Administration, which will be responsible for this Act, to take these measures very seriously so as to protect the public.

There is still a bit of work that needs to be done on new areas that we were unable to deal with. I hope the Government will see it fit to find ways of working on them. One is prohibition of credit facilities for gamblers. There are people who go to *fuliza*, borrow money and quickly M-Pesa it to a gambling pay bill. In our view, there is a scope for regulation in that area so that those who are dealing with online lending can be restrained from allowing transfer of money from their facilities to well-known gambling pay bills. We also want to impose restrictions on other activities, but we also call upon competition for licenses.

In other jurisdictions, you do not just walk in, apply and pay a million shillings. Licences for gambling are actually advertised and people compete so that the Government can raise additional revenue. There will be need to do some more work on that; licenses should be competed for. It will be like what we did for Safaricom, Airtel and the rest of the mobile phone service providers. On the gambling prediction apps, we need to do some additional work and restrict them.

Hon. Deputy Speaker, most importantly, we need to anchor the Sports, Arts and Social Development Fund, where much of the Gambling Levy will be going into, in an Act of Parliament. I think it is presently established by regulations but that is not solid enough. The Government side should bring a Bill to help us deal with these issues.

With those remarks, I support

**Hon. Deputy Speaker:** Thank you. Hon. Donya Dorice, Member for Kisii.

**Hon. Dorice Donya** (Kisii County, WDM): Thank you very much, Hon. Deputy Speaker. I rise to support this Bill. I used to bet some time back. I want to say that it is sickening when you are waiting to receive the money. Too many people have suffered from stress. Others have borrowed without refunding because they felt that if they continued betting, their lives would be better. If we have regulations for managing this industry, people will do more productive work than just betting. Too many people have committed suicide because of losing money they had borrowed. If you tune into radio stations, you will note that there is no much discussion apart from betting. The messaging is very attractive such that people believe that if they bet with Ksh10 or Ksh5, they will win millions of shillings. They hang on there and even forget to attend to their duties. They might be earning a salary of Ksh30,000 per month but get excited when they get the sweet information that you can make a million in a day by betting with Ksh10 or Ksh50. You can imagine how unproductive a society can be when people rely on betting.

We must have regulations in place. When we heard about the LGBTQ, our people were asking whether they will be given money by being in that group. Everything is resonating around money, and not how productive one can be. I support this. If regulations are put in place, we will have a more productive ground to play in.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Member for Yatta, Hon. Basil Robert.

**Hon. Robert Basil** (Yatta, WDM): Thank you, Hon. Deputy Speaker. I am a Member of this Committee. I appreciate the Leader of the Majority Party for bringing this Bill to the House. As my friends have said, it is important to look at the cons and the pros of this industry. Gambling is very addictive. Too many people have committed suicide. Young people have

not been able to complete school because of gambling. Too many people have also lost their properties. There have also been family separations because of gambling. Those are some of the consequences that the industry comes with.

Looking at the pros of the industry, it is important to note that gambling generates employment for many young people. It generates revenue for the country. Gambling supports charity work, particularly through the corporate social responsibility that is associated with operators in this industry.

Hon. Deputy Speaker, in addition to the pros that I have stated, I want to support this Bill because it tames illegal gambling. A lot of illegal gambling has been taking place, particularly offshore gambling, and Kenya has been losing a lot of money. Secondly, I support this Bill because it protects minors from the effects associated with this industry. I note that the Leader of the Majority Party is not in the House. I intend to explain to him why we want to reduce the taxation from 15 per cent to 13 per cent.

One of the simple reasons why gamblers opt for illegal gambling is because of the multiple taxation. This discourages operators in the industry. Additionally, it becomes attractive for people to engage in online and offshore gambling. As a result, this country loses a lot of money yet our aim is to generate revenue. We also recommend a unified tax in this industry. Some countries have done this and managed to generate more revenue. This is because the bottom-line of regulating this industry is to tame illegal gambling, generate more revenue for the country as well as protect citizens from harm by this industry.

With those few remarks, I join other Members in supporting this Bill. I also look forward to ensuring that the industry is beneficial to the nation.

Thank you, Hon. Deputy Speaker. I submit.

**Hon. Deputy Speaker:** Thank you. Hon. Bishop Jackson Kosgei.

**Hon. (Dr) Jackson Kosgei** (Nominated, UDA): Thank you, Hon. Deputy Speaker. At the outset, I inform the House that I am a Member of the Committee that deliberated on this Bill. Therefore, I take the Floor to support it.

As it has been mentioned earlier, this Bill will help balance between the negative and positive impact of gaming. Sometime back, a friend told me that gaming is one area where one cannot put up with but at the same time cannot do without. That is why there is need for regulating the environment within which gaming is done.

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

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

Gaming is practised by our brothers, sisters, fathers, children and friends. We cannot bury our heads in the sand and pretend that it is not happening. That is why the Government has a duty to protect its people from such practices. As people practise, exercise and enjoy their freedoms, that environment must ensure that the same are protected.

Secondly, regulation is necessary so that we can protect the vulnerable in society; including children. During consideration of this Bill at the Committee, we also went through the old Act that was enacted in 1960. We decided that we must make the law responsive to the current needs and challenges, including technology. Therefore, it is important that this Bill is enacted to repeal our past practices.

One of the considerations was on the people who have been captured by, and addicted to, gambling. They need to be assisted to get out of the practice. Additionally, for those who desire to stop gambling, there needs to be a legal environment that provides instruments to assist and protect them. The affected families should also have a say in how the victims are managed. We need a law for that purpose.

With those remarks, I support the Bill.

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

**Hon. Kuria Kimani** (Molo, UDA): Thank you very much, Hon. Temporary Speaker. At the outset, I thank the Departmental Committee on Sports and Culture, for the good work done on this Bill. However, as you are aware as per our Standing Orders – as the Chairman of the Departmental Committee on Finance and National Planning – I communicated to the Hon. Speaker of our intention that Clauses 45 and 46 be handled by the Committee because they touch on taxation. We have a meeting with the stakeholders' tomorrow. Thereafter we will also table our own findings and report. We will also move amendments on these Clauses.

There are at least 117 betting and gaming firms operating in Kenya. Most of them operate on online platforms. The matter of betting and gaming in this country is very thorny. Sometimes it is difficult to have a stand on this matter. This is because some religions, for example, Islam, ban gaming. We are aware of the side effects of gaming, for example, it is an addictive game. Young people across the country make betting their day-to-day business. Most of them, instead of going to work, spend their time betting. I have never engaged in betting, apart from the raffle tickets that I buy for a church function or such things. But I have seen what betting addiction has done to people.

However, there are benefits that accrue in this sector. One of them is the contribution to our revenue collection. I will take you through a quick look at the figures. In the Financial Year 2022/2023, a sum of Ksh6.64 billion was collected through Excise Duty on betting services. Withholding Tax on winnings from betting and gaming generated Ksh8.68 billion. That is a total of Ksh15.32 billion. That is an increase compared to Ksh11 billion in the previous year. That means that if we compare the amount collected in the Financial Years 2021/2022 and 2022/2023, an extra sum of Ksh4 billion was collected. After the enactment of the Finance Act, where we increased the Withholding Tax and Excise Duty, in the first quarter of this Financial Year 2023/2024, a sum of Ksh3.26 billion was collected through Excise Duty on betting services. Withholding Tax on betting generated a sum of Ksh3.3 billion. That is a total of Ksh6.56 billion. Therefore, if this projection continues for the rest of the year, and those taxes are not altered, we are likely to collect about Ksh24 billion. That is Ksh10 billion more than what we collected in the last financial year. Therefore, the betting sector remains critical in terms of revenue for this country. We need this revenue to help move our country forward and ensure that we rely on our own resources rather than borrowing.

However, there is need to re-look at some of these taxes and how they are administered. We need to find a way of reducing the cost of tax administration but effectively raise more revenues. For example, Excise Duty on gaming is at 7.5 per cent. Additionally, the companies pay their Corporate Tax of 30 per cent out of their profits. There is also a 20 per cent Withholding Tax on winnings. Currently, there is a proposal to introduce Betting Tax at 15 per cent. There is also proposed new tax on gambling at 15 per cent.

In addition to all that, there is Value Added Tax (VAT) and Pay as You Earn (PAYE). That is why the Departmental Committee on Sports and Culture attempted to propose that there be a gross game revenue to have one flat-rate for the gaming sector. That way, more money would be left with the Pandas. Consequently, the chances of winning will go up leading to increase in tax revenues. That would be as a result of a simplified tax process but at the same time we will be ensuring that the cost of administration on taxes for the players is reduced. I do not want to pre-empt the decision that the Committee will make after its deliberations but these are some of the options that we are looking at and deliberating on.

Last week, the National Tax Policy was tabled. We hope that it will be up for debate before we proceed for recess. It is in the Order Paper this afternoon but I doubt if we will get to that Order. In that policy, we propose to have a more predictive tax environment. In this case, a business that is set up in Kenya can ascertain that within a given period, the taxes are

not likely to change. This is because if we keep on changing the tax, it will have an adverse effect on our investors. Consequently, some of the investors may re-locate to other countries as Kenya loses on foreign and domestic investment. So, we hope that we have a robust conversation around this area. The import of this tax is to increase revenue. That is why it has to be re-looked at very keenly so that we do not miss the chance because the gaming sector has greatly improved. We used to have horse and car race games many years ago. They were physical. You had to be there physically. With the migration to online platforms and digital payment methods like digital currencies, bitcoins, cryptocurrencies and others, it means these entities have either an option of relocating to different countries or operating online, if we make the environment too uncondusive for business. They will get away from payment systems because bank and M-Pesa transactions have a paper trail. If you talk about other digital payments like bitcoins and cryptos, which are becoming very frequently used especially by Kenyans, we would have lost money in the entire sector.

Most important is morality, which will be my clarion call to players in these sectors. The morality in which they are doing business should make sure they try to stem out addiction. As proposed in the Bill, some of this money should be ring-fenced. It should go to sporting activities so that we do not just bet for the sake of it. Betting can be used to grow our sports sector so that we do not just put bets on the game between Manchester United and that bad team called Arsenal. We should bet on our local football and volleyball teams. That would create enthusiasm for these sports and games. It will make sure that our young people are engaged and talents are scouted early. The ring fencing of this money to be used for those important activities would be very beneficial to this country.

Those will be my humble submissions, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Member for Mandera West.

**Hon. Yusuf Adan** (Mandera West, UDM): Thank you for giving me this opportunity.

I also stand to support and clear some issues that have been discussed here as far as gambling is concerned. It was raised here by one of the speakers that some Islamic countries have made these laws and are making a lot of money out of them. I want to clear the air by saying that gambling is illegal in Islam. It is *haram*. It is not allowed. Whoever or whichever government is allowing it is doing it as government. It should not be taken as having been allowed by Islam.

On the other hand, gambling is a continuous thing all over the world. Even in this country, many people are gambling day in and day out. Some people gamble at the expense of their families' survival. You see people stealing money or borrowing money to gamble to get rich in a few seconds, minutes or hours. Ultimately, what normally happens is that the person loses the money that he or she might have stolen or borrowed. It could be the little money that could have fed his family and children that day. The person then gets frustrated with a mental breakdown and you see the person walking on the streets and collecting rubbish just because he got involved in the illegal, *haram*, thing that is not allowed anywhere in this world.

For this to be stopped, the Government of Kenya should tax it very heavily. Instead of taxing fuel and other things very heavily, these are the sorts of things that need to be taxed. They should be taxed so heavily to an extent of maybe 30 or 40 per cent so that many of the people will be out of the market and their betting reduced. Of course, it will never end. Some people are too much addicted to it. They will continue doing it. With high taxation, the number of Kenyans negatively affected because of too much involvement in gambling will reduce drastically. Hence, we shall have more healthy persons on our streets. These are the people who can support their families with other ways and means.

With those remarks, I support.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Member for Belgut.



**Hon. Nelson Koech** (Belgut, UDA): Thank you very much, Hon. Temporary Speaker. Allow me to also add my voice on this extremely important Bill.

Let me start by saying that it is difficult to regulate gambling entirely. However, I have seen how different jurisdictions have tried to work with regulated gambling. For instance, I have looked at the US, where there is a licence that is given to all gambling shops. The authorities make sure that the regulations are adhered to strictly. No one under the age of 18 is allowed to gamble. It is the same scenario in the UK. Unfortunately, the situation is very dire back home. I will give the example of my constituents.

Recently, I visited with the Principal Secretary for Interior and Coordination of National Government, Dr Raymond Omollo. Young men and women wake up in the morning every single day to go to the shopping centres to gamble. Such kind of gambling is what is killing the current generation.

As Hon. Members, we have a responsibility to make sure that we have a country that produces young men and women of substance – people who do not believe that there are shortcuts to making it in life. Gambling is one of the ways through which our people have been deceived that they can get some money easily and quickly. It has killed families. People have gone into depression. It becomes an addiction. Actually, there is a disease called gambling addiction. When you do not gamble, you feel the depression you get when fighting alcoholism. It is a similar problem. We will have a problem if we do not get rid of it. In fact, we should go further to make sure that strict penalties are given to people who allow the underage to gamble. Society must be shaped by living morally. It will be unfortunate if this House does not provide such legislation.

I laud the Departmental Committee on Sports and Culture for coming up with such strict legislation and making sure that gambling does not exist within this country. If it does, we should make sure that we have extremely strict laws to disallow the abuse of gambling. There should be certificates given for specific time allocated for gambling. There are those that we cannot regulate easily. We must provide serious legislation like online gambling which happens a lot.

So that it is not misconstrued, gambling is a resource and a revenue earner to the country. I just looked at how much it generates in the US economy. It is mind-boggling because it is \$329 billion annually but only because there are restrictions. Some cities like Los Angeles are purposely gambling destinations. We must make sure that it is prudent and becomes neat in Kenya so that not every kiosk in the village is allowed as a shop for gambling. You will find young people who have fights with their parents. They want to sell land because they want to gamble. You will find married women trying to go and gamble. Even church ministers going to gamble. Many people in the society are trying to make quick bucks from gambling.

Hon. Temporary Speaker, this Bill could not have come at a better time. I truly support it fully.

**The Temporary Speaker** (Hon. Farah Maalim): Is Hon. Eckomas Mutuse here? Did he just get his name in there and leave? Let us listen to Hon. Melly, the Member for Tinderet. The Member for Garissa Township will follow him.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Bill. Gambling, lotteries and many other forms of businesses that are almost like a dice are very historical to mankind. Gambling has a very long history, even in the Christian world and life of many civilisations. It has been in existence in Kenya for quite some time. However, we do not have very good regulatory framework to ensure that we have institutions and legal mechanisms to make sure that the business and process of gambling are regulated. The Departmental Committee on Sports and Culture saw it right.

I thank the Government and Leader of the Majority Party for bringing these two Bills. We discussed the National Lottery Bill yesterday. We are discussing the Gambling Control Bill

today. They will bring sanity and order. This industry has a lot of money and an aspect of addiction. If it is not regulated well, it can cause a number of problems in families, especially to the underage. It is known that many families have broken down because of improper or unregulated gambling activities. Some individuals have lost their livelihoods because they went out to the casinos and amusement centres where they lost most of their wealth through gambling.

This Bill—through its many clauses, from Clause 45 onwards—tries to establish a very clear organisation framework: how an amusement park can be organised and how gambling can be regulated and done properly. The laws make sure that unregulated gambling is disallowed because it promotes crime, addiction and bad behaviour. The gambling industry generates a lot of revenues in form of taxes as the Chairman of the Departmental Committee on Finance and National Planning has indicated. Over Ksh14 billion is raised in various forms of taxation. This money can be put to good use in promoting national development in terms of social development and welfare of the citizens. In some countries in Europe, the money raised through gambling and lotteries is used to construct rehabilitation centres, schools and other public entities that are beneficial to humankind.

This Bill tries to address gambling by bringing order to the gambling industry to make sure that it issues licenses or permits. It also ensures that the licenses or permits of those who do not follow the law are withdrawn. It also puts in place a general regulatory framework. Many cultures and religions like Islam prohibit gambling because it has a lot of negativity. That is why this law is trying to bring sanity and order to this industry.

As the Government tries to do this, it also has to look into some very good aspects of gambling, especially in generation of revenue. What the young men are doing online and in amusement parks and slot machines is very important if it is well-regulated and administered. That is why we have the Betting Control and Licensing Board which has specific functions. As much as it is done in a very well-organised manner, this is going to be a new area where the Government can raise revenues to run and facilitate institutions.

Lastly, the money that will be raised from gambling shall also be used to establish rehabilitation centres to assist those who have become addicts. We have a number of individuals who get addicted to this. We also need to plough back this money to make sure that those who are addicted or affected by this industry in one way or another are saved and taken care of.

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

**The Temporary Speaker** (Hon. Farah Maalim): Member for Garissa Township. He will be followed by the Member for Kangundo Constituency.

**Hon. Dekow Mohamed** (Garissa Township, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to air my views on this very important Bill. As legislators and leaders of this country, it is very important we take such steps to protect our young generation that has unfortunately fallen into traps, while trying to make a livelihood or take short cuts by making a living out of gambling.

It was known to be a very high-end business in the past. Those who participated and were associated with it were very rich people with high incomes. Today, every Kenyan, even the young people who are not working, rush into gambling with the only amount of money they come into contact with. It looks like every centre has a gambling shop. This encourages young people to access them.

We also have radio stations which promote online gambling. There are issues when young people hear that a certain person has made Ksh500,000 out of gambling. However, they do not know the amount of investment or money that the person who won that money put in to get it or the other Kenyans who also participated in the game. The amount of money that this country wastes through gambling is a lot. It is important for us, as leaders and legislators, to

come up with this kind of Bill to protect our young people and adults who are addicted to the game. It is a highly addictive game that needs to be regulated very well. We need to protect the desperate people who are trying to get quick money out of it, from those who are enriching themselves through it.

We are killing a very productive generation that should contribute better to the development of this country. It is important that this industry is regulated and the money that is generated out of it is used to protect those who have fallen victim to this problem. This can be done by putting up rehabilitation centres and health facilities for the communities that are very much affected. No wonder, our Islamic religion prohibits or stands against it because the effect of this kind of business to the people was known and seen long time ago.

Crime is a very big thing associated with gambling. Those who participate in this business are forced into criminal activities so that they can get money to keep on playing this game. For many years, those of us who had the opportunity to watch movies have seen how this game is played and how it is dangerous if you lose your money and what it can lead you to. It must be taxed highly by the Government. The Bill suggests up to 15 per cent. My suggestion is that it goes up to 30 per cent or more to make it very hard and discourage anybody from playing the game or practising this business.

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

**Hon. Fabian Muli** (Kangundo, GDDP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to add my voice to the Gambling Control Bill (National Assembly Bill No.70 of 2023) I stand to support these amendments. Different jurisprudence have defined it as a game. This is a game like another sport. I also like to take the opportunity to congratulate all the gamblers in Kenya and all over the world.

Life is a gamble. Many people do not know they are gambling when they invest in businesses and so we cannot say that gambling is not part of human life. Historically, we had Russian roulette games and many more. Growing up some of us started gambling in the village and so we cannot discourage gambling. If you feel you are a man enough, wake up and gamble.

What we are saying is that we need to make laws to discourage our young people from getting drunk with gambling. Gambling is a good game. We need to make good laws to guide gamblers in the game. If you feel you are man enough, go and gamble. I congratulate the Committee for coming up with this law. It will help prevent the village issues and street fights by the young boys.

The amendment we need to look at when we are talking about gambling is how to attract many investors by lowering taxes. Gambling is an investment like any other. The amount of money on Schedule 4, Ksh200 million, is too much. We need more investors. We should not only let foreigners do business in our country. We need to create a good environment even for local investors. We should not only think of high-end gambling for Ksh1 million and above but also allow local businesses in the villages to gamble with Ksh50. If we say that people can only gamble with Ksh10,000, where will the startups get the Ksh200 million? I do not like the idea that we need to make money from any business. No. We need to allow people to make money and make a living. People need to enjoy life. We should create opportunities for games and different sports that people can enjoy. We need to change the fees set for this business. We should not just put fees to discourage people from investing in this industry. We need to leave it open. This industry is thriving online. I see a lot of betting for football happening online. It is not easy to have online gamblers pay taxes yet we are punishing innocent businessmen who have opened offices here in Kenya with these expensive fees. We need to be considerate when we are setting the charges.

Thank you very much. As I said, I support but with amendments.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Ferdinand Wanyonyi followed by Hon. Mutunga John.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you, Hon. Temporary Speaker, for the opportunity. I also want to add my voice to this important Bill. The whole idea is to bring some sanity into the gambling industry. As explained by many, seeing is believing.

First and foremost, the Bill is trying to bring some sanity to this particular game. From the outset, I support it 100 per cent. The Leader of the Majority Party said that we need to make provisions for a safe gambling environment. We witnessed a sad situation where a boy stole money from his parents and disappeared for a week to gamble.

On the other hand, my neighbour who took part in the game won Ksh500,000. However, as it is, this industry is not regulated. If we pass this Bill, we will ensure that the regulations are followed by the casinos, betting companies and the media. We have seen on television people being asked to bet with Ksh500, Ksh50 of Ksh50,000. This is going to be regulated which is the right thing to do.

As mentioned, gambling has its cons. Some people get addicted to these games. The passage of this Bill provides for regulatory measures so that the addicts can get help. Research should be done on the addicts and solutions sought for them. Some of them steal to gamble. One man stopped me in Kitale and asked me to give him Ksh200 so that he could go and bet. Licensing should also be done for the gambling firms. Kenyans have ideas of the best things that should be done to regulate this industry. These ideas will reduce the number of people who want to do gambling for recreation and the addicts. This Bill will help us. We will pass it so that we can regulate this industry and at the same time gain some revenue from the businesses. Gambling can be a positive thing. Let us look at its pros and not only its cons.

I support.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. (Dr) John Mutunga.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Speaker. I thank the Departmental Committee on Sports and Culture for coming up with the good proposals in this Bill. This legislation comes not only to regulate but also to control gambling. Gambling cuts across all age groups although the legislation appears to put an age limit. It is important to control it because it is an extremely addictive game. It has impoverished many people. You should see the levels of destitution when people are borrowing money to go and gamble.

One time, there was a police roundup in my constituency. I happened to talk to the police and they told me that there were cheap Chinese machines that had infiltrated the communities and almost everyone was participating in these illegal games. The police had to get rid of the machines in order to contain the people. Gambling should be controlled and contained because it is a time-consuming activity. Therefore, we need to support our people to do productive work. It is a lazy man's job. Lazy people engage in gambling because they do not want to work. Kenya is a working nation. I remember with a lot of nostalgia the time of the late former President Kibaki who told us to work *ama wewe ni bure kabisa*. We do not want to call our people *bure kabisa* but we are saying that people who do not want to work hard engage in that *bahati nasibu*.

Gambling is very captivating in the sense that people seem to like it. It takes money from the poorest segment of the poor. As the Leader of the Majority Party said, we have an obligation to protect our poor people from the extortionist games. The levels of destitution are appalling. It has taken people back to poverty even those who are trying to do something and have started to earn a decent living.

Let me address the issue of the 15 per cent vis-a-vis the Committee's proposal. I listened very carefully to Hon. Basil's contribution. We would also like it to happen a lot more. If we put 15 per cent as the levy and it dissuades the activity from happening, we will not get any revenue. People will switch to ICT based or electronic gambling and, therefore, we will lose more revenue. That is an important point that we need to consider because the Committee must

have gone through it very carefully. With new innovations in ICT, we risk losing the very productive part of the community by people engaging in gambling for very long hours.

This Gambling Bill has come to replace many legislations that have been there. It will also make the judicial services easier because we will have clear references. Instead of referring to very many laws, we shall refer to sections within one law. It is important that we have it at this point in time.

The Regulatory Authority will definitely have a lot of work to do. It is important that we appeal to the Regulatory Authority to follow up activities of gambling even the adversarial activities of gambling. They should tax them so that we get more money because there is a lot of gambling within the media.

I admire the Committee's proposals of absolute figures on what is proposed as taxes in the Schedules. But absolute figures do not allow flexibility so it will be important that we translate these absolute figures to some proportions or percentages. That will help us, probably, to look at changing scenarios and circumstances and therefore adjust accordingly. It is important for us to create a responsible gambling industry and therefore, the legislation is key in basically removing irregularities that are there and putting in place best practices that are more organised, regulated and systematic. Let us put in place standards so that, at least, as a country, we engage in something we are sure of and we can control and something we can advise on in terms of growth and development.

I would also like to admire the fact that the money is proposed to be used a lot more to rehabilitate those who have been through the process. Well, it is sin money and people would have suffered and probably lost their bearing. Therefore, such people need to be rehabilitated. It is wise to use the money to rehabilitate them back to normalcy.

I recognise what one of the Members said about a policy that was passed in 2022 and which regulates the act of gambling. The policy needs a legislative back up so that it can be implemented effectively. It is not very good having many segmented legislations implementing one policy. That leads to lack of clarity and therefore it becomes impotent.

The Bill proposes provision of security, which is important. We need secure surroundings, premises and practices that our people will be engaging in. That is important. This Bill comes in to basically clean an otherwise not so clean industry and sector. It will, therefore, help us a great deal on the issue of young people not engaging in gambling. As we move on, we will look at how else we can adjust, repeal or amend this legislation so that we make sure that our age does not edge onto gambling so that people can get more serious with their work.

Hon. Temporary Speaker, with those few remarks, I wish to support. Thank you.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to join my colleagues on this discussion about gambling.

According to the definition in the Bill, gambling is a game of chance. It is a game of chance for the purpose of making a prize or winning money. That includes rotary, prize competition and also media promotions with a prize. From that definition, it becomes a legal gaming activity. Many Kenyans understand gambling as a very negative game. But we need to come out of that school of thought and not demonise it because gambling has certain benefits even though there are also some cons that go with it. This Bill has brought forth the benefits of gambling which include generation of income, development of infrastructure because where gambling activities take place, there will be development of infrastructure that will create employment. It will also cause distribution of income not forgetting the fact that it will enhance increase in income.

This Bill introduces a section that concerns operations including setting of regulations to govern this game and business. It also establishes an authority that will oversee this sector. The Bill has also brought in the terms and conditions on licensing and provided for the

relationship between the national Government and the country governments. That framework of my statement indicates that the Government is now ready to bring formality and control to this game of chance.

We all know for a couple of years now the game of gambling has been misused by both the merchants and players. We have seen and witnessed an influx of cheap gambling machines which have been installed illegally in many shops, bars and restaurants. It is a free for all. I know of businesspeople who are involved in the importation of those machines. They are cheaply brought in, bought and installed on hire purchase terms to local bars even within the localities of mosques, churches and schools enticing young people and low-income earners to join the game of chance; gambling. I join other Members to say that time has now come for the Government to not only make money through gambling, but to also regulate the sector. The gambling industry is big business in the United States of America (USA). I had the opportunity to go to Las Vegas where there are gambling machines in almost every building or hotel. Gamblers and merchants conduct themselves very professionally. If we can do that, we will generate income which will go towards improving various sectors of our society.

There is no business that does not have casualties and negatives. A good business generates income which can be ploughed back into society. I am more worried about the implementation and enforcement of the Bill. There is a section which states that the national Government will set up a policy framework, which is very good, but which will be enforced by county governments. We have serious drug problems in the country. The national Government is running an initiative to combat the same, while county governments issue licenses.

The Bill should be clear because as much as it is beneficial, the biggest challenge will be enforcing it. Due to corruption, lack of clear-cut systems in county governments, and lack of commitment to regulate the industry, gambling becomes a threat to our youth because it is a shortcut to making money. Therefore, if the gambling industry is not properly handled, it might harm our society. I applaud countries where gambling is not allowed because people are forced to work. We should not create shortcuts for people who do not want to work, be innovative, or go to school. It will be good if the Bill is implemented. Gambling is one of the “sin taxes”. I do not agree with the Departmental Committee on Sports and Culture on the reduction of taxes charged on gambling. They need to be increased.

**The Temporary Speaker** (Hon. Farah Maalim): Member for Bondo, followed by the Woman Representative for Kirinyaga County, Hon. Njeri Maina.

**Hon. Gideon Ochanda** (Bondo, ODM): Thank you, Hon. Temporary Speaker. I rise to talk about two basic critical principles. The first one is why we make laws. Second, is the necessity of governments. We make laws to guard against what we do not want to happen to us. That is normally the basic principle of why we make laws. Governments play a role in that and that is exactly why I was talking about the necessity of governments. They normally come in for purposes of controls and regulating society.

We are in a situation where modern society is much faster than governments and this is why they must wake up. Modern society generates many new things much faster than the Government can respond. We struggled with the issue of cybercrime in the last Parliament. We came up with regulations when it was too late and too much harm had already been done to the society. We are currently dealing with the gambling menace. I remember when I first came to Nairobi as a university student, I heard about *kupiga punda*, but I did not know that it was a gambling game. It took me quite a while to understand what it was, but it had its own clientele of people who worked and had money. The game would give them a platform to spend their hard-earned money.

There were also lotteries such as the Charity Sweepstakes, which had a real purpose of charity and not commercialism. We have now commercialised gambling in terms of lotteries.

That is where the problem is. What is the reason for coming up with a lottery? There must be a purpose, which must be for the good of society. We would participate in the Charity Sweepstakes to support charitable initiatives in the society. What do we gain from somebody who has a good Mercedes-Benz worth Ksh30 million, which he parks on the street and tells everybody to give him Ksh200? He ends up generating Ksh2 billion by getting 10,000,000 people to subscribe for Ksh200, yet no one gets the car. Even if one person gets it, the fellow will be left with Ksh1.97 billion. That is the problem and disadvantage that we are looking at.

Gambling with a purpose is different from figurative gambling, which the Member for Machakos was trying to introduce. He said that life is a gamble, but that is different from gambling as a game. We are late in taking action, and we have lost a lot as a Government. Even as we try to cite certain provisions in the Bill that state that taxes charged on gambling are referred to as “sin taxes”, which we will plough back to the community to rehabilitate gambling addicts, there are people who cannot be rehabilitated. You do not know where they are and you cannot get them.

There are bits of the Bill that need to be looked at afresh. Look at what is happening in villages, leave alone Nairobi and other urban areas. Young boys and girls go out to look for money in all directions by participating in unreasonable games.

I support the Bill but it should have sterner provisions beyond what it has at the moment.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Njeri Maina followed by the Member for Marakwet West, Hon. Timothy Toroitich. Is he here?

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Yes.

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

**Hon. Njeri Maina** (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Bill. It is about time that we regulated gambling in Kenya. It is unfortunate that most of our populace is being exploited by gambling companies and media houses, which take the little that they have without investing the same back into our communities. For instance, media houses and gambling companies may offer a prize of a car worth Ksh2.5 million. The viewer may be required to contribute Ksh200 to be in the running to win the car. The gambling amount to the viewer is around say Ksh200,000. If only a million Kenyans gambled for that asset worth Ksh2.5 million, they make Ksh200 million. This is not money that they have invested to generate interest. It is money from the pockets of impoverished Kenyans. It is, therefore, imperative for this House to ensure that a substantial amount of the profits made from gambling are ploughed back into the community.

It is unfortunate for the young people of this nation because most of them are just victims of circumstances. They are victims of high rates of unemployment in our nation. We have these pyramid schemes that lure unsuspecting young people to make money out of them and out of their desperation, besides gambling. Perhaps, it is also a question of our social engineering because people want to wake up to riches overnight. I implore the young people of this nation to remember the values of hard work, consistency and keep going even though times are hard.

Companies like Public Likes and others knowingly defraud Kenyans their hard-earned meagre income without any liability or responsibility. We must, therefore, ensure that we control even the advertisements. We know that social media is a behemoth that is accessible to our young kids, as young as 10 years old. What culture do we want to build for them? It is, therefore, imperative that this Bill not only regulates, but also ensures that we have restrictions in terms of advertisements, especially in our media sector.

I urge Members of Parliament to always ensure they aggressively push for these media houses and gambling companies to have substantive input into the communities by funding social amenities like rehabilitation centres. Our young people are prone to gambling. It is an addiction. They must have a community social responsibility programme for the people who

are giving them that money. They also have to invest in youth empowerment. We do not only need to have it on paper. When it comes to implementation, it is unfortunate that we lack a follow-up process. I hope that this Bill, once passed, will not suffer the consequences of having a lack of goodwill and implementation of the same.

Thank you, Hon. Temporary Speaker.

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this very important Bill.

It is time we regulated the gambling industry, as a country. I have read the Constitution, in particular the Fourth Schedule, which provides clearly that gambling, casinos and betting is a shared function between the national Government and county governments. I wish to thank the authors of the Bill because they appreciate that fact and that is why under this Bill, functions of the county Government and national governments are clearly spelt out in so far as regulation of the gambling industry is concerned.

Hon. Temporary Speaker, some issues are of fundamental importance in the Bill. First, in terms of licensing, a corporate entity shall be given the licence to run this gambling facility. That means that the corporate entity shall be responsible for all. A corporate entity has certain provisions in terms of perpetual succession in terms of suing and being sued, so that it is not left to individuals. If it is a corporate entity, then it shall bear certain legal consequences. It provides that the entity must have a minimum of 30 per cent shareholding by Kenyans. We have had issues where we have had gambling companies from outside who have no interest in Kenya, and therefore, it is very clear now under this Bill that 30 per cent of the shareholders must be Kenyans.

Secondly, they have been authorised to maintain an account in a financial entity within the Republic of Kenya so that the amount of money collected is not remitted to another country. The fact that the money that accrues out of gambling is channelled towards a financial institution in Kenya, for me, is a gain. The Gambling Regulation Authority created, shall also provide or issue out licences and revoke them. We have a problem with the current regime, where we lack a specific authority to revoke a licence once it is misused.

Finally, I have heard the Leader of the Majority Party commenting on taxation. The Departmental Committee on Sports and Culture has proposed a reduction of taxes from 15 to 13 per cent. I see no reason of challenging that proposed amendment. We must be careful as a country. As much as we want to collect taxes, we should not tax our people out of business. I call upon the Committee to make a comparative study – look at Tanzania, Uganda and other East African countries' taxation regimes – so that we do not tax those people out of business. The moment we raise taxation in a comparative way more than the other East African countries, then our investors in this country shall move to other countries that have more friendly tax regimes. I call upon the Committee to critically look at it. When it comes to the Committee of the whole House, we shall propose an amendment to agree with the Committee to retain the percentage that it has thought out to be 13 per cent and maintain the provision.

I support this Bill because most Kenyans are gambling. They are betting their lives and becoming miserable out of losing a lot of money towards it.

I support the Bill.

**The Temporary Speaker** (Hon. Farah Maalim): Member of Parliament for Mandera East, Hon. Abdul Haro. He will be followed by Hon. Mutuse.

**Hon. Abdul Haro** (Mandera South, UDM): Thank you, Hon. Temporary Speaker. From the outset, I oppose this Bill.

Gambling in the first place, is a bad business. It has caused a lot of suffering in many homes and affected almost all facets of our society; youths in schools and out are affected. Adults are also affected. People have gambled away their terminal benefits, farms, and homes and it has caused a lot of suffering. Gambling, as has been defined, is a game of chance. It



encourages laziness. People just want to make easy money without working for it, which is bad in the first place. To save a society affected in a big way, regulating gambling will not be the solution. Banning gambling, according to me, will be the solution. If you impose a tax on gambling, you are just imposing it on a bad business. If you say licence holders should participate in corporate social responsibility, you are developing community projects through a bad business. If you say a certain percentage of savings should be forced on the gambler, it is bad to save money from a bad business in the first place. Therefore, gambling is bad for this country and our society. It is going to be more dangerous the moment we start regulating it. By regulating gambling and allowing it to flourish, we should also tax drug dealers and get Corporate Social Responsibility (CSR) from drug money. We should also get savings from drug money. For that reason, I totally oppose this Bill. Gambling should be outlawed completely.

Thank you.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Mutuse. Is the Member of Parliament for Limuru, Hon. John Kiragu in the House? Is he in?

**Hon. (Eng) John Kiragu** (Limuru, UDA): Yes.

**The Temporary Speaker** (Hon. Farah Maalim): You will follow Hon. Mutuse.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCC): Hon. Temporary Speaker, I join the Members of the Departmental Committee on Sports and Culture, the promoter of this Bill, the Leader of the Majority Party and the Members who have contributed this afternoon in supporting the enactment of the Gambling Control Bill. We support this because we have to create a society that believes in the values of hard work.

We support this because our youth are the leaders that will inherit this country. For them to inherit this country and take it forward, it is important that from the outset, good values and ethics are impacted upon them. We have reached a point where gambling has become an alternative to people going to their farms to till. We have reached a point in this country where gambling is becoming an alternative for young people instead of school. Many of them are now beginning to argue that you do not need a university degree to gamble and therefore it has become an alternative to people going to school.

We have reached a point where people only need to wake up and find crafty ways of obtaining a smart phone and some airtime so that they begin to engage in gambling as a source of income. Unlike what has been explained, gambling can never be a source of sustainable and regular income.

Secondly, most of the gambling firms that we have operating around are owned by foreigners. And because the sector has not been regulated, it has caused a lot of capital flight. People come here with funny lotteries and promotions and get licensed. They have M-Pesa digits which collect billions and billions of money but the money is not invested in the country. There has not been a clear mechanism for them paying taxes so that those taxes can impact in terms of our country's development. Therefore, because of the unregulated nature of the gambling and lottery industry, a lot of the money is being shipped from our economy and it partly explains why our economy is suffering in terms of cash flow. The requirement that the corporations, firms and companies that will be licensed to carry out gambling must have a minimum of 30 per cent shareholding that is local, is in itself very noble.

Turning to taxation in terms of whether as proposed in the Bill we should tax at 15 per cent or reduce to the percentage proposed by the Committee at 13 per cent, I support the sentiments by Members that that taxation must be set using an objective criterion. By objective criteria I mean, we must do the delicate balancing of collecting the sin tax so as to apply it to developing the social fabric of those who may have been affected by gambling. Also, counter balance it with interest of those who are investing. This broadly speaks to our taxation regime in comparison with our neighbouring countries and also those countries that are in competition

with us in terms of attracting investment. I will be expecting the Committee to be telling us in their reply why they recommended a reduction and the scientific reasoning behind it. It is not about arithmetic and figures. It is not about 15 and 13 per cent. There must be some scientific thinking that informs us in terms of what we set. In my view, the tax that is going to be imposed on gambling firms must be one that prevents people from making it very easy for firms and individuals to participate in this.

We must also set a taxation system that is very efficient so that immediately any person gambles, then the taxman or taxwoman, or our tax institutions receive their taxes promptly noting that many of the directors of these companies, as I had said earlier, may not be local.

Therefore, this afternoon, I support the passage and enactment into law of the Gambling Control Bill so as to regulate the sector and create a responsible society, noting that a lot of the people who are gambling are young people. Like I said earlier, gambling is beginning to confuse our young people from doing that which is meaningful to them to engaging in the quick gains and promises that come with the monies that are often placed in gambling.

As I finalise, it is also important that within this law, we regulate how marketing for gambling is done. You are aware that under the Tobacco Control Act, 2007, the law on tobacco control regulates how you do advertisements for cigarettes in this country, for example. That as you do advertisements for cigarettes, you also have to highlight that they are harmful to people's health. They have even gone further to demonstrate through photographs so that somebody is aware how their lungs will look like when they buy that one packet of cigarettes and that there is a possibility that they are going to get sick.

I propose that within the gambling law, the advertisement for gambling to not be done in a manner that makes it look cosy and nice. It must be required as part of this law, that as you advertise for gambling, you must also say the bad side of gambling so that from the beginning those gambling can make a choice between the monies they are likely to win and also the bad effects of gambling.

For that reason, I beg to support.

**The Temporary Speaker** (Hon. Farah Maalim): The Member of Parliament for Limuru, followed by the Member of Parliament for Nyeri Town then followed by Member of Parliament for Mosop.

**Hon. (Eng) John Kiragu** (Limuru, UDA): Thank you, Hon. Temporary Speaker, for giving me a chance to say a few remarks on this Bill.

Firstly, I rise to support this Bill knowing that gambling and prostitution are two very difficult industries around the world to either control or eradicate. We know that over the years, criminal elements have always had a hand in gambling and those who know anything about mafia and the activities in the world will know that we are dealing with a very difficult industry. There is a good thing about regulating such an industry. It is important for us to know those who are in this industry. Where do they do this business? How are they using the proceeds that they make?

In this country, many people are now gambling online while others are doing it in their residential areas. We no longer have a specific area for gambling. Las Vegas is a city that was built on gambling and prostitution. For this reason, it is important for us to make sure that as we allow gambling to continue, we must also make sure that we have the right regulations to control this industry. It is true that money can be raised in this industry.

I have seen the proposed tax regime for these earnings, and I was just wondering. How do you have a flat rate for people who are earning Ksh200, Ksh300 and equate it to those who are earning millions? In my view, when we come to the next stage, we may need to consider the level of taxation to various levels of earnings.

There is the issue of what we can do with the earnings that we can get from gambling. As a country, we have a lot of problems in rehabilitating people and looking for funds for

education and infrastructure. We need to ensure that the money that comes out of gambling is used properly. We must invest in the weak areas of our society given that gambling has destroyed many of our core areas. It is also important to note that there are many people who travel around the world to find places to gamble. We should not just look at local gambling. What happens to people who just come to a country to gamble and take the money away? We must consider them so that they do not bring dirty money into the country, just to clean and take it out.

As I support this, I want to call upon the House to make sure that we control and provide guidance on how this industry will be well controlled. With the regulations that we are going to pass, we must make sure that people will not be paying to get licenses, and to get a free hand in conducting gambling in the areas they want. We make sure that our security system vets those who are in this industry. How do we make sure that gambling will not be open to underage and vulnerable people? I support the Bill with these reservations. It is very important for us to make sure that the regulations we are proposing will not open this country to gangs and people who have no respect for humanity to come and do the business.

I support.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Duncan Mathenge.

**Hon. Duncan Mathenge** (Nyeri Town, UDA): Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): He will be followed by the Member for Mosop.

**Hon. Duncan Mathenge** (Nyeri Town, UDA): Thank you, Hon. Temporary Speaker, for the opportunity to contribute to this Bill. I support this Bill. On the 5<sup>th</sup> of May this year, I brought a Motion before this House and it was adopted. The Motion was seeking to compel the Government to regulate the betting industry as a result of the proliferation of betting games by media houses. Therefore, this Bill gives life to the aspirations that I had in that Motion. The intention of this Bill is to increase control and oversight over betting, gambling and the industry as a whole. However, although the authority has been given a function of receiving complaints, the Bill is short in providing the timelines within which the issues raised are addressed.

I want to draw a parallel between the gambling industry and the alcoholic drinks industry. The alcoholic drinks industry in this country is regulated and raises substantial revenues for the economy of this country. On the opposite side, let us look at the harm that alcoholic drinks trade has visited on individuals, families, communities and society. Although this Bill promises that rehabilitation centres for those addicted to gambling can be built, why have we not built rehabs for those addicted to alcohol? Unless this Bill is ring-fencing a portion of the revenues that the Government is raising from this industry to go towards harm reduction. Prevention is always better than cure. This Bill is silent on harm reduction on the documented effects of gambling on addicts, families and communities.

This Government cannot just concentrate on the revenue side of things. It has a duty to protect its citizens and communities from the harmful effects of gambling. This Government has a duty to prevent large proportions of our population from falling into gambling. This Bill offers no protection to the poorest of the poor. In fact, this Bill moves a step further to entice those who earn below the daily minimum wage into gambling by setting a minimum threshold of Ksh20. Today, our communities are crying out on the Ksh100 that our people are being asked to bet on media houses. What happens when we bring it down to Ksh20? This Bill is short on stopping media houses from conducting gambling business. The Bill seeks to exempt minors from visiting casinos, but how will you do that when radio and television stations have become casinos right inside the living rooms of our families?

Addiction, be it from gambling, alcohol or drugs has brought a lot of suffering on individuals; psychological suffering and stigma on families, societies and communities. This Bill does not ameliorate any of those harmful effects that we are all aware of. Therefore, even

though there is a proposal to reduce tax, I think we should have a definite provision to ring-fence a certain percentage of the revenues generated from this industry to protect our people and reduce the harm that is visited upon them by this kind of vices.

Are there any lessons learnt from the sin tax that is imposed and has brought about the Sports Fund? The Sports Fund has for years received money from sin tax yet when we walk around this country, we do not see the impact of these resources. Sports cannot be justified as a way of allowing gambling. Sports is an industry that should be supported to allow talented and gifted men and women in this country to exploit their sports prowess to earn the top bucks that other sportsmen and sportswomen are achieving. We cannot justify the building of sports stadiums to allow unregulated gambling. I believe we must provide an explicit exclusion for the poorest of the poor in this country not to be enticed into gambling which is practically a game for those who have the means and the wherewithal to gamble. We have seen even those who have had those kinds of riches in the past reduced to destitutes through gambling.

Lastly, in controlling gambling and the industry, this Bill ought to link the presence and the use of the Kenya Revenue Authority (KRA) PIN. How can somebody unable to pay tax afford to gamble? I will be moving key amendments to this Bill to ensure that I am protecting Kenyans who should not be lured into gambling.

Thank you, I support.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Member for Mosop Constituency.

**Hon. Abraham Kirwa** (Mosop, UDA): Thank you for this opportunity to contribute to this Bill on gambling.

I support the Committee that has suggested that we increase and put strict regulations on gambling in Kenya. However, I do not support any form of gambling—either online, offline or whatever form of gambling in this country. Gambling has caused a lot of havoc and poverty in most homes. I have experienced homes, families and friends demolished and impoverished by gambling. It is extremely dangerous. It has made people homeless. It has made people stressed. It has destroyed society. As such, I do not support it. Although we are talking of regulations to tighten it, no form of gambling can help any country.

If you look at countries like China and Japan where gambling is illegal, it has helped the country and society to continue growing and social life to get better. In countries like Australia and Las Vegas in America where I have had a chance to visit, many people are stressed and suffering because of gambling. As such, Kenya is leading Africa in gambling at 89 per cent. Nigeria is at 78 per cent. South Africa is at 69 per cent. If we continue with this trend, most people are going to suffer. As much as we are putting regulations to increase the taxes and doing things to reduce gambling, it would be for the benefit of this country if there was legislation or any way to ban it.

As much as I support the Committee's suggestion, I am at the same time looking at its impact. Many young people and men involved in gambling have lost many resources. If you look at the people in the world, the worst gambler lost US\$1 billion of his resources and money in Australia. You cannot stop gambling once it becomes addictive. You will continue selling your property and everything that you have to sustain and support the gambling addiction that you have contracted. As my brother mentioned, gambling is like alcohol. Once it gets into your mind, you start thinking that you are going to win. In the process, you are losing everything that you have. Gambling is never good for any nation. Gambling is never good for any person. It is never good for any family. I do not support any form of gambling. I do not support any country that continues to regularise and rationalise gambling. This makes sure that future generations like our youth are going to end in gambling. They will end up losing their property. They become lazy. There is nothing free in this world. Most gambling is nowadays done on smartphones. You find young people in villages hooked to phones because they are gambling.

When you go to small shopping centres, you find young people are very involved in gambling. At the end of the day, they are not doing manual work or working to make money out of their sweat. They believe they can make billions out of gambling.

As much as we are saying we will support the Committee's Report, I suggest that we at some point have to come up with a Bill to ban gambling in this country. Thank you.

**The Temporary Speaker** (Hon. Farah Maalim): Member of Parliament for Emgwen Constituency, followed by Hon. Owen Baya.

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you. I rise to support this Bill on controlling gambling.

Whereas we consider it a very lucrative and relaxing business whenever you gamble and win, it has also adversely wiped our young generation away. Gambling has adversely affected our youthful generation. I have looked through the Bill and I commend several clauses. I have an objection I thought the Committee should look into. It concerns gambling security. For example, I feel that Ksh200 million is too much for new ventures or start-ups. We could still have opportunities for other start-ups if we reduce the price. With this amount as security, we are leaving this venture for the moneyed people only. Most of them are international companies that reap a lot of money from our youthful generations and Kenyans.

Secondly, the tax rate in the US is around 24 per cent while this Bill suggests 15 per cent. Gambling is not hard-earned cash; it is soft-earned cash. I thought that 24 per cent or anything above that should be taxed here. The rest of the money in that 24 per cent should go back to the Government and other investments. The Government acts only as a buffer zone for those who are devastated, depressed and misled by gambling. I thought increasing the percentage rate on the tax would even be better.

Thirdly, I suggest that we stagger the tax rate based on gross income. Companies that get close to about Ksh1 billion should give a higher percentage like 50 per cent. We could give up to 15 per cent to those who have less gross income. That is my suggestion. The way we tax the Pay As You Earn (PAYE) is a similar case we need to do for these companies.

Last are the mitigations these companies are putting forward so that they, at least, mitigate for the youth, depressed gamblers who have lost hope. Gambling is two-way. I am talking about the adverse effects of gambling. What mitigations have these companies put forward? I thought these mitigations must be included in this Bill to create psycho-social support desks to mitigate effects. We have heard of many depression and suicide cases where someone has gambled, and lost all the money from selling land or loans. Gambling takes all the money just like that.

Finally, Hon. Temporary Speaker, we have lost a generation which is idle or does not have anything to do. The only easy way is to gamble. I urge our youth out there not to gamble with their lives. It is not a good thing. It is not considered a sin in the Bible. However, its adverse effects, especially when you lose, are devastating. I urge our youth to get involved in better ways of building the economy.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Omboko Milemba.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Speaker. There are certain goods that have international craving. One of them is money. Another one which I heard one Member speak on is prostitution or sex. The third one is gambling which is very old. Regulating it is not easy.

By 3000 DC in Mesopotamia where most of the development begun from, gambling had already begun. There are several types of gambling. We have the lottery games, casinos, sports betting and of late, we have online gambling which is really thriving. For the Muslims' world, it is very easy because they banned it. The Christians still condemn it. 1 Timothy 6:10

in the Bible says that the love of money is the root of all evil. The Bible condemns gambling in Matthew 6:24. You cannot serve money and God.

Controlling gambling can be very difficult. It has two or three stages. I will be very fast. The first stage is you go in and win. This is the winning phase. Secondly, you are given the losing phase. They take you quickly to the desperate phase. Finally, they take you to the hopeless phase. It is controlled by owners of the gambling game very keenly. Why do we have addicts of gambling? There is usually a body hormone that is released when you win called dopamine which makes you feel very good. The owners of the gambling game know very well that once you win, dopamine is already in your body and you will always crave to feel the same way you felt the first time. The laws of utility demand that once you have consumed once or twice, it is very difficult to get to the peak. Therefore, you will have to gamble a thousand times to have the same feeling you had when you won. There is also a cardinal rule about gambling that you should never gamble with money that you cannot afford. Unfortunately, most of the gamblers break this rule and do it with money that they cannot afford. That is why they go to where they end up to.

This Bill is good because eradicating gambling completely in this country is difficult. It is online and the owners of the gambling machines and games can do it offshore and still access our people. Moving forward, we need to make a tough threshold for those who want to gamble. For instance, 15 per cent taxation is still very low. Take it to about 60 or 70 per cent, so that it is not easy for one to be licensed to gamble. Partly why you can see our economy performing badly is because the companies that gamble in this country take money out of here. We need to take care of that. Even as I support this Bill, I will bring amendments.

Thank you, Hon. Temporary Speaker.

**Hon. Beatrice Kemei** (Kericho County, UDA): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Who is on a point of order? Is it Hon. Waluke or Hon. Kemei? What is your point of order, Hon. Kemei?

**Hon. Beatrice Kemei** (Kericho County, UDA): Hon. Temporary Speaker, I am standing on Standing Order 95. Looking at the mood of the House, I pray that the Mover be called upon to reply.

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

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

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Temporary Speaker, I want to thank every Member who has contributed and the Committee that did a good job.

As a country, we are at a threshold where we need a Bill to regulate the gambling sin in this country. I know many young people who even use their school fees to gamble and lose their university places. Therefore, to allow this sin of gambling to prosper without regulation is wrong on our part, as leaders. It is very important that we bring this law that regulates it.

More importantly, we have a problem in this country of the falling of the shilling because of the forces of demand and supply. Many investors who invest their money into gambling take out a lot of it in dollars because of the profits they make. They cart away millions of shillings. Thus, causing a falling of the shilling. I propose that whoever invests gets 30 per cent and the Government gets 70 per cent. If 70 per cent of the money remains here, it will help us to stabilise the dollar. That is why we must regulate gambling. It is a multi-billion-dollar industry. If it is not regulated, it can wreck a country. Even in the USA and other places where gambling takes place, it is properly regulated.

We have allowed a free regime in this country which wrecks havoc in this country. Therefore, it is our duty, as leaders, to regulate this. I know that gambling is bad in some religious backgrounds. We cannot ban it. This is an unnecessary sin that we must live with. The only thing we can do is to ensure that we regulate this industry, so that the country benefits from it. We minimise risks and ensure that we, as a country, prosper.

If you allow me, Hon. Temporary Speaker, I would like to donate one minute to Hon. Ruku.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Ruku, you have one minute.

**Hon. Ruku GK** (Mbeere North, DP): Thank you, Hon. Temporary Speaker. This Bill will help to bring sanity in the gambling sector. It will also regularise and set uniform standards for registration, licensing, operation and closure of gambling companies. It will also protect the gambling companies from unnecessary exploitative forms which come from police officers sometimes.

The Bill will put in place proper conflict resolution structures to reduce social and health problems associated with unregulated and exploitative gambling which we have seen in the past. Therefore, that is why I support this Bill. Thank you. One minute is over.

*(Applause)*

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Members, ordinarily, when you want to donate, you do it before you reply. I am saying this for the benefit of Leader of the Majority Party and Deputy Leader of the Majority Party.

However, Hon. Temporary Speaker is willing to give that leeway. He wishes he was on the Floor of the House to contribute to this Bill. Be that as it may, he is very happy with what has been said. The capital flight out of this country because of betting can also wreck our currency here. Now that you have replied, I do not think I have any opportunity to give to anybody else. We will put the Question at another time.

*(Putting of the Question deferred)*

Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*[The Temporary Chairlady (Hon. Martha Wangari) in the Chair]*

#### THE CONFLICT OF INTEREST BILL (National Assembly Bill No.12 of 2023)

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Members, we are in the Committee of the whole House to consider the Conflict of Interest Bill (National Assembly Bill No.12 of 2023).

*Clause 3*

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**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended in sub-clause (2) by—

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

“(c) enhance integrity of public office and public confidence in the delivery of public services;

(b) inserting the following new paragraphs after paragraph (e)—

“(f) enhance accountability to the public for decisions and actions by public officers in execution of their duties;

(g) promote selfless service by public

The rationale is that the amendment is for purposes of clarifying and aligning the objects of the Bill with the provisions of Articles 73 and 75 of the Constitution, which deal with ethics of public officers.

*(Question of the amendment proposed)*

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

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

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

*(Clause 3 as amended agreed to)*

*(Clause 4 agreed to)*

#### Clause 5

**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 5 of the Bill be amended by inserting the words “reporting authorities and” immediately after the word “by”.

The rationale is that we have to allow reporting authorities which are responsible for public officers to administer provisions of the Bill. It is not only limited to the Ethics and Anti-Corruption Commission (EACC) but also other reporting authorities.

*(Question of the amendment proposed)*

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

*(Clause 5 as amended agreed to)*

#### Clause 6



**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 6 of the Bill be amended by—

(a) inserting the following new paragraph immediately after paragraph (h)—

“(ha) develop policies, standards, guidelines and promote best practices for the management of conflict of interest.”

(b) deleting paragraph (i)

The rationale is that we have to empower the EACC with an additional function with regard to conflict of interest matters. Secondly, we have to delete a function already provided for under Section 55 of the Anti-Corruption and Economic Crimes Act, 2003.

*(Question of the amendment proposed)*

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

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

*(Clause 6 as amended agreed to)*

#### Clause 7

**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended by deleting paragraph (a) and substituting

therefor the following new paragraph—

“(a) conduct investigations on its own initiative or on a complaint made by a member of the public;”

The rationale is that we have to align the powers of the EACC with provisions of Article 252 of the Constitution.

*(Question of the amendment proposed)*

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

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

*(Clause 7 as amended agreed to)*

#### Clause 8

**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, the Bill be amended by deleting Clause 8 and substituting therefor the following new Clause—

- Conflict of interest
8. A public officer is in conflict of interest if the public officer—
- (a) exercises an official duty or function to further his or her private interests or the private interests of another person; or
  - (b) fails to declare and register a private interest that is in conflict with the public interest.

The justification is that we have to clarify what constitutes conflict of interest as an overt act done by a public officer to benefit private interests. That is the clarification that we are trying to draw with the new provision.

*(Question of the amendment proposed)*

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

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

*(Clause 8 as amended agreed to)*

*(Clause 9 agreed to)*

*Clause 10*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 10 of the Bill be amended in sub-clause (1) by deleting the words “or reasonably ought to know” appearing immediately after the word “knows”.

The justification is that we have to clarify the state of mind applicable to the offense of conflict of interest in decision-making. It is first-hand knowledge by a public officer that a decision will place them in a position of conflict of interest. The deletion avoids speculative victimisation of public officers where we are not sure what they have done.

*(Question of the amendment proposed)*

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

*(Clause 10 as amended agreed to)*

*Clause 11*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson of the Departmental Committee on Justice and Legal Affairs.

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**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. Having held a discussion with the Leader of the Majority Party, I am persuaded to withdraw my proposed amendment and allow the Leader of the Majority Party to prosecute his proposed amendment.

*(Proposed amendment by Hon. George Murugara withdrawn)*

**The Temporary Chairlady** (Hon. Martha Wangari): Leader of the Majority Party. Who is keeping the Leader of the Majority Party busy?

*(Hon. Kimani Ichung'wah consulted with Members)*

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 11 of the Bill be amended—

(a) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) A Member of Parliament or a member of a county assembly who makes a declaration under sub-section (1) shall not use any information obtained by the member in the discharge of the member’s constitutional role to advance the member’s private interests.”

(b) by inserting the following new sub-clause immediately after sub-clause (2)—

“(2A) The Speaker may allow a member of Parliament or a member of a county assembly to speak to a matter under deliberation after considering the nature, extent, and effect of the interest declared under sub-section (1).”

It is true that I have consulted with Hon. Murugara and we agreed that I move my amendment in place of his. This is because Clause 11(2) is actually provided for in our Standing Orders. Since Standing Orders are subsidiary legislation, this statute has just been lifted from there as it is.

Clause 11(2) would have limited our freedom of speech and debate as Members of Parliament or Members of County Assemblies (MCAs). Therefore, I propose to delete Clause 11(2) and substitute it with the new sub-clause indicated on the Order Paper. It is just in line with the objects of the Bill. We are not saying that we are sacred cows. We will declare our interest, but we will not be stopped from debating. You can debate but you will not use any information that you obtain during the conduct of your normal business as a Member of Parliament to advance private interests. That provision will cater for that.

*(Question of the amendment proposed)*

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

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

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

The import of that amendment is that Hon. Samwel Chepkonga's amendment falls. I will, therefore, put the global Question.

*(Clause 11 as amended agreed to)*

*Clause 12*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 12 of the Bill be amended by inserting the following new subclause immediately after subclause (2)—

(3) Despite subsection (1), no proceedings shall lie against a public officer who grants special consideration, treatment or advantage in good faith.

What we are trying to do is that, where you give preferential treatment in good faith like trying to assist a disabled person or a person with an inability of some sorts, then that cannot constitute an offence and will be a suitable defence if at all you are charged in court.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

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

*(Clause 12 as amended agreed to)*

*Clause 13*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 13 of the Bill be amended in subclause (1) to delete the words "by the person" appearing immediately after the words "obtained".

The rationale is that we have to make this very clear. The Clause applies to misuse of official information obtained in the course of official duty by any person. That is why we have made the amendment.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

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

*(Clause 13 as amended agreed to)*

*(Clause 14 agreed to)*

*Clause 15*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 15.

The rationale of this is that these clauses already exist in the Leadership and Integrity Act, 2012, particularly in section 14 and 23. This Act was established to give effect and establish the procedures and mechanisms for effective administration of Chapter 6 of the Constitution and for connected purposes. This Bill should fortify the mandate of existing legislations such as the Leadership and Integrity Act, through comprehensive provisions that address conflict of interest as an aspect of wrongdoing by public officers. The purpose of the Leadership and Integrity Act is to ensure that public officers respect the values, principles and requirements of the Constitution.

While relating to this, the Conflict of Interest Bill which we support, intends to focus on one specific aspect relating to the integrity of public officers. That is the management of conflict of interests. That is why we oppose.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman of the Departmental Committee on Justice and Legal Affairs.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I am opposed to the proposal by Hon. Shakeel. Clause 15 is extremely elaborate on offers of outside employment. We discussed at length and eventually agreed that the only reporting that must be done in writing is to the reporting authority and not to the Commission. We have a proposed amendment to it. Otherwise, it is a good provision.

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

*(The Hon. Temporary Chairlady consulted the Clerk-at-the-Table)*

**The Temporary Chairlady** (Hon. Martha Wangari): There is a proposed amendment by the Chairman of the Departmental Committee on Justice and Legal Affairs. Please prosecute.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 15 of the Bill be amended in subclause (2) by deleting the words “to the Commission and” appearing immediately after the word “writing”.

As I have alluded to in my speech in opposing the proposal by Hon. Shakeel, this is an elaborate provision on offers of outside employment. The rationale is to require a public officer who accepts an offer of outside employment that is incompatible with his or her official duties, to only report that acceptance to his or her reporting authority. They do not have to go to the Commission.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you, Chairman.

*(Question of the amendment proposed)*

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

*(Clause 15 as amended agreed to)*

*Clause 16*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 16.

The rationale is the same. While we acknowledge the need to harmonise the two laws; the Conflict of Interest and the other law, we feel that the Bill should not be allowed to water down the Leadership and Integrity Act, 2012, which remains in effect and has been instrumental in holding public officers accountable for their actions while in office.

We have discussed this with the Chairman of the Departmental Committee on Justice and Legal Affairs. I plead with him to consider the proposal that we have made.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

*(Hon. George Murugara spoke off the record)*

Hold on. We prosecute this first. If it is carried, yours will automatically fall. If it is not, then you will prosecute your amendment.

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

Hon. Chairman, you have another proposed amendment?

**Hon. George Murugara** (Tharaka, UDA): Yes. Hon. Temporary Chairlady, I beg to move:

THAT, Clause 16 of the Bill be amended—

(a) in subclause (1) by deleting the opening statement and substituting therefor the following new opening statement—

(1) A public Officer shall not accept or request a gift or favour from a person who—;

(b) in subclause (3) by deleting the expression “, a member of the public officer's family or a relative of the public officer” appearing immediately after the words “public officer”.

The clause deals with gifts and other benefits. The proposal is that we should leave the obligation only on the public officer and not members of family or relatives. This is because this law only applies to public officers.

*(Question of the amendment proposed)*

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

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

*(Clause 16 as amended agreed to)*

*Clause 17*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 17.

To save time, I have already given the rationale. We do not want to water down the Leadership and Integrity Act of 2012. We want to make sure that we fortify existing legislations.

*(Question of the amendment proposed)*

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

*(Clause 17 agreed to)*

Clause 18

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shabbir

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 18.

To avoid wasting time, the rationale remains the same.

*(Question of the amendment proposed)*

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

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman, Justice and Legal Affairs Committee, do you have an amendment?

**Hon. George Murugara** (Tharaka, UDA): Yes. I beg to move:

THAT, Clause 18 of the Bill be amended—

- (a) in subclause (1) by deleting the expression “, member of the public officer's family or a relative of the public officer” appearing immediately after the words “public officer”;
- (b) in subclause (2) by deleting the expression “, member of the public officer's family or a relative of the public officer” appearing immediately after the words “public officer”;
- (c) in subclause (3) by deleting the word “person” appearing immediately after the word “A” and substituting therefor the words “public officer”.

We have made certain deletions. The rationale is that we have to limit the application of the Clause on gifting and other benefits only to public officers. There are adequate laws to deal with corrupt gifting.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

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

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

*(Clause 18 as amended agreed to)*

Clause 19

**The Temporary Chairlady** (Hon. Martha Wangari): Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Thank you, Hon. Temporary Chairlady. I beg to move:

THAT, Clause 19 of the Bill be amended:

(a) In Sub Clause (1) by deleting the words “with any” appearing immediately after the word “services” and substituting therefore the words “with his or her”.

(b) In Sub Clause (2) by deleting the words “with any” appearing immediately after the word “services” and substituting therefore the words “with his or her”.

The rationale is that we have to prohibit only public officers from contracting with public bodies in which they are employed. This does not extend to family members of relatives because if it affects whatever they are doing, it will be dealt with under a different realm of the law.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

Kindly have your cards. Hon. Mwangi Kiunjuri, do you intend to speak to this amendment or is this accidental? Hon. Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairlady. Perhaps the Chairman can clarify a little further to better my understanding. I do not know whether substituting the words that he has proposed makes sense to this amendment. Perhaps that is what the Leader of the Majority Party also wanted to clarify.

**The Temporary Chairlady** (Hon. Martha Wangari): Leader of the Majority Party.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): I was actually lost but I have been guided by the Chairperson. Just to clarify, for Hon. Mwenje’s interest, Clause 19 (1) indicates that a public officer shall not be a party to or beneficiary of contract for the supply of goods, works or services with any reporting entity. We are deleting ‘with any’ and replacing it with ‘with his or her’ reporting agency. So, you cannot transact with your reporting agency entity, but you are not barred from contracting with any. For instance, if you work in Parliament, you may not contract with Parliament, but you can contract with the Ministry of Interior and National Administration.

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

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

*(Clause 19 as amended agreed to)*

*(Clauses 20, 21, 22 and 23 agreed to)*



*Clause 24*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 24 of the Bill be amended in subsection (2)(c) by inserting the words “subject to the provisions of the Access to Information Act, 2016” immediately after the words “public.”

The rationale is that this is on reporting conflicts of interest to expressly prescribe the manner in which the register of conflict of interest should be accessible to the public in line with the Access to Information Act, 2016, with the necessary safeguards. It was quite open and so, we felt it may fall into guard hands. We introduced the Access to Information Act, which protects access to information.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

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

*(Clause 24 as amended agreed to)*

*Clause 25*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 25.

The rationale is absolutely the same, that we do not need to water down the Leadership and Integrity Act.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

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

**The Temporary Chairlady** (Hon. Martha Wangari): We have another proposed amendment by the Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 25 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b)—

“(c) Engage in political activity that may compromise or be seen to compromise the political neutrality of his or her office.”

The rationale of the amendment is that it defines what political activity one can engage in so that we add the need for political neutrality in carrying out public duties. The proposal is to engage in political activity that may compromise or be seen to compromise the political neutrality of their office. Public officers should be neutral.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): This is the point where we can have some debate if you are interested. Hon. Timothy.

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Hon. Temporary Chairlady, we have opened avenues in the proposed amendment to Clause 25. It says that an appointed officer other than a cabinet secretary or a member of a county executive shall not engage in a political activity that may compromise or be seen to compromise the political neutrality of their office. The Chairperson needs to explain why we are excluding the Cabinet Secretary and the County Executive Committee Member (CECM) from engaging in political activities and yet, ideally, Cabinet Secretaries and CECMs should be defined as public officers. We are trying to bring in the Chief Administrative Secretaries (CASs) and CECMs from engaging in political activities. We should expunge that amendment.

*(Loud consultations)*

**The Temporary Chairlady** (Hon. Martha Wangari): I will give the next chance to Hon. Mutuse.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Let me clarify that the provision is there under the Leadership and Integrity Act that the CECMs and Cabinet Secretaries are allowed to play politics because they are political appointees. They must propagate the agenda of the Government in power. We are carrying the same provision but also adding an amendment to ensure that whatever political activity you do should not balkanise the country.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Members, especially those seated where I cannot see, kindly use your cards. I will give Hon. (Dr) Makali Mulu the next chance.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Chairlady. I have listened to my colleagues discussing political neutrality, whereby you exclude the CECMs, Cabinet Secretaries and others. The truth of the matter is that those people work under the ones that we are excluding. I am not sure whether the word "political neutrality" has any meaning in this law. At the end of the day, people will take their bosses' instructions and will likely go by their word.

I submit.

**The Temporary Chairlady** (Hon. Martha Wangari): The next chance goes to Hon. Moses Kirima. Do you wish to speak on this? If not, Hon. Njeri Maina, proceed.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Hon. Temporary Chairlady, let the CASs and CECMs do the work they were appointed to do. Let them leave politicking to the politicians who are the representatives of the people.

Thank you.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you. Hon. Lelmengit, proceed.

*(Loud consultations)*

I will give a chance to a few more Members and then finally the Chairman to clarify. Hon. Josses, please proceed.

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you, Hon. Temporary Chairlady. As much as CASs are giving Government policies, I want to suggest that they should not politic at all.

Thank you.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Temporary Chairlady. I am surprised. This is what you were complaining about in the last election when the former Cabinet Secretary, Fred Matiang'i, and others, were going around campaigning.

You complained about this, and I feel that it is very important that Cabinet Secretaries and CECMs should concentrate on the responsibility that they have been given by either the Head of State or the governor. Remember that not all county governments are under the Kenya Kwanza Coalition partnership. You might want to find out if CECMs of an opposing coalition have started to now get into politics.

I plead with my colleagues that we let the Cabinet Secretaries and CECMs execute the will of their employer and not politic. If they wish to politic, they should leave the positions of CECMs or Cabinet Secretaries and become politicians like us.

If you allow him to do that, half of the people are going to be mishandled. You will then be crying that the Cabinet Secretary is undermining you. I suggest that we should not allow this.

Thank you.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Peter Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Chairlady. CECMs are ministers and secretaries in the county governments. Cabinet Secretaries are ministers in the Executive. They are public servants. They implement Government functions and budgets passed by Parliament. That budget should be implemented to serve all Kenyans despite one's political party or opinion. County Executive Committees (CECs) and Cabinet Secretaries can propagate Government policies, but they cannot be allowed to engage in politics. I urge Hon. Members to reject this particular amendment. It is a dangerous amendment.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Members, you are saying the same thing. Before I give the Chair, I will give the Leader of the Majority Party. However, kindly note that the amendment on the Floor is in Part C of the Bill which reads: "Engage in political activity that may compromise or be seen to compromise the political neutrality of his or her office."

So, I will give the Floor to the Leader of the Majority Party, and then I will give the Chair.

The Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairlady, I want to beg Members, including Hon. Kaluma, to listen to me. He has not been listening to what Hon. Mutuse has been telling him. First, there was an earlier amendment to Clause 25 to delete the entire Clause, which was defeated. The proposal by the Chair is to add a proviso in Part C that shall not in the performance of his duties;"engage in a political activity that may compromise or be seen to compromise the political neutrality of his or her office."

This is a proviso that is tidying it up. Therefore, in actual sense, what I am hearing Members argue against has been provided for. So, they should support this amendment to achieve what they do not want. It is that simple. It is just a misunderstanding and people being emotional.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chair, give the final clarification.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. Members have to read the entire clause so that they understand what we are doing. What we are trying to say is that CECs and Cabinet Secretaries are the people who espouse Government policy. That may be misconstrued to be politics when it is not. What we are doing with this is that, as far as public servants are concerned, those ones are with the exception that

the three sub-clauses must apply to them. Therefore, the amendment that I have proposed strengthens Clause 25 further.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairlady. Mine is just a concern that I want the Chairman to clarify. I believe he has enough experience to know that we might pass something here, and it ends up in the courts of law. How do you reconcile this Clause with Article 38 of the Constitution on political rights? Are you not, once again, trying to limit the issue of political rights with an Act of Parliament, and there is a provision under the Constitution? Very soon, once this Bill becomes an Act of Parliament, it will be set aside purely on such an oversight. That is my concern with regard to this provision.

Thank you.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Members, you have ventilated enough. I will now put the Question.

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

*(Clause 25 as amended agreed to)*

Clause 26

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairlady, I withdraw my amendment.

*(Proposed amendment by Hon. Shakeel Shabbir to clause 26 withdrawn)*

**The Temporary Chairlady** (Hon. Martha Wangari): Okay. Hon. Shakeel has withdrawn his amendment.

*(Clauses 26 and 27 agreed to)*

Clause 28

**Hon. George Murugara** (Tharaka, UDA): Thank you very much. Hon. Temporary Chairlady, I beg to move:

THAT, Clause 28 of the Bill be amended by deleting the word “preceding” appearing immediately after the word “immediately” and substituting therefore the word “after”.

We have shown exactly what is to be deleted and what is to be placed therein. The rationale is that we have to clarify the prohibition on the employment activities of a public officer which apply after they leave Public Service, instead of the word “preceding”.

Thank you.

*(Question of the amendment proposed)*

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

*(Question, that the word to be inserted in place)*

*thereof be inserted, put and agreed to)*

*(Clause 28 as amended agreed to)*

*(Clause 29 agreed to)*

*Clause 30*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you, Hon. Temporary Chairlady. I beg to move:

THAT, Clause 30 of the Bill be amended —

(a) by inserting the following new subclause immediately after subclause (1)—  
“(1A) Subsection (1) shall not apply to a member of Parliament or a county assembly.”

(b) in subclause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) a reporting entity shall, within sixty days after a day on which a recusal took place, transmit a declaration of the recusal to the Commission in the prescribed form.”

The rationale is that we have to exempt Members of Parliament and County Assemblies from the provisions of the clause on account of the freedom of speech and debate in legislative proceedings.

The Standing Orders and the provisions of the Parliamentary Powers and Privileges Act, 2017, and the County Assemblies Powers and Privileges Act, 2017, provide adequate information on the manner of declaring interests.

We also have to require public officers to declare recusal to their reporting authority, which in turn transmits them to the Ethics and Anti-Corruption Commission (EACC). We are saying that where you make recusals in writing, you do not go to EACC first. You go to your reporting authority. Then the reporting authority will be under an obligation to transmit the same to EACC.

*(Question of the amendment proposed)*

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

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

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

**The Temporary Chairlady** (Hon. Martha Wangari): The import of that amendment is that the proposed amendment by the Leader of the Majority Party and Hon. Samuel Chepkonga automatically fall.

*(Proposed amendment by Hon. Kimani Ichung’wah to clause 30 dropped)*

*(Proposed amendment by Hon. Samuel Chepkonga to clause 30 dropped)*

*(Clause 30 as amended agreed to)*

*Clause 31*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much Hon. Temporary Chairlady. I beg to move:

THAT, Clause 31 of the Bill be amended-

(a) by deleting subclause (1) and substituting therefor the following new subclause-

(1) Every public officer shall submit to their responsible Commission a declaration of his or her income, assets and liabilities.

(b) in subclause (4) by deleting paragraph (c);

We have set out what is to be done. The rationale is to limit the clause to the affairs of a public officer and their dependent children only, not spouses, wives or anybody else.

We also have to maintain the existing model of declarations to entities that directly supervise the conduct and ethics of the various categories of public officers, as the EACC lacks sufficient capacity to process the declarations of all public officers.

This was a responsibility that the Act was giving to EACC alone. Now, we are devolving this to the reporting agencies as we do today so that, as Parliament, we can do it here at the Parliamentary Service Commission (PSC) while other people go to what we have done in the next proposed amendments. That way, EACC can handle the little work that goes into it. Otherwise, it does not have the capacity.

*(Hon. Kimani Ichung'wah spoke off the record)*

**The Temporary Chairlady** (Hon. Martha Wangari): Allow me to propose the question.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairlady, I have listened to the amendment by the Hon. Chairman on behalf of the Committee.

He is leaving dependent children and removing the spouse, and I am just wondering whether your spouse is part of you, or they are construed to be part of your assets or liabilities. Under the current system, and I could be corrected if I am wrong, when you declare the assets that you own as an individual, you also declare what you jointly own with your spouse and even what your spouse owns. I have been declaring my assets in that manner, including what my spouse owns. If we remove the spouse, then it means that public officers can transfer all corruptly acquired assets to their spouses, and they will never need to declare. Since the spouse may not be a public officer, they are never required to make a declaration. I would really want to plead with the Chair to return the word 'spouse' or 'spouses.' This will then cover your dependent children who are under 18 years old and your spouse or spouses.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): I agree with the Leader of the Majority Party on the point of spouses. Some of us may have more than one spouse. We seem to have forgotten the element of 'come we stay.' Under the Marriage Act, if you are cohabiting

in any way with a person of the alternative sex, especially a woman, she is considered your spouse. In the case of a man, he is considered your spouse.

There are other cases where public officers have not declared those they have been living with for a number of years and are considered their spouses under the Marriage Act. We need to cover that particular aspect because those public officers might be putting those assets in the name of the ‘come we stay’ partners, who are not referred to as spouses under this particular Act. However, under the Marriage Act, they are given the same status as spouses. As much as I support the Leader of the Majority Party, I want to request that the ‘come we stay’ arrangement of women and men be considered as spouses.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shabbir, I do not know what the Marriage Act says in terms of registration. Hon. Mark Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairman. I want to assist my senior because I think the term he is looking for is ‘cohabitee.’ I tend to agree with the Leader of the Majority Party because we have cases that are currently being investigated by the EACC and DCI, where assets have been hidden. Some public officers have been investigated, and their assets have been found to be registered under the names of their spouses or relatives. I think we really need to look at this provision. We should not leave it out. The matter is *sub judice* in Kiambu. Those who are aware of the cases that have been ongoing in Kiambu County relating to a former governor will understand what I am trying to say.

Thank you, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. Martha Wangari): Before I give other interventions, JLAC Chair, kindly clarify this. Please indicate if you will be willing to move any further amendments on the same.

**Hon. George Murugara** (Tharaka, UDA): I have listened to the Leader of the Majority Party, and I have used my conscience. The truth is, if my wife is not a public officer, she is not going to make the declaration under this law and the Leadership and Integrity Act. The net effect is that the corrupt officer will launder property through the spouse. Therefore, I am convinced and wish to drop that proposed amendment.

(Applause)

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman, is this a confirmation that you are dropping Clause 31 (a) and (b)? Do you want to amend both?

**Hon. George Murugara** (Tharaka, UDA): I am dropping Clause 31(a).

**The Temporary Chairlady** (Hon. Martha Wangari): I am asking this because from the amendments on the Order Paper, there is Clause 31(a) and (b). (b) states:

“In sub-clause (4) by deleting paragraph (c).”

Are you dropping that amendment?

**Hon. George Murugara** (Tharaka, UDA): It is Clause 31(a) that we are dropping.

**The Temporary Chairlady** (Hon. Martha Wangari): And you are prosecuting (b)?

**Hon. George Murugara** (Tharaka, UDA): I am prosecuting Clause 31(b). This is justified by my second statement that we have to maintain the existing model of declarations to entities that directly supervise the conduct and ethics of various categories of public officers. This is necessary because the Ethics and Anti-Corruption Commission (EACC) lacks that provision. That is:

“For purposes of this section, “material change” means marital status.”

That is what we are doing. We propose that “material change,” ceases to be ‘material change’ when it comes to marital status. So, it is not material *per se*. Let me drop (a) and maintain (b). That means I delete paragraph (c).

*(Proposed amendment by Hon. George Murugara to Clause 31(a) dropped)*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman, hold on. Let me give you time to consult with your legal team on that clause.

*(Hon. George Murugara consulted Members along the aisle)*

Are we back on track? Hon. Chairman, proceed.

**Hon. George Murugara** (Tharaka, UDA):

What we are amending is purely the 'responsible' commission. This means that we are moving away from Ethics and Anti-Corruption Commission (EACC). We do not have to report to the EACC, but to our own commissions and reporting entities who then, if it becomes necessary, can go to the EACC. So, this insulates Members against EACC.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman, clarify for me. Do you say and the income, assets and liabilities of his or her spouse and/or? The word 'spouse(s)' has an 's' in brackets.

**Hon. George Murugara** (Tharaka, UDA): Yes, or spouses and his dependent children...

**The Temporary Chairlady** (Hon. Martha Wangari): And/or?

**Hon. George Murugara** (Tharaka, UDA): No. It should be 'and'

**The Temporary Chairlady** (Hon. Martha Wangari): 'And'?

**Hon. George Murugara** (Tharaka, UDA): Yes. And his dependent children of under the age of 18 years. Yes. That is what you want to do. The amendment *per se* is on the word 'responsible'. We insulate responsible commission. We insulate everybody from going to the EACC.

**The Temporary Chairlady** (Hon. Martha Wangari): Okay. Leader of the Majority Party, is that your point?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Yes, Hon. Temporary Chairlady. That is what I wanted to clarify. The responsible commission, other than everybody reporting to EACC. Parliamentarians will deposit theirs with the Parliamentary Service Commission, and those in the Judiciary will deposit theirs with the Judicial Service Commission. This is to avoid creating a behemoth of a commission where those things can be misused.

**The Temporary Chairlady** (Hon. Martha Wangari): Okay. Hon. Chairman, kindly read the amendment word for word for the record. To clarify, Hon. Members, if this amendment is carried, the amendment by Hon. Chepkonga will automatically fall.

*(Proposed amendment by Hon. Chepkonga to clause 30 dropped)*

Kindly, read the actual amendment.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, the amendment to Clause 31(1) reads as follows—

“Every public officer shall submit to the responsible commission a declaration of the income, assets and liabilities of himself, his spouse(s), and his dependent children under the age of 18 years.”

**The Temporary Chairlady** (Hon. Martha Wangari): That is okay.

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

*(Clause 31 as amended agreed to)*



*Clause 32*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chepkonga. If he is not in the House, it will be dropped. We will consider it without amendments.

*(Proposed amendment by Hon. Samuel Chepkonga to clause 32 dropped)*

*(Clause 32 agreed to)*

*Clause 33*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady. I beg to move: THAT, Clause 33 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) Upon receipt of the declaration made under section 31, a responsible Commission shall analyse the declaration to ascertain—

(a) whether the declaration raises possible issues of conflict of interest; and,

(b) whether on the face of it, the declaration contains any discrepancy or inconsistency.

(b) in subclause (5) by inserting the word “responsible” immediately after the word “The”;

(c) in subclause (6) by deleting the word “fourteen” appearing immediately after the word “within” and substituting therefor the word “thirty”

The rationale is this: We have to maintain the existing model of declarations to entities that directly supervise the conduct and ethics of the various categories of public officers and require clarification to be made within 30 days. That is self-explanatory with the proposed amendments.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): The import of this amendment is that, if it is carried, the amendment by Hon. Chepkonga automatically falls.

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

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

*(Proposed amendment by Hon. Samuel Chepkonga to clause 33 dropped)*

*(Clause 33 as amended agreed to)*

*Clause 34*

**The Temporary Chairlady** (Hon. Martha Wangari): There is a proposed amendment by Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, the Bill be amended by deleting Clause 34 and substituting therefor the following new Clause—

Access to  
declarations.

**34.** (1) Subject to subsection (2), the contents of a declaration or clarification under this Act shall be accessible to any person upon application to the responsible Commission in the prescribed manner if the applicant shows to the satisfaction of the responsible Commission that he or she has a legitimate interest and good cause in furtherance of the objectives of this Act, in such declaration or clarification.

(2) Notwithstanding subsection (1), a law enforcement agency shall, after due process, have access to the disclosures and compliance reports made by a public officer under this Act.

(3) The responsible Commission shall, before making an affirmative decision under this section, grant the affected party an opportunity to make representations on the matter.

(4) Any person who—

- (a) publishes or in any way makes public any information obtained under this section without prior permission of the responsible Commission;
- (b) knowingly republishes or otherwise disseminates or discloses to another person information to which this section relates where—
  - (i) such information was disclosed to himself or to some other person; or
  - (ii) such information was obtained in contravention of this Act, commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or both.

Hon. Temporary Chairlady, our rationale is as follows: The request for access to declarations should be made to the various reporting agencies. Firstly, the original text is that we should be making the request to the EACC. The requests will now have to be made by the EACC to the reporting entities.

Secondly, we have to include due process safeguards on the access of declarations and provisions. We are trying to ensure that nobody is malicious and acts outside the law. Due process must be followed when requesting those declarations.

Thank you.

*(Question of the amendment proposed)*

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

*be left out, put and agreed to)*

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

*(Proposed amendment by Hon. Samuel Chepkonga to clause 34 dropped)*

*(Clause 34 as amended agreed to)*

#### *Clause 35*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 35 of the Bill be amended by inserting the word “responsible” immediately after the word “The”.

It is a small amendment to introduce the word “responsible.” The rationale is to maintain the existing model of declarations to entities that directly supervise the conduct and ethics of the various categories of public officers. We are trying to harmonise so we do not leave this to the EACC alone.

*(Question of the amendment proposed)*

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

*(Proposed amendment by Hon. Samuel Chepkonga to Clause 35 dropped)*

*(Clause 35 as amended agreed to)*

#### *Clause 36*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 36 be amended by deleting subclause (2).

The rationale is to remove the requirement of paying criminal fines to the EACC. The clause states that you have to pay some fines if you are in breach of the EACC, which cannot be the case.

*(Question of the amendment proposed)*

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

*(Proposed amendment by Hon. Samuel Chepkonga to Clause 36 dropped)*

*(Clause 36 as amended agreed to)*

*(Clause 37 agreed to)*

#### *Clause 38*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, the Bill be amended by deleting Clause 38.

The rationale is that the Bill has already defined what constitutes conflict of interest and provided adequate penal sanctions for any public officer who contravenes the provisions on declaration of interest, recusal, and conferring public benefits for private interests where appropriate.

Forcibly requiring an individual who strictly observes the preceding clauses of the Bill to divest himself or herself of assets would, therefore, be unfair and undermine social economic rights. This applies when one is appointed, and they have assets that they have to divest because they may create conflict of interest. We have provided enough safeguards, and there is no point in divesting. That is why I propose a deletion.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Chairlady, as much as I agree that divestiture may not be the right thing, in the US and other countries, a public officer who has a private business does not have to divest it. For example, Former US President Donald Trump gave the authority of his assets to someone else. The idea is that he may not deal with it, but he does not have to liquidate it. However, he can give someone else the authority to control it on his behalf.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairlady. I do not know why the Chairperson is deleting this clause because I liked it. It creates another level of security. I ask the Chairperson to consider his amendment and retain it as it is, even if he feels that it is provided for somewhere else. This is just another layer of protection. It also does not contradict any other provision within this Bill.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Mutuse.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): In support of the amendment moved by the Chairperson, members need to understand that the requirement is that if you are elected as a Member of Parliament or are appointed as a public officer and have a business running, you are required to divest. Divesting means selling the business at arm's length within 90 days. Here, you are not involved with the businesses because you sell them to others. Two, you can create a blind trust where you are not in control to manage your property while in public office. This is rather eutopia. We have also created enough safeguards within the law so that you cannot confer yourself benefits.

The purpose of this Bill is that you do not confer yourself a benefit. We already have enough safeguards in the Bill. We feel that this provision may be too over-reaching and might criminalise public service to the extent that one is not supposed to own anything. As long as you declare and follow all the other provisions, we feel this provision is too much. We request that the House adopt our recommendation to delete it so that we can continue with our enterprises and own property as long as it does not conflict with your public duty.

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

*(Clause 38 deleted)*

*Clause 39*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I beg to move:

THAT, the Bill be amended by deleting Clause 39.

The reasoning is the same. This provision requires one to divest themselves or to have a blind trust. We have provided sufficient recourse for conflict of interest. We also want to let a public officer who was possibly a private business person to continue owning the properties he owned. If he breaches any of the provisions herein regarding conflict of interest, then they will be punished.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Mutuse.

**Hon. Mwengi Mutuse** (Kibwezi West, MCCP): Sorry, we are just consulting, Hon. Temporary Chairlady. Because the fate of all the Clauses from 39 to 47 is the same, and they are speaking to the same subject, if it is procedurally correct, call all of them at once.

**The Temporary Chairlady** (Hon. Martha Wangari): That is not possible, Hon. Mutuse. We have to be procedural. We will put each question separately.

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

*(Clause 39 deleted)*

*Clause 40*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:  
THAT, the Bill be amended by deleting Clause 40.

**The Temporary Chairlady** (Hon. Martha Wangari): Is it an amendment or deletion?

**Hon. George Murugara** (Tharaka, UDA): We first introduced it as an amendment, then I said it is a deletion. We propose that the entire clause be deleted. The rationale is just as that given to Clauses 38 and 39.

*(Question of the amendment proposed)*

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

*(Clause 40 deleted)*

*Clause 41*

**The Temporary Chairlady** (Hon. Martha Wangari): Chair.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:  
THAT, the Bill be amended by deleting Clause 41.

The rationale is just as the same as above, that we have already provided enough safeguards for this.

*(Question of the amendment proposed)*

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

*(Clause 41 deleted)*

*Clause 42*

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:  
THAT, the Bill be amended by deleting Clause 42.

We propose that the entire Clause to be deleted. The rationale is just as I have explained for the above clause.

*(Question of the amendment proposed)*

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

*(Clause 42 deleted)*

*Clause 43*

**The Temporary Chairlady** (Hon. Martha Wangari): Chair.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 43.

The rationale is just as justified above.

*(Question of the amendment proposed)*

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

*(Clause 43 deleted)*

*Clause 44*

**The Temporary Chairlady** (Hon. Martha Wangari): Chair.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 44.

The rationale takes the same format as above.

*(Question of the amendment proposed)*

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

*(Clause 44 deleted)*

*Clause 45*

**The Temporary Chairlady** (Hon. Martha Wangari): Chair.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 45.

The rationale is just as we have given above.

*(Question of the amendment proposed)*

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

*(Clause 45 deleted)*

*Clause 46*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 46.

The rationale is as I have given above.

*(Question of the amendment proposed)*

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

*(Clause 46 deleted)*

*Clause 47*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 47.

*(Question of the amendment proposed)*

There is a proposed amendment by Hon. Chepkonga. Hon. Chepkonga's amendment automatically falls if the Chairperson's amendment is carried. Hon. Mark Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Chairlady. I have waited to allow the Chairperson to move his amendments to this entire part because he intended to delete the entire part. I honestly believe that the Bill is better off if this part is retained. The Committee had come up with a good proposal on how to deal with this matter, but it is a disservice to delete the entire part. I do not know why the Chairperson agreed to delete the whole part.

I am starting to feel that he has ill motive. Who is he protecting? Why would you delete a part that would have protected the wealth of Kenyans and prevented corruption? Hon. Chairperson, you need to reconsider the deletions that you have just made.

*(Hon. Mwenji Mutuse spoke off the record)*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon Mutuse, you are totally out of order.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I have listened to Hon. Mwenje, and he makes a lot of sense. I have not deleted the entire part, but only a few clauses in it. Other clauses have remained. It is good to establish administrative mechanisms and policies.

**The Temporary Chairlady** (Hon. Martha Wangari): Are you on record as withdrawing the amendment?

**Hon. George Murugara** (Tharaka, UDA): Yes, I wish to go on record as withdrawing my proposed amendment.

**The Temporary Chairlady** (Hon. Martha Wangari): Alright.

*(Proposed amendment by Hon. George Murugara to clause 47 withdrawn)*

*(Clause 47 agreed to)*

#### *Clause 48*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 48 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

“(2A) A reporting authority and the Commission shall not conduct concurrent investigations over the same complaint.”

The rationale is that we have to prevent reporting authorities and the EACC from raiding one person just because another person lodged a complaint against them. We are putting in a safeguard.

*(Question of the amendment proposed)*

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

*(Clause 48 as amended agreed to)*

#### *Clause 49*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 49 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “or a reporting authority” immediately after the word “Commission”;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) If the Commission or a reporting authority declines to commence investigations, the Commission or reporting authority shall inform the person who lodged the complaint and give reasons for the decision.”



The rationale is that we have to extend the application of the clause to include reporting authorities, whom we have brought to par with the EACC. Both of them have to apply this clause.

**The Temporary Chairlady** (Hon. Martha Wangari): Thank you.

*(Question of the amendment proposed)*

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

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

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

*(Clause 49 as amended agreed to)*

#### Clause 50

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady I beg to move:

THAT, Clause 50 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

(1) Subject to the Constitution and any written law, a public officer may be suspended from office with full pay pending the investigation and determination of allegations made against that officer where such suspension is considered necessary.

The rationale after this introduction is to clarify that an officer suspended under the clause shall be on full pay as the clause relates to suspension for investigation purposes only. This does not provide that you will be suspended with half pay. It is supposed to be a period of 90 days. For those 90 days, you will possibly be on compulsory leave and earn your full payment as they investigate the misconduct.

*(Question of the amendment proposed)*

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

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

*(Clause 50 as amended agreed to)*

#### Clause 51

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I beg to move:

THAT, Clause 51 be amended in subclause (1) (d) by deleting the words “Public Prosecutions” appearing immediately after the word “Director” and substituting therefor the words “Public Prosecutions”.

The rationale is, we must include the Director of Public Prosecutions (DPP) with a proper title as provided for in the Constitution.

*(Question of the amendment proposed)*

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

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

*(Clause 51 as amended agreed to)*

*(Clause 52 agreed to)*

*Clause 53*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I beg to move:

THAT, the Bill be amended by deleting Clause 53 and substituting therefor the following new Clause—

*Confidentiality.*

**53.** A responsible Commission, the Commission or any person acting on their behalf shall not, unless required by law, disclose any information that comes to their knowledge in the performance of their duties under this Act, unless the disclosure is in the opinion of a responsible Commission or the Commission—

(a) essential for the purposes of carrying out of their functions and exercising the powers conferred on them under this Act; or,

(b) is required by any law enforcement agency, after due process.

The rationale is to require the sharing of information with law enforcement agencies under the clause after observing due process. There is no problem with the reporting authorities and anybody else sharing information, but it must be shared after due process. It means where a court order is required, that is adhered to. Where the Data Protection Act applies, that again is observed.

*(Question of the amendment proposed)*

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

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

*(Clause 53 as amended agreed to)*

*Clause 54*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Temporary Chairlady. I beg to move:

THAT, Clause 54 be amended in subclause (1) by deleting the words “is of” appearing immediately after the words “if the disclosure” and substituting therefor the words “is in the”.

We are just changing a few words here. The idea is to align the subclause with a phrase used in subclause two, because this is three.

*(Question of the amendment proposed)*

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

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

*(Clause 54 as amended agreed to)*

*(Clause 55 agreed to)*

*Clause 56*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you, Hon. Temporary Chairlady. I beg to move:

THAT, the Bill be amended by deleting Clause 56 and substituting therefor the following new clause—

56. Every reporting entity shall, within six months after the end of the financial year, file compliance reports with the Commission in the prescribed form.

The rationale to this after we introduced the new provision is to provide for a clearer format for the submission of compliance reports to aid in the implementation and enforcement of the conflict-of-interest legislation. It is a very good intention.

Thank you.

*(Question of the amendment proposed)*

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

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

*(Clause 56 as amended agreed to)*

*(Clauses 57 and 58 agreed to)*

*Clause 59*

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Thank you, Hon. Temporary Chairlady. I beg to move:

THAT, Clause 59 of the Bill be amended by—

- (a) deleting subclause (1);
- (b) deleting subclause (3);
- (c) inserting the following new subclause immediately after subclause (3)—

“(4) Any criminal proceedings commenced under the provisions in the Third Schedule proposed for repeal before the commencement of this Act shall be continued.”

We are making some deletions and adding a new sub-clause. The rationale is to maintain the existing model of declarations to entities that directly supervise the conduct and ethics of the various categories of public officers.

Secondly, to save the conduct of the ongoing investigations and cases pending before the court brought under Section 42 of the Anti-Corruption and Economic Crimes Act, 2003, which is proposed for repeal.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): For the convenience of the House, I note that it is already past 7:30 p.m. It is 7:32 p.m. For the convenience of the Committee and the House, we will finish this – which is not so far – and then we will go to the Motion of Adjournment by Hon. Mukunji.

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

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

*(Clause 59 as amended agreed to)*

*(Clause 60 agreed to)*

*New Clause 31A*

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 31—

Determination of  
responsible  
Commission.

**31A.** (1) This section determines what body is the responsible Commission for a public officer for the purposes of this Act.

(2) The committee of the National Assembly responsible for the ethics of members is the responsible Commission for—

- (a) the Cabinet;
  - (b) members of the National Assembly;
  - (c) the Director of Public Prosecutions;
  - (d) the secretary to the Cabinet;
  - (e) members of the Judicial Service Commission;
  - (f) members of commissions and independent offices specified under Chapter Fifteen of the Constitution; and
  - (g) members of the Ethics and Anti-Corruption Commission and staff of the Commission holding the rank of Deputy Director and above.
- (3) The committee of the Senate responsible for the ethics of members is the responsible Commission for senators.
- (4) The committee of a county assembly responsible for the ethics of members is the responsible Commission for—
- (a) its respective county executive committee;
  - (b) members of the county assembly; and
  - (c) members and the secretary of its respective County Public Service Board.
- (5) The Public Service Commission is the responsible Commission for—
- (a) principal secretaries;
  - (b) high commissioners, ambassadors and diplomatic and consular representatives;
  - (c) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and
  - (d) public officers who are officers, employees or members of state corporations that are public bodies.
- (6) A County Public Service Board is the responsible Commission for—
- (a) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and
  - (b) public officers who are officers, employees or members of county corporations and entities that are public bodies.
- (6) The Judicial Service Commission is the responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.
- (7) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.
- (8) A County Assembly Service Board is the responsible Commission for the public officers in respect of which it exercises disciplinary control.
- (9) The Teachers Service Commission established under the Teachers Service Commission Act (Cap. 212) is the responsible Commission for teachers registered under that Act.

(10) The Defence Council established under Article 241(5) of the Constitution is the responsible Commission for members of the armed forces, within the meaning of that Act.

No. 28 of 2012.

(11) The National Intelligence Service Council established under the National Intelligence Service Act, 2012 is the responsible Commission for members of the National Intelligence Service established under that Act.

(12) The National Police Service Commission is the responsible Commission for members of the National Police Service.

No. 16 of 2006.

(13) The Witness Protection Advisory Board established under the Witness Protection Act, 2006 shall be the responsible commission for the members of the Witness Protection Agency established under that Act.

(14) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulations.

(15) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the delegation of any disciplinary powers with respect to that public officer.

Certain delegations by Public Service Commission.

**31B.** (1) Subject to subsection (2), the Public Service Commission may, by notice in the *Gazette* delegate to another person or body any of its powers and functions in relation to declarations of income, assets and liabilities and enforcement of the code of conduct and with respect to specified classes of public officers over which it is the responsible Commission.

(2) The Public Service Commission may delegate powers and functions only with respect to public officers in a job group below job group “M” or its equivalent.

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

**The Temporary Chairlady** (Hon. Martha Wangari): Mover to move Second Reading of the New Clause. We are on New Clause 31A.

**Hon. George Murugara** (Tharaka, UDA): Thank you. Hon. Temporary Chairlady, I beg to move that the New Clause 31A be now read a Second Time.

The import of the new amendment is to maintain the existing model of declarations to entities that directly supervise the conduct and ethics of the various categories of public officers as the EACC lacks sufficient capacity to process the declarations of all public officers. Members should check the proposed New Clauses 31A and 31B. We now have the relevant reporting authorities and commissions set out. Where there is none, we have made a provision as to where this reporting or declaration should be deposited.

**The Temporary Chairlady** (Hon. Martha Wangari): If this is carried, Hon. Chepkonga’s amendment automatically falls.

*(Question, that the new clause be*

*read a Second Time, proposed)*

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

*(Proposed amendment by Hon. Samwel Chepkonga dropped)*

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

#### *New Clause 31B*

That, the Bill be amended by inserting the following new clause immediately after Clause 31A-

31B. (1) Subject to subsection (2), the Public Service Commission may, by notice in the Gazette delegate to another person or body any of its powers and functions in relation to declarations of income, assets and liabilities and enforcement of the code of conduct and with respect to specified classes of public officers over which it is the responsible Commission.

(2) The Public Service Commission may delegate powers and functions only with respect to public officers in a job group below job group “M” or its equivalent.

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

**The Temporary Chairlady** (Hon. Martha Wangari): Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairman, I beg to move that New Clause 31B be now read a Second Time.

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

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

**The Temporary Chairlady** (Hon. Martha Wangari): The import of carrying that amendment is that the proposal by Hon. Chepkonga will automatically fall.

*(Proposed amendment by Hon. Samwel Chepkonga dropped)*

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

#### *First Schedule*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the First Schedule to the Bill be amended—

(a) by deleting paragraph 1;

(b) in paragraph 2 by inserting the word “responsible” immediately after the words

“Where the”;

(c) in paragraph 3 by deleting the expression “his spouse or spouses and his dependent children under the age of 18 years” appearing immediately after the word “official”;

(d) by deleting paragraph 4 and substituting therefor the following new paragraph—

4. All public officers are required to complete and submit their declarations to their responsible Commission, unless their responsible Commission has delegated its functions to another body.

(e) in paragraph 6 by inserting the word “responsible” immediately after the words

“directly to the”;

(f) in paragraph 12 by inserting the word “responsible” immediately after the words “issued by the”;

(g) in paragraph 13 by deleting the words “or administrative procedures adopted by the Commission or any other competent authority” appearing immediately after the words “this Act”;

(h) in paragraph 15 by inserting the word “responsible” immediately after the words

“taken by the”

Hon. Temporary Chairlady, we are trying to clean up and align it with the main Act. There is no much change. The rationale is to maintain the existing model of declarations to entities that directly supervise the conduct and ethics of the various categories of public officers. Just definitions and trying to clean it up and aligning it.

*(Question of the amendment proposed)*

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

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

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

**The Temporary Chair** (Hon. Martha Wangari): Hon. Members, before we move to the Second Schedule, what that means is that Hon. Chepkonga’s amendment on the First Schedule automatically falls.

*(Proposed amendment by Hon. Samwel Chepkonga dropped)*

*(First Schedule as amended agreed to)*

*(Second Schedule agreed to)*

*Third Schedule*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairman.

**Hon. George Murugara** (Tharaka, UDA): Hon. Chairlady, I beg to move:

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THAT, the Third Schedule to the Bill be amended in the proposed amendments to the Leadership and Integrity Act, No.19 of 2012 by —

- (a) deleting the proposed amendments to Section 14;
- (b) deleting the proposed amendments to Section 18; and,
- (c) deleting the proposed amendments to Section 23.

The rationale for each of them is as follows: First is to retain the current provision in Section 62(6) of the Anti-Corruption and Economic Crimes Act which exempts State officers whose mode of removal is provided for under the Constitution from the application of that particular section. Two is to align Section 59 of the Public Procurement and Asset Disposal Act 2015 with the amendment proposed to Section 19 of this particular Bill so that they are aligned and none is out of place with the other.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Shakeel Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you. I propose that the Third Schedule be amended...

**The Temporary Chairlady** (Hon. Martha Wangari): Order, Hon. Shakeel. We are not yet prosecuting your amendment, unless you are contributing to the amendment by the Chairman. Allow us to process the amendment by the Chairman. The outcome of that amendment will determine the fate of your proposed amendment. If it is carried, yours will automatically fall.

I will put the Question.

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

*(Third Schedule as amended agreed to)*

Therefore, the proposed amendment by Hon. Shakeel will automatically fall.

## Clause 2

**Hon. George Murugara** (Tharaka, UDA): I beg to move:

THAT, Clause 2 of the Bill be amended by—

- (a) inserting the following new definition in proper alphabetical sequence—  
“conflict of interest” means a conflict between the public duty and private interests of a public official, in which the public official has private capacity interests that could improperly influence the performance of his official duties and responsibilities;  
“responsible Commission” in relation to a public officer, means the entity determined under section 31A to be the responsible Commission in relation to a public officer;
- (b) deleting the definition “family”;
- (c) deleting the definition “unexplained asset” and substituting therefor the following new definition—  
“unexplained asset” means an asset of a person whose value is disproportionate to his or her known sources of income at or around that time and for which there is no satisfactory explanation.

- (d) deleting the definition “public officer” and substituting therefor the following new definition—  
“public officer” has the meaning assigned to it by Article 260 of the Constitution.
- (e) deleting the definition “relative”;
- (f) deleting the definition “undeclared asset”.

We have made certain further definitions and deleted some definitions that we thought were over-defining. The rationale is to amend the definitions for purposes of uniformity, clarity and alignment with the provisions of the Constitution and other existing laws. That is exactly what we are doing.

*(Question of the amendment proposed)*

**The Temporary Chairlady** (Hon. Martha Wangari): The import of this amendment, if carried, is that proposed amendments by the Leader of the Majority Party and Hon. Samuel Chepkonga will automatically fall. Leader of the Majority Party.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): I confirm that we agreed with the Chairman that we carry his amendment. This is one of the issues that were of great concern to almost everybody during the Second Reading. We cannot export our public duty to our families including our great-grandchildren, grandmothers, aunties, and cousins who have absolutely nothing to do with the work you do as a public officer. Therefore, it cannot be a conflict of interest if your great-grandmother or great-grandchild is in business with an entity where a public officer works.

I support this amendment by the Chairman and the Committee.

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

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

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

I will give Hon. Shakeel Shabbir a chance for a further amendment before I put the global Question.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): I beg to move:

THAT, Clause 2 of the Bill be amended by inserting the following new definition in proper alphabetical sequence —

“Whistleblower” means any person who has personal knowledge of or access to any data, information, fact or event constituting improper conduct and who makes a disclosure of that information in accordance with this Act.”

This will give legal recognition to people who report instances of violation of the Act. The United Nations Convention against Corruption, to which we are signatories, has announced itself on the vitality of whistle-blower recognition and protection stating that corruption, fraud, wrongdoing as well as health and safety violations are much more likely to occur in organisations that are closed and secretive. On many occasions, employers will be aware of wrongdoings and maybe feel unable to say anything for fear of reprisal. Concerned

about acting against the organisation's culture of lack of confidence then this matter should be taken seriously.

The negative implications of these are far-reaching for both the organisation and society as a whole. Effective whistleblowing protection supports employees when blowing the whistle on corruption, fraud, and wrongdoing. Defining whistleblowing will be a very positive step in this good Bill.

Thank you, Hon. Temporary Chairlady.

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Members, I will propose the Question and then I will give the opportunity to the Chairperson and the Vice-Chairperson of the Committee.

*(Question of the amendment proposed)*

**Hon. George Murugara** (Tharaka, UDA): Thank you, Hon. Temporary Chairlady. The definition does not have a problem, but we only define words we have used in statutes. To the best of my recollection of this particular Bill, the word 'whistleblower' is not used anywhere. Therefore, it is superfluous to have it here.

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

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*Clause 1*

**The Temporary Chairlady** (Hon. Martha Wangari): Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 1 of the Bill be amended by deleting the words "and shall come into force on such date as the Attorney-General may, by notice in the Gazette, appoint".

The rationale is to align the commencement date of the Act with provisions of Article 116 of the Constitution. It will come into force on such a date as there is a notice in the *Kenya Gazette*.

*(Question of the amendment proposed)*

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

*(Clause 1 as amended agreed to)*

**The Temporary Chairlady** (Hon. Martha Wangari): Mover to move reporting.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairlady, I beg to move that the House do report its consideration of the Conflict of Interest Bill (National Assembly Bill No.12 of 2023) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

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

**MOTION**

CONSIDERATION OF REPORT ON THE  
CONFLICT OF INTEREST BILL

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Chairperson to report to the House.

**Hon. Martha Wangari** (Gilgil, UDA): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Conflict of Interest Bill (National Assembly Bill No.12 of 2023) and approved the same with amendments.

**The Temporary Speaker** (Hon. Peter Kaluma): Mover, move agreement with the Report.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report.

I also request Hon. Owen Baya to second the Motion for agreement with the Report of the Committee of the whole House. I do not know if this is the point when we move for re-committal of clauses? I wanted to re-commit Clause 48.

**The Temporary Speaker** (Hon. Peter Kaluma): Let us do it properly. Just take your time, Mover, and confirm that we are capturing what actually happened.

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Temporary Speaker, I second the Motion for agreement with the Report.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Chairperson.

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Speaker, I beg to move:

THAT, the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the following words at the end: "subject to re-committal of Clause 48".

I also request Hon. Mwangi Mutuse to second the amendment.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Mutuse.

**Hon. Mwangi Mutuse** (Kibwezi West, MCCP): Hon. Temporary Speaker, I second the amendment.

*(Question of the amendment proposed)*

Is there interest to speak to this? Nobody wants to contribute. So, I can put the Question. Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, just for the record, the re-committal of Clause 48 is because there cannot be concurrent investigations being conducted by reporting authorities and the EACC. For instance, a judge who is being investigated by the Judicial Service Commission (JSC) as the reporting authority cannot concurrently be investigated by the EACC for the same crime or suspicion of crime. However, if we leave it open-ended, we leave a loophole where people will hide behind investigations by one commission so as not to be investigated by another. Therefore, we are putting in place a

timeline such that there must be a period of 90 days for conclusion of investigations by one commission before another commission conducts further investigations into the case.

**The Temporary Speaker** (Hon. Peter Kaluma): There being no further interest to contribute, I will now put the Question.

*(Question put and agreed to)*

*The House resolved accordingly:*

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Conflict of Interest Bill (National Assembly Bill No.12 of 2023) subject to re-committal of Clause 48.

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

#### IN THE COMMITTEE

*[The Temporary Chairlady (Hon. Martha Wangari) in the Chair]*

THE CONFLICT OF INTEREST BILL  
(National Assembly Bill No.12 of 2023)

*(Recommittal of Clause 48)*

**The Temporary Chairlady** (Hon. Martha Wangari): Order, Members. We are in the Committee of the whole House for the recommittal of Clause 48 of the Conflict of Interest Bill. Hon. Chairman.

*Clause 48*

**Hon. George Murugara** (Tharaka, UDA): Hon. Temporary Chairlady, I beg to move: THAT, Clause 48 be amended by adding the words “provided that an investigation commenced against the public officer shall be concluded within 90 days”.

This is to align the suspension period with the period of investigations so that if a person is suspended for 90 days, the investigations must also be concluded in the 90 days. Otherwise, they cannot be prolonged forever without any remedy to that particular provision.

*(Question of amendment proposed)*

*(Loud consultations)*

**The Temporary Chairlady** (Hon. Martha Wangari): Leader of the Majority Party, you have already justified the amendment.

**Hon. Kimani Ichung’wah** (Kikuyu, UDA): I have already justified. I do not know why the Clerk wants me to say it again.

**The Temporary Chairlady** (Hon. Martha Wangari): I will put the Question.

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

*(Clause 48 as amended agreed to)*

I call upon the Leader of the Majority Party to move reporting.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the Conflict of Interest Bill (National Assembly Bill No.12 of 2023) and its approval thereof with amendments.

*(Question put and agreed to)*

*(The House resumed)*

IN THE HOUSE

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

### MOTION

#### CONSIDERATION OF REPORT ON THE CONFLICT OF INTEREST BILL

**The Temporary Speaker** (Hon. Peter Kaluma): Will the Temporary Chairlady report to the House.

**Hon. Martha Wangari** (Gilgil, UDA): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Conflict of Interest Bill (National Assembly Bill No.12 of 2023) and approved the same with amendments.

**The Temporary Speaker** (Hon. Peter Kaluma): Thank you. May the Mover move agreement with the report?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said report.

I request Hon. Mukunji to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Gitonga Mukunji** (Manyatta, UDA): Hon. Temporary Speaker, I second.

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

**The Temporary Speaker** (Hon. Peter Kaluma): Would the Leader of the Majority Party approach the Speaker.

*(Hon. Kimani Ichungw'ah consulted  
with the Temporary Speaker)*

Thank you very much.

*(Question proposed)*

*(Loud consultations)*

Yes, Hon. Shakeel Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you very much. Hon. Temporary Speaker, I am a very happy Member today. This has been a long struggle. We have finally agreed to about 89 to 90 per cent of this Conflict of Interest Bill. It is a great day for Kenya. The seeds that brought corruption in 1969 are being rooted out and we hope this Bill will help us remove those weeds that have become trees of corruption. I thank the Leader of the Majority Party, for bringing this here. We may not have agreed 100 per cent, but this is a great day for Kenya and the African Parliamentarian's Network Against Corruption (APNAC) Members of Parliament.

Thank you very much, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): For the convenience of the House, I will defer putting the Question on this Bill to the next time it will be scheduled for deliberation. We will, therefore, stop there.

*(A Member spoke off the record)*

We have agreed that we will not put the Question, not for obvious reasons, but for the convenience of the House and for good order.

*(Putting of the Question, deferred)*

### MOTION OF ADJOURNMENT ON A MATTER OF URGENT NATIONAL IMPORTANCE

#### REPORTED IRREGULARITIES IN 2023 KCPE EXAMINATION RESULTS

**The Temporary Speaker** (Hon. Peter Kaluma): I am informed that there was a Motion of Adjournment.

**Hon. Members:** Yes.

**The Temporary Speaker** (Hon. Peter Kaluma): It is now time. Hon. Mukunji John Gitonga, move your Motion of Adjournment.

**Hon. Gitonga Mukunji** (Manyatta, UDA): Thank you very much, Hon. Temporary Speaker. I would like your guidance because this Motion was supposed to start at 7.30 p.m., but due to the matters that were before us, it is now 8.05 p.m. I would like your guidance on this.

**The Temporary Speaker** (Hon. Peter Kaluma): It is unfortunate. When there is a Motion of Adjournment, it should start at the time directed by the Speaker. What you ought to have done was to rise in your place and indicate that it was time since we were in the Committee of the whole House.

**Hon. Gitonga Mukunji** (Manyatta, UDA): I did.

**The Temporary Speaker** (Hon. Peter Kaluma): That would have required reporting to enable the House reconvene to plenary. Be that as it may, I will invoke the powers of the Speaker, under Standing Order 1, to allow you to move the Motion of Adjournment so that the matter does not lapse. If you do not move it today, it cannot be postponed to another day and, therefore, dies. Proceed.

**Hon. Gitonga Mukunji** (Manyatta, UDA): Hon. Temporary Speaker, I stand guided. Pursuant to Standing Order 33, I rise to seek leave for adjournment of the House in order to discuss a definite matter of urgent national importance, regarding reported irregularities in the 2023 KCPE examination results. The results were released on Thursday, 23<sup>rd</sup> November 2023

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with great pomp and colour. However, this has been quickly dampened following the reported inconsistencies across the country. The discrepancies in the results range from: awarding candidates wrong marks; assigning candidates marks for subjects they did not sit for; schools being assigned different grades; and, in other instances candidates receiving higher grades for lower scores and vice versa.

It is noted that a total of 1.4 million students sat the 2023 KCPE exams with the hope of joining secondary schools. However, these discrepancies will not only delay secondary school placement of these candidates, but also compromise the integrity of the Kenya National Examination Council (KNEC) in delivering credible results moving forward. It is, therefore, imperative that this matter be addressed to safeguard the future of these candidates. It is against this background that I seek leave for adjournment of the House to discuss this matter of national concern with a view of exploring possible ways of resolving the reported and widespread irregularities.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): You have the leave of the House to prosecute the Motion of Adjournment. Proceed if you want to say something more, do so.

**Hon. Gitonga Mukunji** (Manyatta, UDA): Hon. Temporary Speaker, many Members of this House will agree with me that exam results are one of those moments that define your life. Members in this House witnessed students waiting for examination results. It was traumatic to see on social media young pupils saying that the results they got through Short Message Services (SMSs) were not what they expected. Dr Njengere confidently confirmed and assured citizens that the discrepancies that were experienced were due to configuration issues from the SMS service provider. That automatically raised a query in terms of what was reported and the real story of the results of this year's KCPE examination. My biggest question is: Why was there a hurry to release the results without clearly ensuring that they were good and were as per the examination that was done?

Each single SMS that a parent or a pupil sent cost Ksh25. If you do your math for the 1.4 million candidates who sat for the KCPE, that is a lot of money accruing to the providers of the SMS services. The results are questionable because a particular school weirdly reported that candidates scored 75 per cent in a particular subject for all the candidates who did the examination. That raises quite a number of questions on the results that were announced.

Section 40(b) of the Kenya National Examination Council Act provides for the establishment of the National Examinations Appeals Tribunal to hear such complaints, but it has not been publicised enough that there is a tribunal to listen to the many complaints that Kenyans are raising all over the place. I would like to know whether there are any set measures by the Ministry and the KNEC on the knowledge of this tribunal that is supposed to listen to the many complaints that we are getting. I know everybody is aware that the complaints can change our children forever. It is traumatic when results are released and a pupil expects to perform well, but they get graded in subjects that they did not even sit for. You cannot pay for the trauma our young pupils are subjected to.

I appeal to this House to follow this issue to the letter. I also appeal to KNEC to uphold credibility when announcing examination results of our children. We are about to know the results of the Kenya Primary School Education Assessment (KEPSEA) and the Kenya National Secondary Education (KCSE). The KNEC should announce the results of our children as they are and that is not negotiable. There is need for this House to even summon the Cabinet Secretary, Ministry of Education, in order to get clear answers on the whole process of examination marking and announcement. We need to also investigate further the service provider who would mess up a clear way of announcing our results for the Kenya Certificate of Primary Education in this country.



Somebody must be answerable for the mess caused when announcing these results and bear the cost of the SMSs. Up to now, I have not heard anybody responding to the people with these problems and telling them the person who messed them up, except for the usual mention of, ‘yes there was a problem of configuration’.

In this digital age, where we are getting results via SMS, we need to be trustworthy of our technology so that when we send SMS, we get the correct results. The mistakes must be accountable to somebody. A parent would send SMS, and when they do not get results that are familiar to his or her child, they again end up sending multiple SMSs to ensure they get the correct results. That parent loses about Ksh100 or more, in trying to verify whether the results are correct and valid.

We need an audit to know whether we can refund parents the money charged upon sending the request SMSs. I ask Hon. Members to champion this concern in order to ensure that we get accountability when it comes to announcement of examination results.

I beg to move the Motion.

**The Temporary Speaker** (Hon. Peter Kaluma): Thank you, Hon. Gitonga. I want to give the first chance to the Chairman of the Departmental Committee on Education and Research, Hon. Melly. Do you want to speak on this?

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I have received a write-up from the Cabinet Secretary, Ministry of Education. I request that you allow Members to continue ventilating on this issue, then later on, I shall do the last rebuttal on it.

**The Temporary Speaker** (Hon. Peter Kaluma): You are correct.  
Hon. Rindikiri Mugambi, proceed.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Temporary Speaker, for this opportunity. One of the most traumatising things to our children is for them to study for many years and expect proper results of their efforts, but that does not happen. We have seen consistency within the Ministry of Education in terms of how, for many years, they have been handling the results: starting from the process of dispatch, collecting, and returning of the examinations. Candidates sit for examination and expect proper marking and distribution of correct results.

It is very shocking to see the results skewed in terms of regions and schools. It is common sense to many of us to see very high scores recorded in some regions and schools. Other schools are awarded what can be described as the ‘most appropriate performance’. It shows a rushed process by the Ministry of Education. It does not matter the report that is going to come from the Cabinet Secretary because up to this point, we cannot say that this is the actual performance of our children. Indeed, it has had an effect and impact on parents and their children. The process, right from the beginning, was wrong. There is no guideline that says the Ministry must give the exam results within a certain time of the year. I am wondering why the Kenya National Examinations Council and the Ministry of Education rushed the marking of exams in a short time. The results were reported in a hurry without checking the system. It is common sense that it is a case of garbage in, garbage out. That is what we are seeing here. All of us know that if you have a plan, you prepare for it, evaluate it, and then execute. I do not want to believe that the problem was because of a computer error. Somebody somewhere failed in their responsibility. What we saw was the Ministry of Education hurrying up to announce the results. We come from a background of former ministers, Dr Matiangi and Professor Magoha, who came up with their own systems. We now have the Cabinet Secretary for Education, Hon. Ezekiel Machogu, who has his own system. Although the systems are different, they are geared to do the same thing. It is high time the KNEC is held accountable for what is happening with the management of exams in this country.

The concerned people in the KNEC have continued to be there despite the mess they have caused. Nobody has ever come up to take action against them. It is a shortfall of the

Ministry and the Cabinet Secretary all the way down. It is as if KNEC is a military battalion that cannot be asked anything. We need to question its credibility, its management and the way it does things. So, I support this Adjournment Motion and demand a comprehensive report from the Ministry. I do not think the Cabinet Secretary did a comprehensive job within the few days to submit a report. He is just covering up his inefficiency.

**The Temporary Speaker** (Hon. Peter Kaluma): This is to alert you Members that for Adjournment Motion, you have only five minutes. Because of so much interest, I would request that you compact your statements to under five minutes.

Hon. Timothy Toroitich.

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Hon. Temporary Speaker, Nelson Mandela said:

“If you want to destroy a country, you do not need long-range missiles.

You only need to destroy its education and lower the standard of education.”

We have had problems in this country in the recent years. Last year, we had problems with the Kenya Certificate of Secondary Education. That is why the Departmental Committee on Education and Research conducted an inquiry into mass cheating in last year's KCSE examinations. We do not need to say much here. It is apparent, on the face of the record, that there was massive cheating or problems in this year's KCPE examinations. How do you explain all candidates in a certain school scoring a similar grade in all the subjects? How do you explain students in a certain school being awarded marks for subjects they did not sit for?

There is a problem in this country and there is a problem with the Ministry of Education and the KNEC. Ultimately, someone must take responsibility and answer the country on what happened with the KCPE exams this year. I read today's newspapers which reported about a candidate who had scored 358 marks. Today - I do not know what process they used - his marks had been raised to 409. That explains that there was a problem.

Finally, I have read the KNEC Act. There is a tribunal – the National Examination Council Tribunal – that is provided in the Kenya National Examinations Council Act. As we speak, that tribunal is not operational. We do not have a chairperson of that tribunal. The chairperson has not been appointed or gazetted. To the Cabinet Secretary for Education, shame on you. If we have a tribunal that is not operational, that means our candidates do not have an avenue of raising their complaints or disputes as envisaged in law.

That tribunal is anchored in the KNEC Act of 2012 against the provision of Article 159(1)(d) of the Constitution that provides that such tribunal should be anchored in the Judiciary. Therefore, that tribunal, as a matter of urgency, must be gazetted and the chairperson appointed and the tribunal made operational.

Secondly, that tribunal must be anchored in the Judiciary, not in the Ministry of Education. That is an apparent conflict of interest on the face of record. There is no way a tribunal anchored in the KNEC Act can oversee the Ministry of Education. There is a problem and this House must address it.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Dekow Barrow, Member for Garissa Township. Do you want to speak to this?

**Hon. Dekow Mohamed** (Garissa Township, UDA): Yes.

**The Temporary Speaker** (Hon. Peter Kaluma): Proceed.

**Hon. Dekow Mohamed** (Garissa Township, UDA): Thank you, Hon. Temporary Speaker. I thank you for this opportunity and I also want to thank Mhe. Mukunji for bringing up this very important issue. That is why some of us are still here because of the interest we have developed in this Adjournment Motion by Hon. Mukunji.

The problem we are experiencing today, for us from the north, we have had it for many years that students' exams are manipulated to their disadvantage. This is a very serious issue because it affects the lives of these young people. These young people have been in school

studying for the last eight years, and they expected after this, to go from primary school and join secondary school, since this is another step in their life or education.

They never expected manipulation of their results. This will dampen their spirits. They will not believe in themselves in the near future or when they go to secondary school.

In this particular case, it is the end of 8-4-4. Previously, those whose exam results were cancelled, had an opportunity to go back to Class Eight to do the exams again in the next year, but in this particular case, this is the last 8-4-4 examination. Those who got “Y”, meaning their exams have been cancelled cannot proceed to Form One this coming year.

Hon. Temporary Speaker, somebody must take responsibility for this issue. We cannot cancel or manipulate exams of young people who have been working very hard in the last eight years. It is the same for us politicians. Can you imagine you have been waiting for your results after an election and in the last minute you are told you have been beaten in the election, yet you were so sure you were going to win?

Hon. Temporary Speaker, as a Member of the other side, you know the pain you felt when you expected to have been declared the winners of the last general election. You also felt your results had been manipulated. This is the same problem these young people are facing and it is difficult for them and their parents to seek justice because it is very expensive. The process that they go through to seek justice for what has happened to them is very expensive and they cannot afford that.

The KNEC must take responsibility for this and it means they must get out of office for them to be audited. We cannot audit them when they are still in office. I support the Motion by Mhe. Mukunji and we need action taken against all those who participated in the manipulation of exams.

**The Temporary Speaker** (Hon. Peter Kaluma): As I recognise Hon. Gideon Ochanda, could someone be looking at the removal process for top KNEC officers, because I think it is something which ought to come out in our deliberations.

Hon Gideon Ochanda.

**Hon. Gideon Ochanda** (Bondo, ODM): Thank you, Hon. Temporary Speaker. Education shapes societies and governments. This is the investment that governments all over the world do to train human resource. When we mess up with it, we mess up the entire country.

Since the exit of Mbithi as the Examination Council Secretary, either in 1989 or 1988, over 30 years ago, the Council has perennially had issues with how it manages examinations; either the process of setting, executing examinations or marking. There is a big problem, and we are talking about 30 years cumulatively. Education is the equalizer that we know. What has our Education Council done in the last 30 years for purposes of getting people space to be equal? There is a big problem in this country. Thirty years is not a short time that we cannot fix a problem. It is a long time and we cannot pretend about it. We are looking so badly as a country when examinations are stolen and we cannot even place results properly. What is the rush for? What is it that one wants to achieve by marking exams for one week? Where do they want to run to? Even if that is the case, can we have another week after marking to cross-check and do serious verification? This will ensure that pupils and student get their actual results. What are we doing in this country? This is really wrong and it has to be fixed. Otherwise, we are living in pretense. We are living a lie and that is why every other thing in this country is going haywire. It is getting messy. It is really going to the wrong side. The issue of missing and mismatching of marks can be verified very easily.

Hon. Temporary Speaker, I want to believe that if there is no way that the Council can be sorted out, the best is to do away with it. The best is to do away with this examination council and get a totally different outfit that can manage examinations in this country.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): The Chairman of the Departmental Committee on Finance and National Planning, Hon. Kuria Kimani.

**Hon. Kuria Kimani** (Molo, UDA): Thank you very much, Hon. Temporary Speaker. There is a meme going around of *mwalimu wa maths*, and how he runs to take over CRE classes when the CRE teacher is not attending the class. It is very funny. I will attempt to be that *mwalimu wa maths* this evening.

I was asking myself this: What is the probability of two students in the same school, sitting for a Science multiple choice exam, getting 75 per cent? Science was one of the subjects that really caused a spur from the members of the public. The probability of one student getting 75 marks, considering that the number of marks is from 0 to 100, so the total number of choices of marks is 101, is 1 out of 101. What is the probability of 32 students in the same class all getting 75 marks? Assuming that all the 32 students have the same potential of getting 75 marks, the math says that the probability is  $2.447935 \times 10^{-92}$ . From these calculations, it is unlikely that all pupils can score same marks in any given subject. The odds are extremely low. Therefore, that example demonstrates that there were irregularities in this exam. I congratulate Hon. Mukunji for bringing this Motion. This discussion is important. We need to ask how we find ourselves in such a situation.

There were 1,406,557 KCPE candidates in 2023. They sat for seven papers - the subjects are five, but the candidates sit for seven papers because of *insha* and composition. The 1,406,557 multiplied by seven will give you 9,845,889 scripts. How is it possible to mark all those scripts within such a short duration of time? There have been complaints of examiners not being paid or delays in payment. These teachers are constrained because they have not been paid their allowances yet have a deadline to meet. Perhaps, that explains why some of these errors occur.

On the other hand, we can also give credit because we have come a long way. Previously, we experienced serious challenges, but we have made good progress. Particularly, I celebrate the heroes, that is, the teachers and police officers. They were rained on and risked their lives to deliver the examinations. We must applaud them as heroes in the 2023 KCPE examinations. Those who are letting the sector down must up their game and correct the anomaly.

**The Temporary Speaker** (Hon. Peter Kaluma): Member for Igembe North, Hon. Julius Taitumu.

**Hon. Julius M'anaiba** (Igembe North, UDA): Thank you, Hon. Temporary Speaker, for the opportunity to contribute to this Motion.

*(Hon. Catherine Wambilianga spoke off the record)*

It is my time. The female Members shall also be considered. There is no problem.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Wambilianga, be assured that I will give you, and the Members seated around there, more time.

*(Applause)*

**Hon. Julius M'anaiba** (Igembe North, UDA): Thank you, Hon. Temporary Speaker, for that assurance. The KCPE results that were released on Thursday, 23<sup>rd</sup> November 2023 are a scam. I support Hon. Mukunji for bringing this Motion to discuss the trends and state of management of our examinations. When the results were released, the entire nation was thrown into a celebratory mood from the pupils and parents whose children had done well. However, moments later, the same nation was filled with anxiety due to complaints from pupils whose results did not match their abilities. As was said earlier, that trauma is bad.

This House is there to oversee all the systems of the Government. The response given by the CEO, the Kenya National Examinations Council, was agonising. The CEO mentioned that since the examination is a multiple choice, it is possible for pupils to attain the same marks in a given subject. This is a joke to the Kenyan intellectuals. It does not require rocket science to know that this cannot happen. That is why, for record, I say that the CEO, KNEC, should be held accountable. A credible examination is a product of a good management process. This year, the Departmental Committee on Education and Research went around the country collecting views from stakeholders about the management of examinations. There were numerous complaints about the way the exams are marked and processed and the way results are released. The big question is why was the rush? The CEO and the entire management should be held accountable if they cannot compute results and do marking properly or enumerate the markers well.

We support this Motion. If a doctor who messes up with a patient is held accountable, why can the CEO who has messed with the lives of kids not be held accountable? That is my submission.

**The Temporary Chairman** (Hon. Peter Kaluma): Hon. Catherine Wambilianga.

**Hon. Catherine Wambilianga** (Bungoma County, FORD-K): Thank you for this opportunity to voice this issue.

From the onset, I thank Hon. Mukunji for this adjournment Motion. It is timely. It is true the country is wondering. Parents are perturbed. The children are more disturbed. Why are their results manipulated after an exam? I feel there is a problem right from the registration. It means you are registered under the wrong name if you can get the wrong results. That means something happened during the registration. As the Kenya National Examinations Council goes on with registration and teachers prepare students to have the exams, something must be done from the onset.

The lapse in marking of exams is not the fault of teachers. Teachers have taken their time, eight years, preparing the children. At the time of marking, you find that the same teachers are placed under very horrible conditions. They are hurried to mark the exams. They are poorly remunerated and given timelines to stop marking so that they can hand over marks. This lapse must be checked. The teachers ought to be given time. Even if I am a teacher marking a composition... You need to get time to read and know what you are giving the student. However, because of such circumstances, this will cause systems to fail and the marks accorded to students may not be correct.

The Kenya Certificate of Primary Education is a very important exam for our children. This is a time when they are transitioning to the secondary section. If their marks are manipulated and they are given the wrong marks, this automatically kills their morale. The KNEC must be answerable. Why accord wrong marks if systems are in place? We have just learnt here that the tribunal has no chairperson. This tribunal is supposed to check on the exams, how they are transported to schools and all that. This has never happened.

As a House, let us call upon an entire audit of the KNEC. Something must be done if, indeed, we have outdated officers who still have those archaic methods of thinking. I sit in the Departmental Committee on Labour and we have been discussing extension of time at work after a worker has retired. Can they be given an extension of time? With that extension, it is as if we have no other people to take up the opportunities. If this is going to be put in place, let us have a fresh board that is going to look at these exams and have the correct results for our children.

I strongly second you, Hon. Mukunji.

**The Temporary Chairman** (Hon. Peter Kaluma): Hon. Njeri Maina.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker.

I wonder because we all know that KCPE started at the end of last month, on 30<sup>th</sup> October 2023. Where and what was the hurry in marking the examination and giving the results? This House must demand investigations because we cannot keep debating these matters over and over again. The Kenya National Examinations Council must be accountable to the children of this nation and Kenyans. If they cannot, they need to resign with immediate effect. I zero in to the Ksh25 that was being charged per parent. This House needs to be told who was given the contract to procure and ensure that they send the short messages to the parents or students.

Some of the parents were charged multiple times. That means there are profits that are undeclared that were made illegally. In regard to basic contract law, if you procure a service and you pay for it, you expect results. We need to know if it was Safaricom or a third party agent, so that they can be held accountable and refund the public money that they obtained illegally. It is not justifiable to charge a parent. Some were even sending messages more than 10 times. That profit is not justifiable at all. It is unethical to keep such money.

I commend Hon. Gitonga Mukunji for this timely Motion because it is a matter of concern for parents in all parts of this nation. Therefore, it must be taken with serious consideration, so that we can clear the air, and protect the dignity and integrity of future examinations.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gideon Kimaiyo.

**Hon. Gideon Kimaiyo** (Keiyo South, UDA): Thank you, Hon. Temporary Speaker. I also rise to support the Motion which was brought by Hon. Mukunji.

At the outset, we must call out KNEC because it is becoming a national shame. This is not something that has just occurred this year. It also happened in other years. What were the other cabinet secretaries for education doing to get it right that the current one is not doing? I remember we registered around 100 Grade As in Kenya under a certain cabinet secretary. We are now registering more than 5,000 Grade As in the Kenya Certificate of Secondary Education. What is he not doing that the previous cabinet secretaries were doing to get it right? We must call out KNEC and the Cabinet Secretary for Education. If there is need, he must be brought to this House to answer Kenyans and tell their representatives what he is doing in the Ministry of Education. He is not doing the right work that the previous cabinet secretaries were doing.

I want to tell KNEC that the President is asking us to be digital. He is trying so much to enable Kenyans do their work online. What is wrong with posting those results on the KNEC website or sending them to the school emails instead of charging Kenyans Ksh25? Imagine a family that has parents and siblings and everybody sent a message. By the end of the day, maybe everybody had sent three messages for Ksh25 each in a family of around six people. That is six people times three messages. The system was not working. How much did Kenyans lose through this? They must use Information and Communications Technology (ICT) and stop taking parents' money by asking them to send short messages.

The issue of examination leakages must also be addressed. Schools centre managers are being taken to police stations. Examination leakages have been happening, but the Ministry is not addressing them. I know there was a report that the Departmental Committee on Education and Research analysed and gave to the Ministry of Education. Has the Ministry implemented this Report?

Finally, what was the hurry for in giving these results in two weeks? Previously, results were released around Christmas time. Why not wait? The Form One selection is now underway, what will happen to that child who got 400 marks, but was given 300 marks? They will get selected to the wrong school. I hope they can delay the Form One selection until this one is addressed.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Shakeel Shabbir, please, tell the House how one can do exams and get results for a subject you never did.

*(Laughter)*

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you, Hon. Temporary Speaker. That is one of the mysteries with these results.

During our time, the Ministry of Education, the Minister and all the examiners were sober, responsible, and worked in a manner that exuded confidence. When our results were out, they were not transmitted through SMS, they were on sheets of paper in our schools. We would go there and read them. They were signed and stamped by the Minister. Over the 20 years that I have been a Member of Parliament and even before, I find that all the cabinet secretaries for Education want to become superstars. All of them want to be better than the predecessor. They take shortcuts in doing this. They dress in fancy suits, use fancy cars, and have fancy meetings. They spend millions of shillings to go to Mitihani House with all the paraphernalia to announce results that they do not know.

In 1987, the Kenya National Examination Council was sensible. When I did my Certificate for Primary Education (CPE), no one questioned anyone. We accepted the results as they were. If one did not do well, then they would know. We had confidence and trust in KNEC. Right now, the Ministry of Education has become a lottery scene: *unalipa unapata*. They say that they will have results in two weeks. But what results? Garbage in, garbage out. I want the Cabinet Secretary to tell us what the problem is. We have had sensible men in this docket like Prof. Magoha, Dr Matiang’i and many others.

In my constituency, some students are shell-shocked because they received results for exams they never did. In some instances, the entire school did not do some of the exams. We are county schools and we do not have such subjects yet they received the results. The position is that the Chairperson of the Departmental Committee on Education and Research needs to have this sorted out. The Cabinet Secretary should be the first one to resign. He is a sensible man and I know him. He needs to come here and apologise to the people. We are talking about SMS. We know that that is also a con, corruption by deceit. Who was involved all the time when we had the Telcom case and the others?

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Shakeel Shabbir, you cannot go beyond five minutes when contributing to an Adjournment Motion according to the Standing Orders.

Hon. Mary Emaase.

**Hon. Mary Emaase** (Teso South, UDA): Thank you, Hon. Temporary Speaker. I support this Adjournment Motion.

Expectations of every student and parent is, at least, to get fair and accurate results after an examination. After so much effort the students put in to prepare and after the struggle the parents go through, going without food to make sure their children stay in school to pass examinations, the kind of results we have been treated to are very disturbing. We must underscore the fact that there is a serious problem in the sector. What we are seeing is a symptom of a disease which if not addressed is going to destroy the future of our children.

The Cabinet Secretary must rein in the Kenya National Examinations Council and rogue individuals within the Ministry and tell Kenyans the truth of what is happening. We cannot pretend. This competition of who releases an examination first is proving to be futile and immaterial. After last year’s examination, the Ministry should have carried out an audit, done an assessment to validate the systems and improve on them so that this time as they continue with the competition to supersede their predecessors, we should have had better results. What is happening is that they are compromising the integrity of examinations in Kenya

and giving our students a very negative and bad perception. We cannot continue to talk about the quality results. How do we explain everyone in the class getting the same marks? How do you explain a student being given marks for an examination they did not sit for?

Some people in the Ministry are sleeping and they must, therefore, go home. Hon. Members, we must act on this one. We cannot continue to joke around because we are representatives of the people and we must bite this time. Let the Chairperson of the Departmental Committee on Education and Research get to work. This cannot continue; it must come to an end.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Dorothy Ikiara, because of shortage of time, try and compress your contribution within three minutes so that Hon. Josses Lelmengit and Hon. Stephen three minutes and then we conclude with the Chairperson of the Departmental Committee on Education and Research.

**Hon. Dorothy Muthoni** (Nominated, UDA): I will exactly do that. Thank you, Hon. Temporary Speaker. I thank Hon. Gitonga Mukunji for this Adjournment Motion.

I want to confine myself to three key issues. Before I say anything, I thank the teachers who walked with the students from Standard One to the time of examination. I am pained tonight because we are speaking of a process that started 39 years ago and was running very well, but it has ended badly. I want to join my colleagues in stating that there were massive anomalies in the examinations. Some students scored as low as 3 per cent in Social Studies. There was misalignment in the Kiswahili marks with some students receiving marks in Kenyan Sign Language, which they did not sit for, instead of receiving marks in Kiswahili. There was also awarding of identical marks in the same subject to all students in a school. I never witnessed an occasion where all students score identical marks in a subject in all the years that I was a career teacher. That is a very clear indication that there is something seriously wrong with the results.

Why are exams administered? Students sit for exams so that they can be evaluated in terms of their knowledge. The only way we can correct this anomaly is by ensuring that the exam is either re-marked or re-looked at afresh so that our students can be properly evaluated. If we do not correct this anomaly, some students will pursue disciplines that they are not qualified for. They will end up messing their lives because somebody else failed at their job.

Former American President Bill Clinton once said that if you want to invest in the prosperity of a nation, invest in education. We cannot just debate this matter as a House and leave it there. Let us take action.

**The Temporary Speaker** (Hon. Peter Kaluma): Proceed, Hon. Josses Lelmengit.

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you, Hon. Temporary Speaker. First, I want to thank Hon. Mukunji, Member for Manyatta Constituency, for bringing up this discussion. The Ministry of Education takes up the largest share of Kenya's development budget to a tune of Ksh650 billion. Therefore, we demand results and value for our money.

Is the Kenya National Examinations Council taking advantage of poor Kenyans? How are results disseminated? Why not upload the results on the KNEC portal for access by all Kenyans across the country? Charging Ksh25 per SMS is absurd. I have never seen that before. It is the highest amount in Kenya's history. Has KNEC become a betting company? That amount is close to what the youth use to bet. It is absurd. Charging 1.4 million Kenyans Ksh25 to send close to four SMSs brings the total amount to Ksh140 million. Is KNEC a money-minting institution? I challenge the Ministry of Education and the Departmental Committee on Education and Research to oversee that area. The amount of money that KNEC is getting really puzzles me. I know the money is shared between Safaricom, which is the service provider, and KNEC. That is the main challenge that this honourable House should investigate.



**The Temporary Speaker** (Hon. Peter Kaluma): You have two minutes, Hon. Stephen Mogaka.

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Temporary Speaker, for allowing me to contribute. Thank you, Hon. Gitonga Mukunji. You are my hero. I condemn the conduct of KNEC in the strongest words possible. They did not administer exams. This is a bogus and rogue KNEC. This country has done away with a rogue Independent Electoral and Boundaries Commission (IEBC). Why can we not do away with this rogue KNEC? In my constituency in Nyamira County, they targeted certain schools. They were stripping girls. Yes, they were stripping girls. Male officials stripped girls who were going to do their examinations. These are just sex pests hiding under KNEC trying to molest our children, violating them left right and centre.

I was one of the first to issue a harsh statement saying that this KNEC is rogue. I am not surprised these are the results they are giving us. These were fixed results. These are not the results of our children. You can defraud anybody, but not Kenyan children. Education is everything. If you can bar a child from pursuing their career and becoming the best Kenyan citizen they can ever be, what do we have that KNEC for? What was the hurry about to release these results? I urge this House, if there is anything we can do for these Kenyans, it is to disband KNEC, order for re-examination or re-marking of those examinations by an independent KNEC officials and give our children the correct marks. We stopped schools because of COVID-19, why can we not stop schools for three months to give our children the correct marks?

Hon. Temporary Speaker, I beg to support.

**The Temporary Speaker** (Hon. Peter Kaluma): The Chairman of the Departmental Committee on Education and Research, Hon. Julius Melly, say something now.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I thank Hon. Mukunji for bringing up this substantive matter. This is a matter that affects every family and most of the over 1.4 million children who sat for their KCPE examinations.

Hon. Mukunji has spoken on behalf of the social media, matters many parents raised, and even issues that were brought before Members of Parliament by their constituents. A lot of consideration needs to be put into the issues raised. The Departmental Committee on Education and Research has picked up the matter very well. In the morning, I talked with the Cabinet Secretary. Most of the issues raised, like the SMS, no marks and identical grades, have meticulously been looked into by the Cabinet Secretary. We asked them, as a Committee, to give us a comparative view. In a very long report that I have here, which I will request that I do not read because of time, every other issue that has been raised by Members of Parliament, society, and on social media, has been well addressed by the Cabinet Secretary. I thank him because he has taken a very short time to look at every other issue.

Regarding the jammed SMS system, for example, he says there was about 10 minutes of delay. He went further and asked service providers and the company that was given the contract to show cause on certain issues. He even went to the extent of asking them to refund the money charged on the SMS. He gave a lot of details on this.

The Cabinet Secretary will be appearing before the Committee as most of the issues need lengthy explanations. During the last KCSE examinations, I heard Members say that the Cabinet Secretary and his team did not implement the Committee recommendations. They implemented a lot. Doing examinations in the morning and the afternoon to avoid early exposure was implemented by the Cabinet Secretary. They are very brilliant issues.

On schools having similar marks, I can give a very long list of how students have been scoring from 2015 because we have them. Is this an anomaly that happened this year alone? He gave a list here, where we have schools that had similar marks in 2016, three schools in 2017, seven schools in 2019 and all the centres that were there.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Melly, when are you sitting as a Committee on the matter you mentioned?

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I want to tell the House and the country that we will have a meeting with the Cabinet Secretary on Thursday next week. I want to thank the Members for raising all those issues because we represent the people. We represent Kenyans and this country.

On the issue that the Member for Nyamira has raised, it is wrong to have male teachers frisk girls. If it happened that way, then I will have to indulge you and the House to have that particular meeting in this plenary. This will allow all Members of Parliament to be present when the Cabinet Secretary will be coming in. The Cabinet Secretary has given me very good detailed information on each and every issue.

Hon. Temporary Speaker, if you will allow me, on the issues that the public raised, he has addressed most of the concerns and in each of this, I want him and the officers to come and clarify it here. I also indicated to him that he needs to come with the CEO of the KNEC and his officers who were manning exams so that every other issue that we have is addressed adequately.

*(Hon. Julius Melly's microphone went off)*

**The Temporary Speaker** (Hon. Peter Kaluma): I want him to conclude because this is a very important matter.

Hon. Melly, you must know that what Hon. Stephen Mogaka was speaking to is not isolated. I know of a school around the area I come from where people at KNEC got the mobile number of the school and purported to send an exam. They went to the teacher telling him that they had sent some message to his phone. They are just extorting teachers, even on Kenya Certificate of Secondary Education. This is not a light matter.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Speaker, the issue of unusually low marks also came out very strongly. The Cabinet Secretary owned up. I want to tell Members that he owned up and gave us a list. That list had 133 candidates who had unusually low marks. The law states that the public has up to 90 days to launch these complaints.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Melly, there are some young people in this country who do not know where KNEC is, or how to go about these complaints. They only trust the Government to give them exams. Too many students do not have that access to a phone because they are from very humble backgrounds. There is a coincidence that you cannot take lightly. Is it a mere coincidence that every student who petitioned somehow got their results upgraded? None is going down. What is happening to those students who did not petition? We want those issues to be dealt with.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Speaker, when I started my speech, I said that we are inviting the Cabinet Secretary to appear before the Committee next week.

**The Temporary Speaker** (Hon. Peter Kaluma): Which day of next week?

**Hon. Julius Melly** (Tinderet, UDA): Thursday.

**The Temporary Speaker** (Hon. Peter Kaluma): Will due arrangements be made on Thursday?

*(Clerk-at-the-Table consulted the Temporary Speaker)*

Is it Wednesday?

**Hon. Julius Melly** (Tinderet, UDA): Yes. It is in the morning because we do not have a morning session on Thursday morning.

**The Temporary Speaker** (Hon. Peter Kaluma): When is the Cabinet Secretary coming? The Members and the whole country is watching. All Members who are interested should sit there, including those who intend to remove officers at KNEC so that all these concerns can be addressed. If there are removal petitions, they can be pursued after that. In my view, this matter is too important to be glossed over. In our years when we did exams, the village knew what marks we got. Nowadays students get very high grades which make us think we were stupid.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I want to inform the House and Members that we will interrogate these matters when the Cabinet Secretary comes.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Members, the Cabinet Secretary will come on Thursday. The administration of Parliament is requested to make a bigger room for as many Members as possible that would like to attend that session.

Hon. Melly, I thank you for that preliminary report.

### ADJOURNMENT

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Members, the time being 9.10 p.m., this House stands adjourned until Thursday, 30<sup>th</sup> November 2023 at 9.30 a.m.

The House rose at 9.10 p.m.

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