

**PARLIAMENT OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THE HANSARD**

**Wednesday, 6<sup>th</sup> April 2022**

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

**PRAYERS**

**QUORUM**

**Hon. Deputy Speaker:** Hon. Members, we do not have the required numbers. So, I order that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

Order, Hon. Members! I order the bell to stop ringing because we now have the numbers. Let us proceed with business, and we must commend the Whips for doing a good job. In such a difficult circumstance when many Members are getting into party primaries and so forth, for them to maintain the numbers is really something that they have worked for, and I think we should thank them. I have seen the Majority Whip and they have really tried their best, because it is difficult to get Members at such times in any Parliament.

Let us proceed.

*(Loud consultations)*

Order, Members! Take your seats. Member for Baringo, take your seat. Order, Hon. Members!

**PETITIONS**

**SAFEGUARDING LIFE AND INTERESTS OF KENYANS IN DIASPORA**

Hon. Members, Standing Order No.225(2)(b) requires the Speaker to report to the House any petition other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation. In this regard, I wish to report to the House that I have received a Petition from Ms. Lucy Njeri of National Identification No.32234413, praying that the National Assembly enacts a law to safeguard the interests and welfare of homecoming Kenyans from the diaspora.

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Hon. Members, the petitioner states that when Kenyans migrate to the diaspora to pursue new employment and business opportunities, they get disconnected from their homeland, Kenya. Consequently, they face a myriad of challenges in relation to repatriating and investing their earnings back home due to lack of support and legal structures for securing, supervision and monitoring of the welfare and investments of Kenyans in diaspora. As a result, Kenyans in the diaspora or those returning home are vulnerable to opportunists who take advantage of structural and legal gaps to exploit them of their hard-earned investments.

Hon. Members, the petitioner is, therefore, praying that the National Assembly:

- (i) enacts a law on protection of persons not resident in the Republic of Kenya or returning non-resident Kenyans, and establishes an office to deal with matters of Kenyans living in diaspora and those returning to Kenya, and to promote the protection of the welfare and investments of Kenyans not resident in Kenya; and,
- (ii) allocates additional funds for the creation of an office and resource centre within the relevant Ministry to facilitate diaspora relations to handle both returning Kenyans and those not resident in Kenya.

Hon. Members, having determined that the prayers sought by the petitioner are well within the authority of this House, I order that pursuant to the provisions of Standing Order No.227(1), this Petition be committed to the Departmental Committee on Defence and Foreign Relations. The Committee is required to consider the Petition and report its findings to the House and to the petitioner in accordance with Standing Order No.227(2).

I thank you.

Well, on this particular one, I will allow a few Members to comment. Hon. Milemba Omboko.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Deputy Speaker, for this chance. I support the Petition because it is timely and also long overdue. Many of the people in the diaspora want to invest in Kenya, but they end up having their money wasted to people who pretend to invest on their behalf. We have often heard that some of them have come back and collapsed because they do not have the investments they thought they had. I think this petitioner has mapped and identified a unique area that needs a law put in place so that there is a channel and an office where the money repatriated back to the country go through. Also, if the people pretending to invest or real investors can be known, this will be very good and will encourage them to invest much more in Kenya. This is a very good Petition.

**Hon. Deputy Speaker:** Hon. Duale

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Deputy Speaker. Kenyans in the diaspora have been taken for a ride for a long time. They contribute billions of shillings to the economy and to the Exchequer, and it is very sad that we are talking about them. This Petition is valid, because even those doing business under this Government want to migrate to neighbouring countries.

I want to assure this country that the Kenya Kwanza government will establish a Cabinet Secretary or Principal Secretary's position for diaspora, just like in Malaysia, Indonesia and many other countries. There are thousands of Kenyans working in the United Arab Emirates (UAE), and over 40,000 working in Doha, Qatar. There are thousands of Kenyans in the United State of America (USA) and in the United Kingdom (UK). Since, they did not get a very sensitive Government, I am sure they will vote wisely. Let them vote Kenya Kwanza, and we will ensure that the office of Cabinet Secretary or Principal Secretary in charge of the diaspora is established and this Government should go home like yesterday.

**Hon. Deputy Speaker:** Let us have Hon. Jared Okelo Oduyo, who probably was in the diaspora sometimes ago. I will give a few more Members the opportunity, so please, do not be too jittery. Maybe I will give six Members, so let us move quickly. Proceed, Hon. Member.

**Hon. Jared Okelo** (Nyando, ODM): Thank you very much, Hon. Deputy Speaker. It is true that diaspora remittances to this country is annual, and looking at 2021, it was over Kshs300 billion. Last year in December, it hit the highest record ever at Kshs39.7 billion in just one month. Therefore, when the diaspora brings a concern on issues of investments in this country, we must pay much attention.

Many of them have lost money in the hands of clandestine businesspeople who only purport to be businessmen. We do not have strict controls on who should invest on behalf of the diaspora. So, I think we need to go a notch higher and carry out background checks which stems into registration of businesses that carry out diaspora investments. People have lost money and set-up buildings that have not been completed. You can only imagine the amount of money this country is losing in the hands of conmen mushrooming in the streets as investors.

I support this Petition because we need to do the necessary to safeguard the interests of these people, who do not sleep so as to make money to bring to this country. You are aware that people keep more than two jobs in America and sleep less than two hours so that they can make ends meet. When they send home this money that they sweat to receive, somebody burns it out, and this does not make sense at all.

**Hon. Deputy Speaker:** Thank you. Hon. Wachira Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Deputy Speaker. Indeed, this Petition is timely. I do not think we need to wait until another Government comes for this office to be established. How I wish this office was established sometimes back.

It is unfortunate that this is coming when the term of this Parliament is coming to an end. We should all bear the responsibility of not having done something. Our colleagues working outside the country really suffer. The other day, we went to Saudi Arabia and saw how our sisters and brothers are struggling to work there. They work and get exploited out there, notwithstanding the fact that this country earns almost Kshs3 trillion through remittances from jobs outside.

I support this Petition and urge that there be a multi-agency office looking into this, not just the Ministry of Foreign Affairs. This is a matter that touches on trade and labour. Therefore, we need a concerted multi-agency effort to come up with a clear policy on how to ensure that those who work tirelessly outside the country make remittances. When they come back, they should enjoy the fruits of their labour. Many return and end up in hospitals because of what they find in terms of their investments.

**Hon. Deputy Speaker:** I gave you some leeway because you are the Chair of the Departmental Committee on Labour and Social Welfare which deals quite a lot with diaspora issues. The figures that you gave are probably not right in terms of the amounts they remit. It cannot be that amount because that is what we have in the budget. I am not so sure, but maybe you have facts. Those are statements.

Let us have Hon. Pukose. I will give an opportunity to three more Members. The rest can speak on other matters. Let us be brief as there is a lot of interest from Members on this diaspora issue.

Hon. Pukose, please.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Deputy Speaker. I support this Petition by Lucy Njeri touching on issues of the diaspora.

The lady has asked us to make legislation. It is important that we make legislation that can facilitate easy movement of whatever those in the diaspora have invested, and can easily move back into the country. I live at the Kenya's border with Uganda and normally, there are people who move to Uganda to invest. Whenever they bring back what they invested there, they face many hurdles. It is the same for anybody else who lives in the neighbouring countries. Those are the challenges. They face many hurdles when bringing back whatever they have invested. We should make it easier for them.

I echo what Hon. Duale has said. In the Kenya Kwanza Alliance, we will establish a department and a ministry. The legislation that the Committee will propose should fast-track that process, so that we can ensure that those in the diaspora are well-taken care of.

With those few remarks, I support the Petition.

**Hon. Deputy Speaker:** I am a little hesitant. You know the lady petitioner wants this thing done now.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Yes

**Hon. Deputy Speaker:** It is much easier when it is done now. Those are the terms of her Petition. Let us have the Vice-Chair.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Hon. Deputy Speaker, there is no doubt that the diaspora plays a critical role in the economic development of this country. I have no doubt that we have received a lot of remittances and investments from the diaspora team, which led to the spurring entrepreneurship, transfer of knowledge and skills, and many more. The establishment of this office is long overdue. However, better late than never. It is important that this is done immediately.

I have no doubt that the presidential candidate of *Azimio la Umoja* had a meeting with the diaspora team in the United Kingdom recently. The kind of energy demonstrated by the team out there in trying to join us after August, God-willing, in building this nation, is overwhelming. I see a gentleman pointing his finger. There is no doubt that the Government will be formed by *Azimio la Umoja* come September 2022. No doubt, *Inshallah*, once that office is established, the lives of those in the diaspora and in Kenya will definitely improve. We will walk together and establish that office come September 2022.

**Hon. Deputy Speaker:** Hon. Members, let us forget about who will become or what is going to be of the next Government. This particular petitioner wants it done immediately with these Members of Parliament, and we must look for a way of quickly doing it. I do not think we will speak to it. Hon. Mwandime is top on the list.

**Hon. Andrew Mwandime** (Mwatate, ODM): Thank you, Hon. Deputy Speaker. I rise to support this Petition that is long overdue because the diaspora contributes significantly to the Gross Domestic Product (GDP) of this nation. The youth constitute a huge percentage of those living in the diaspora, and the biggest challenge we have in our country is unemployment.

Hon. Deputy Speaker, creating an office for the diaspora is long overdue. We have so many issues out there. This morning, I was informed that one of my constituents in Qatar has been missing since the 1<sup>st</sup> of this month, and up to this very moment, they do not know where she is. So, it is important to establish this office for the diaspora as they are assisting us in many ways in terms of jobs and contribution to our GDP.

**Hon. Deputy Speaker:** Hon. Members, let us all be brief. There are some Members of the Departmental Committee on Defence and Foreign Relations, but not all of you will speak.

Hon. Tonui, the Member Bomet Central, that particular place does not seem to be working. Let us see if we can fix it. Please, use the next one. What is the number of that one? You can use

the second one because the other one is where your card is. Can someone locate Hon Tonui? Please, come to this one that has been put on. It is much better. The whole of that area does not seem to be working well. Okay, it is actually working. Proceed.

**Hon. Ronald Tonui** (Bomet Central, JP): Thank you, Hon. Deputy Speaker, for this opportunity to support this Petition, which I think it is long overdue. We need to benchmark with best practices in other countries like Philippines, which has such investment authorities, and they have even gone ahead to have overseas labour offices. Those are the kind of things which we need to invest in so as to assist the hustlers working overseas.

**Hon. Deputy Speaker:** I hope Hon. Kabinga is keenly listening to that. The Member has made a very important point that probably is good for the Departmental Committee on Labour and Social Welfare

**Hon. Ronald Tonui** (Bomet Central, JP): Hon. Deputy Speaker, you know we have sort of dealt with this issue, that we require to create an Overseas Investment Authority for the people working abroad and go a step further to create labour offices in all the countries where Kenyans are working especially in the Middle East.

We need to borrow from Philippines. We do not need to do anything new. We only need to buy from them, so that the people who are hustling abroad are taken care of. When they send money to their relatives here in Kenya, it is misused and when they come back, they discover that they have no investment.

I think this Petition is timely. We need to support it and come up with a Bill to create this office. We can even enable the Ministry of Labour to create labour offices abroad without a Bill, by funding them.

**Hon. Deputy Speaker:** On this other side, I can see Hon. Baya Yaa, and Hon. Osotsi. Let us have first Hon. Osotsi.

*(Loud consultations)*

Order, Members! Order, Members. Hon. Sankok is the high nominee, but we also have to balance. We must have all formations represented. We will have Hon. Baya Yaa and we will come back here and have one Member, and then we are through. Not all of us will speak. I will only give three more Members, and I have already made a decision on whom to give. At the very worst, I can give four Members, but let us be brief and straight to the point.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Speaker, for this opportunity. The Petition seeks to safeguard the life and interests of homecoming Kenyans from the diaspora. I think when the Committee retreats to digest this matter, they need to get experiences from other countries which have done similar projects. For example, I know that Ghana had a programme where Ghanaians who were abroad were allowed to come back. The programme was incentive-driven, and it even attracted African Americans who traced their roots to Ghana. This attracted expert entry to the economy of Ghana, and had a lot of economic benefits. So, we expect the Committee to look at those experiences.

**Hon. Deputy Speaker:** Thank you, Hon. Osotsi. I will give more Members, but let us be brief. Any Member I give a chance will have a maximum of one minute. Lastly, I will give a chance to a Committee Member to say what they will do, and how quickly they will move. So, let us have Hon. Baya Yaa, and then I will give a chance to two Members and lastly the Committee. You should be straight to the point.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Deputy Speaker. I think the diaspora remits around Kshs400 billion, and this is a lot of money. We need to set-up an authority, ministry, infrastructural development or system that enables the diaspora to ensure that their remittances are protected. When we visited the USA, a young man made a profound presentation about how they were suffering.

**Hon. Deputy Speaker:** After saying, “when we visited the USA”, your English changed. Just finalise.

**Hon. Owen Baya** (Kilifi North, ODM): I want to emphasise that a presentation was made and one of the areas which is a let-down to Kenyans in diaspora is our embassies. Again, in Washington, there are horror tales of how Kenyans have lost their resources and investments because this Government is not interested although the same money goes a long way in stabilising the shilling against other currencies.

**Hon. Deputy Speaker:** Thank you. You have had your take. I am going to give a chance to the Member for Nakuru Town East. What is it, Hon. Kilonzo? You are a Member of the Departmental Committee on Defence and Foreign Relations. So, this Petition will be brought before your Committee. You will have a chance to say something, because I do not see your Chair here.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Deputy Speaker. When you were reading this Petition, I was going to oppose until the former Leader of the Majority Party, Hon. Duale, said that once Kenya Kwanza takes over... Of course, he is reminding us that this will be handled immediately. You know the current Government is doing nothing...

**Hon. Deputy Speaker:** Order, Hon. Gikaria! Order Members! You see this Petition has not been taken to the Executive. It was brought to Parliament.

**Hon. David Gikaria** (Nakuru Town East, JP): I never spoke about the Executive.

**Hon. Deputy Speaker:** So, it is about the Members of Parliament, including you. Let us not bother too much about the Government or what will be done, but deal with the matter brought before us. The petitioner does not care who does what, but this has to be done. All the formations here seem to agree with this, so you can start the workings now.

**Hon. Emmanuel Wangwe** (Navakholo, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Wangwe?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Deputy Speaker, is the Member in order to say that this Government has done nothing yet two or three months ago, he stopped being the Chair of the Departmental Committee on Energy? As the Chair, he steered a very good programme which he supervised and oversaw. Everyone is happy with the last mile connectivity. So, is he in order to say that the Government is doing nothing?

**Hon. Deputy Speaker:** Hon. Wangwe, so that we do not open this too much, and having heard what the Member for Nakuru Town East has said, to me, he was talking specifically on the issue of the diaspora. Probably, you may not be wrong, because had it been done, this lady would not be petitioning Parliament.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Hon. Duale? Once you have spoken, sometimes give a chance to other Members to also speak.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, we cannot allow the Majority Whip. How can he confirm that in the last three months, Hon. Gikaria was the most competent Chair of the Departmental Committee on Energy, yet he is the one who wrote the letter calling for his de-whipping? He is lying on the *Hansard*. He must withdraw. He is the one who

wrote the letter to de-whip a very competent Chair which he has just confirmed. Secondly, in the last three months, from fuel to the food crisis, his Government has failed, and he must accept it. You have four months to go.

**Hon. Deputy Speaker:** I will cut short debate on this because...

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Hon. Jimmy Nuru Angwenyi? What is your point of order? You have two microphones. Choose any that you want to speak into. Order!

*(Loud consultations)*

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you, Hon. Deputy Speaker. With all due respect, how can my former boss say that the Government has done nothing, and he has been in that Government for the last eight years?

**Hon. Deputy Speaker:** These points of order are not helpful. Wind up.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Deputy Speaker. It is true. The Leader of the Majority Party has just indicated...

**Hon. Deputy Speaker:** Hon. Pukose, you are out of order!

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Deputy Speaker, I support the point that this office is critical. What the Member of Parliament for Navakholo Constituency, Hon. Wangwe, has just indicated is true. You also need to be very careful. You can see what has been happening since you kicked me out. I want to go on record that these people have refused to fund the National Oil Corporation of Kenya.

**Hon. Deputy Speaker:** Hon. Members, we are digressing too much. Let us have the Committee. Hon. Kilonzo, please. We expect you to tell us how quickly you will move with this because it looks like it is popular with Members.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Deputy Speaker. The issue of the diaspora is not something that we should politicise.

Hon. Deputy Speaker, you will recall that the issue of the diaspora became very crucial in this country's foreign affairs policy as far back as the 9<sup>th</sup> Parliament. The Ministry of Foreign Affairs has tried its best, but it has always been frustrated by the National Treasury, more so by our own Budget and Appropriations Committee.

*(Several Hon. Members stood at the entrance of the Chamber)*

**Hon. Deputy Speaker:** Order, Hon. Members. When Members stand there and bow, the next obvious thing is for them to come in. I am not so sure. Take your seats now.

Proceed, Hon. Kilonzo

*(Hon. Aden Duale consulted loudly)*

**Hon. Charles Kilonzo** (Yatta, Independent): After Hon. Duale contributed and we listened to him, he is actually making noise. Take control of Hon. Duale, Hon. Deputy Speaker.

Very well. The issue of the diaspora policy started in the 9<sup>th</sup> Parliament. There has been no funding through the Ministry of Foreign Affairs. The Ministry has tried, on very many occasions, to set up diaspora desks within the missions. As far as the Departmental Committee on Defence

and Foreign Relations is concerned, the Ministry of Foreign Affairs has been frustrated by the National Treasury.

Every time elections come up, we get promises like those by Hon. Duale stating that when they take over, they shall do a number of things for the diaspora. But successive Governments have always ignored the role the diaspora plays in the economy of this country. The diaspora community is not looking for handouts, but they want to know how they can invest in their country and enlighten other Kenyans to invest outside there. As I support this Petition, my prayer is that the next regime...

**Hon. Deputy Speaker:** You have taken too long, Hon. Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Deputy Speaker, I had to keep quiet half of the time as a result of Hon. Duale's interjections. I am just finishing up in about 30 seconds.

**Hon. Deputy Speaker:** Just finish it up. You need to go and deal with it at the Committee.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Deputy Speaker. I would like to ask the Departmental Committee on Labour and Social Welfare to invite the Departmental Committee of Defence and Foreign Relations as well as the Ministry of Foreign Affairs in one of their sittings so as to know the frustrations which have been there in as far as the National Treasury is concerned.

**Hon. Deputy Speaker:** Okay. Next Order.

*(Loud consultations)*

Hon. Members, let us leave it at that. Which one is that? The Majority Whip, please, lay those Papers.

### PAPERS LAID

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. I beg to lay the following Papers on the Table of the House:

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2021, and the certificates therein:

- a) Providence Fund;
- b) The Unclaimed Assets Trust Fund;
- c) The Asian Officers Family Pensions Fund;
- d) The Sports, Arts and Social Development Fund;
- e) The European Widows and Orphans Pension Fund;
- f) Office of the Controller of Budget Mortgage Fund;
- g) The Consolidated Fund Services - Subscriptions to International Organisations, the National Treasury.
- h) The Consolidated Fund Services - Salaries, Allowances and Miscellaneous Services;
- i) The National Exchequer Account;
- j) Public Sector Accounting Board; and
- k) Unclaimed Financial Assets Authority.

Report of the Auditor-General and Financial Statements in respect of the Mawego Technical Training Institute for the year ended 30<sup>th</sup> June 2020, and the certificate therein.

Report of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30<sup>th</sup> June 2020, and the certificates therein:

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- a. Alego-Usonga;
- b. Ugunja; and
- c. Embakasi South.

Report of the Auditor-General and Financial Statements in respect of Bondo Technical Training Institute for the year ended 30<sup>th</sup> June 2019, and the certificate therein.

Reports of the Auditor-General and Financial Statements in respect of the National Council for Law Reporting for the years ended 30<sup>th</sup> June 2019, 30<sup>th</sup> June 2020, and 30<sup>th</sup> June 2021, and the certificates therein.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. Chairperson of the Departmental Committee on Labour and Social Welfare, do you have something?

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Deputy Speaker, I am hoping that our senior colleagues will be giving us time to dispense some of the matters when you call upon us to do so.

I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Labour and Social Welfare on its consideration of the Children (National Assembly) Bill No.38/2021.

This is the report in case anybody will want to go through it.

*(Laughter)*

*(Hon. Josphat Kabinga laid the document on the Table)*

**Hon. Deputy Speaker:** Very well. That is a heavy report!

Next Order.

**Hon. David ole Sankok** (Nominated, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Hon. Sankok? You keep raising points of order.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, I seek your guidance on a matter that has left Parliament with rotten eggs on its face. How did an unconstitutional, null and void document pass through both Houses of Parliament? Does it mean that Parliament does not have a competent legal department? Does it also mean that lawyers are not elected as Members of Parliament?

**Hon. Deputy Speaker:** Order, Hon. Sankok. What unconstitutional document are you talking about?

**Hon. David ole Sankok** (Nominated, JP): I will make reference to it.

**Hon. Deputy Speaker:** Hon. Sankok, so that we do not take too much time on it, the beauty is that as an Assembly, we do what we are supposed to do, which is legislation. Once we have legislated, it is not for us to determine the constitutionality or otherwise of any legislation. That goes to other institutions, where they rule one way or another, and that marks the end of it.

**Hon. David Sankok** (Nominated, JP): Hon. Deputy Speaker, I am seeking guidance from the Chair.

**Hon. Deputy Speaker:** I cannot guide on this particular one.

**Hon. David Sankok** (Nominated, JP): You know that the BBI passed through this House, county assemblies and...

**Hon. Deputy Speaker:** Hon. Sankok, by the way, you are now serving your fifth year. So, you know that there is a process you can use to settle this. But in terms of guidance on my part, it is not possible. A matter that has been settled in court is finished.

*(Hon. David ole Sankok spoke off-record)*

No, I am not going to guide on this particular one. The court has already made a substantive ruling. Hon. Sankok, take your seat. At least, you have gone on record as having said something. So, let us go to the next Order.

*(Laughter)*

Hon. Sankok, I know that when you get the microphone, something gets into your head and you say everything and anything. So, let us go back to business. As of now, I do not want your appreciation. So, let us proceed to the next Order. Are we on Questions? Order! Let us go to Questions. We will start with the Question by the Member for Baringo. Please, you have the Floor.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): I just want to make noise. Thank you, Hon. Deputy Speaker. Let us get to back to business.

**Hon. Deputy Speaker:** Hon. Gladys, just in case you have forgotten, I have given you the microphone to start business by asking your Question. I am sure you can see it.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Hon. Deputy Speaker, my name is not Gladys.

**Hon. Deputy Speaker:** I said Gladwell.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Deputy Speaker. Let us get back to business because the way we are going, people are using this House to campaign. For now, let us be in Parliament. I do not have a Question.

**Hon. Deputy Speaker:** Are you sure, Hon. Gladwell?

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Hon. Deputy Speaker, excuse me for a minute. Give another person and get back to me later. One minute, please.

**Hon. Deputy Speaker:** Hon. Gladwell, let me help you because you have a Question. If you look at the Order Paper, you are on top of the list. Since you have made a request, I will give another Member the opportunity and come back to you later. Let us have the Member for Magarini, Hon. Kingi.

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Kindly, come back to me later.

**Hon. Deputy Speaker:** Just take your time, Hon. Gladwell. Hon. Sankok, that is not how you help a colleague. Hon. Kingi, please, proceed. I am not able to trace you. We are having a problem locating you. So, just use that microphone. It is not very far from where you are. Hon. Gladwell, please, approach the Chair and you will be fine. Hon. Sankok, take your seat. I think you are being very...

Proceed, Hon. Kingi.

## QUESTIONS AND STATEMENTS

### ORDINARY QUESTIONS

*Question No.102/2022*

CONTINUOUS AND ADEQUATE SUPPLY OF RELIEF FOOD IN MAGARINI

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**Hon. Michael Kingi** (Magarini, ODM). Thank you, Hon. Deputy Speaker. I rise to ask Question No.102/2022 to the Cabinet Secretary for Public Service, Gender, Senior Citizens Affairs and Special Programmes:

- (i) What urgent measures has the Ministry put in place to ensure continuous and adequate supply of relief food in Magarini Constituency, given that the current supply is inadequate, particularly for the vulnerable members of the society?
- (ii) What steps has the Government taken to ensure transparency and fair disbursement of relief food distributed through local administrators, village elders and *nyumba kumi* officials, particularly to the vulnerable and most affected populations?
- (iii) Could the Government consider allocating more relief food to Magarini Constituency, given the extent of famine in the area, to prevent starvation and cushion the vulnerable population, especially women and children?

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Administration and National Security.

Let us go back to Hon. Gladwell Chesire. It is Gladwell, and not Gladys.

*Question No.101/2022*

MEASURES TO ADDRESS INSECURITY AND DROUGHT  
IN BARINGO COUNTY

**Hon. (Ms.) Gladwell Cheruiyot** (Baringo CWR, KANU): Thank you, Hon. Deputy Speaker. I rise to ask Question No.101 of 2022 to the Cabinet Secretary for Interior and Coordination of National Government:

- (i) What measures has the Government put in place to mitigate against the recent spate of insecurity incidences experienced in Baringo County, particularly ensuring that the incidences do not escalate into communal conflicts?
- (ii) What immediate interventions has the Government employed to ensure that food and relief items are distributed in Baringo County, considering the ongoing drought that has severely affected the county?
- (iii) What humanitarian assistance is the Government intending to provide to persons who are internally displaced by the conflicts in the county, and in particular, the steps being taken to resettle displaced persons?
- (iv) What measures has the Government put in place to ensure that persons displaced by the rising water levels of Lake Baringo and Lake Bogoria in Baringo County are resettled?

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Administration and National Security.

We have a Statement Response by the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives. Is he present? How long will it take? Proceed. Allow the Hon. Chair to enjoy his *Ramadhan* in peace.

**STATEMENTS**

BAN ON SCRAP METAL TRADE

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Deputy Speaker. Pursuant to Standing Order No.44 (2) (c), Hon. John Kiarie requested for a Statement on 8<sup>th</sup> February 2022, regarding a ban on scrap metal trade.

The Ministry of Industrialisation, Trade and Enterprise Development responded as follows:

Article 26 of the Scrap Metal Act (No.1 of 2015) is on export of scrap metal. Export of scrap metal in Article 26(1) is for non-ferrous metal which cannot be smelted locally, while export of ferrous metal is not allowed. Article 26(2) indicates that for export, the Cabinet Secretary responsible for finance in consultation with the Cabinet Secretary responsible for industrialisation, and with the recommendation of the council may, under such circumstances as may be prescribed, authorise the export of specific scrap metal for a specific period. Certificates for each consignment shall be issued by the Principal Secretary.

Currently, there is no one holding any export licences. All licences expired and exporters are all applying. The applications are being processed. Fresh vetting will be undertaken by a multi-agency team for licensing. Since the imposition of the moratorium, 59 businesses have applied for licences, seven of which have applied for export licences. The final processing of the licences will be undertaken once vetting by the multi-agency team is completed.

The second question was on the issue of the scrap metal dealers and exporters. The response is as follows:

A multi-agency team has been constituted to do fresh vetting of all fresh applications for licences. Those already licensed have their licences renewed in order to streamline the scrap metal trade in the country. The multi-agency team comprises of the Ministry of Industrialisation, Trade and Enterprise Development, the Scrap Metal Council, the National Police Service, the Kenya Power and Lighting Company, the Kenya Railways Corporation, the Directorate of Criminal Investigations (DCI), and the national Government administration.

The third question was whether there are any plans to nullify all permits which had been exempted by the Cabinet Secretary. There are no plans to nullify all permits which had been exempted by the Cabinet Secretary. However, special permits for copper, which is a key component for critical national infrastructure equipment, will be issued after fresh vetting.

The fourth question was what measures are in place to lift the ban, especially for local recyclers. Hon. Deputy Speaker, the Ministry has developed standard guidelines for the purpose of conducting scrap metal business in the country. These guidelines were presented before the multiagency team on 9<sup>th</sup> February 2022 for deliberation. The Draft Guidelines were also presented to representatives of the stakeholders in the scrap metal trade, including the Kenya Iron and Scrap Metal Association, Millers and the Scrap Metal Recyclers Association, among others, on 15<sup>th</sup> February 2022. Subsequently, the Draft Guidelines shared with the Ministry of Interior and Coordination of National Government, the Head of Public Service and the Attorney General for concurrence on 17<sup>th</sup> February 2022 presented an opportunity for it to be discussed in a Cabinet meeting.

Hon. Deputy Speaker, the Cabinet Secretary for Trade, Industrialisation and Enterprise Development met with the Cabinet Secretary for Interior and Coordination of National Government on 28<sup>th</sup> February 2022 and they agreed to convene a meeting of all the relevant stakeholders from the public and the private sectors in order to review the Draft Guidelines and chart the way forward on the matter in preparation for lifting of the moratorium.

It is in the interest of all stakeholders that all persons and businesses handling scrap metal are licensed. They should use business membership organisations to undertake the initial vetting

of their members. As you may recall, proper guidelines were a pre-condition for lifting the moratorium.

In terms of estimation, the moratorium has ensured that approximately Kshs3 billion has not been lost by vandalism of critical infrastructure.

I wish to share this Statement with Hon. Kiarie. If there are any additional questions, we can take them from here.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Members, we will start with Hon. Kiarie.

*(An Hon. Member spoke off-record)*

It is true because I do not have any information on that. Let us hear the Member for Kikuyu first because he has not spoken this afternoon.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Deputy Speaker. I have a keen interest in the Statement because many of our people who are scrap metal dealers, more so very young hustlers who collect scrap metal in our villages and small towns and sell them to local smelters, have suffered in the last few months. The ban in itself was illegal.

It is amazing that the Chair has the audacity to say that the Ministry is working on guidelines. Guidelines on what when there is already an existing law that regulates the scrap metal business in the country? As a House, we must be bold and courageous enough to tell the President off when he acts against the law. The illegal ban by the President and the Cabinet Secretary is something that we should not accommodate. What guidelines do we need other than what is already established in law?

Hon. Deputy Speaker, recently, there was a very unfortunate incident where a young man fell into a metal smelting boiler in Thika and lost his life. May the Lord rest his soul in peace. We are punishing very many innocent families in this county who rely on the scrap metal trade. At Dagoretti Centre, where Hon. Kiarie comes from, close to 12 per cent of the shops are scrap metal dealers. The same is the case at Waithaka Shopping Centre. These are not the people who vandalised electric poles and power stations in Embakasi. These are people who earn an honest living through collection of scrap metals. We must not punish our people because of failure by the Government. It is the Government's work to protect its installations. The Government cannot hide behind the people.

**Hon. Deputy Speaker:** What is your point of order, Hon. Kabinga?

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Deputy Speaker, there is nothing out of order in what I have said. The Government has a responsibility to protect its vital installations without punishing hustlers.

**Hon. Deputy Speaker:** Let us hear Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Deputy Speaker, it is wrong for the Member for Kikuyu to ...

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Who are you to judge me on what is wrong and right?

**Hon. Josphat Kabinga** (Mwea, JP): And who are you?

*(Loud consultations)*

**Hon. Deputy Speaker:** Calm down, Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): No! He cannot ask me who I am.

**Hon. Deputy Speaker:** Order, Hon. Member! Let us always maintain our cool.

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Deputy Speaker, it is wrong for him to ask me who I am. He is a senior Member of this House.

*(Loud consultations)*

I am Wachira Kabinga.

**Hon. Deputy Speaker:** Hon. Kabinga!

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Deputy Speaker, there is a tendency by some Members to turn this House into a town hall political House. We must not allow that to continue. Hon. Ichung'wah is turning everything into politics. We cannot allow it.

*(Loud consultations)*

**Hon. Deputy Speaker:** Order! Order! You will have to allow Hon. Kabinga to talk. What Hon. Kabinga is saying is true. Even fairly apolitical matters are being politicised.

**Hon. Josphat Kabinga** (Mwea, JP): Even a serious matter like this one is being politicised. We cannot allow this in this House.

**Hon. Deputy Speaker:** Let us deal with matters that have been brought to the House. The Chairperson of the Departmental Committee on Trade, Industry and Cooperatives has presented a Statement on scrap metals. We do not need to deviate from that subject.

Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Deputy Speaker, I am on a point of order. It is wrong to accuse the Government when it temporarily halts an activity to put structures in place. There were no structures for dealing with scrap metals before. We now have structures. How can you wake up and start blaming the Government by politicising this issue out of nowhere?

**Hon. Deputy Speaker:** Order, Hon. Kabinga. Hon. Ichung'wah and Hon. (Dr.) Pukose are asking what is out of order. Both of you are out of order because you are unnecessarily shouting each other down.

**Hon. Josphat Kabinga** (Mwea, JP): What is out of order is bringing politics into this House.

**Hon. Deputy Speaker:** Hon. Members, let us take it easy. I have noticed that towards the elections, especially during the primaries, Members' temperatures and sugar levels rise. Let us avoid this. It is not that serious. All these will come and go.

*(Loud consultations)*

Order, Member! Once you have made your point, you should allow other Members to also make their points. We do not have to politicise everything that comes to the House. Let us leave politics for other forums outside the House. Because of that, I am not going to allow any more comments. I am giving chance to the Leader of the Minority Party and that will be the end on this matter.

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, mine is a small one. I think we are being unfair to Hon. Kimani Ichung'wah. Hon. Kimani Ichung'wah is preparing to be the

Leader of the Minority Party, being in the opposition. He has to practise it now. So, let us allow him the latitude.

**Hon. Deputy Speaker:** Leader of Minority Party, we are just from trying to put down unnecessary political statements.

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

Order, Hon. Ichung'wah.

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, I am not going to be a Governor. I have accepted. Allow Hon. Kimani Ichung'wah to practise being in the opposition. This is the time.

**Hon. Deputy Speaker:** You know, it is very interesting. These are some of the very good and fine accountants we have in this House. It becomes a bit difficult when they start throwing words at each other. Hon. Members, I am not going to allow anything else. To bring sanity to the House, I am not going to allow any point of order for the time being. So, we will go back to other business. Let us proceed now. I will not open up anything more for the House. We cannot go on like this. Let us proceed.

Next Order.

*(The Clerk-at-the-Table consulted with Hon. Deputy Speaker)*

There is a Statement Request by Hon. Duale. Do you have anything, Chair of the Departmental Committee on Administration and National Security? Is it a Response? Let us start with the Response then we come to Requests for Statements. Actually, what we should have done earlier was to start with Requests but I had not seen it listed here. As much as yours is not listed, it was the only Response to Requests for Statements that I have on the Order Paper. It is the one by the Chair of the Departmental Committee on Trade, Industry and Cooperatives. You will have an opportunity then we come to Hon. Duale's Request. We will not open it to a lot of interrogation. We will just go straight to the point and then we will be fine.

Proceed, Hon. Chair.

#### ACCIDENT INVOLVING EMPLOYEES OF TRANSMARA SUGAR COMPANY

**Hon. Peter Mwathi** (Limuru, JP): Hon. Deputy Speaker, the Member for Borabu Constituency, Hon. Ben Momanyi had sought a Statement regarding an accident involving two employees of Transmara Sugar Company Limited located in Narok County. In particular, the Member sought responses on the following:

- (i) The status of investigation since the disappearance of Mr. Duke Nyambimba Mong'are and Mr. Patrick Adipo, both employees of Transmara Sugar Company Limited, who were covered by falling bagasse which put up a fire at the bagasse yard and have not been traced to date.
- (ii) The steps that have been taken to trace the two employees.
- (iii) The action that relevant Government agencies such as the Directorate of Criminal Investigations has taken, including instituting investigations and making arrests for possible criminal negligence by the management of the sugar company.
- (iv) Whether the company has been operating in strict conformity to the provisions of the Occupational Safety and Health Act, 2007.

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- (v) An assurance that comprehensive investigations are carried out into the circumstances surrounding the accident and whether action has been taken against anyone found culpable on any form of negligence.

Hon. Deputy Speaker, I beg to respond as follows:

On 22<sup>nd</sup> February 2022, the Chief Security Officer of Transmara Sugar Company Limited, Mr. David Tonkei, reported that there was an incident at the factory. Police officers from Enosaen Police Station visited the scene and established that three fire marshals – Patrick Adipo Okelo aged 35 years, Duke Nyambimba aged 27 years and Reuben Cheruiyot aged 33 years – were on routine patrols at the bagasse area when suddenly the bagasse caved in and covered two of them. Reuben Cheruiyot escaped unhurt.

The rescue mission commenced immediately. On the following day, the Transmara Sub-County Security and Intelligence Committee and the sugar company management held a meeting at the scene. After deliberations, the Kenya Red Cross Society team and the Dog Unit were invited to join the rescue mission. However, the sniffer dogs could not assist in such a mission due to the toxic nature of bagasse. They were therefore withdrawn. The search continued with the aid of eye witnesses, one of them being Reuben Cheruiyot, and the company's CCTV footage.

On 25<sup>th</sup> February 2022, the Sub-County Security Committee led by the DCC Transmara West were at the scene to supervise the scooping of bagasse. The factory's management was asked to hire more machinery to facilitate the scooping of the bagasse. The following machinery was deployed: three excavators, each with a driver and one spotter; 24 tippers to remove bagasse from the site to a safe place; three earthmoving bulldozers....

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Members! I have been here for a long time. Sometimes when it is close to elections, temperatures just get ignited unnecessarily and on very small issues. Please, let us maintain our cool even amidst issues of elections. We can still afford to be peaceful with each other in the House.

**Hon. Peter Mwathi** (Limuru, JP): Hon. Deputy Speaker, allow me to proceed.

The following machinery was deployed: three excavators, each with a driver and one spotter; 24 tippers to remove bagasse from the site to a safe place; three earthmoving bulldozers; two backhoes; three shovels and one grader. Further, a 100-manpower was on operation in 12-hour shifts continuously. Eight police officers were also deployed to guard the scene.

On 28<sup>th</sup> February 2022, the Sub-County Security Committee held a meeting with Transmara Sugar Company Limited. They were briefed on progress made so far. On 15<sup>th</sup> March 2022, the factory's management held a meeting with the relatives of the victims at Enosaen Police Station, where the Sub-County Intelligence Officer assured the families of their commitment in retrieving the missing persons.

On 24<sup>th</sup> March 2022 at 1930 Hours, Mr. Sam Kalu, who is the Legal Counsel for Transmara Sugar Company Limited, reported at Enosaen Police Station vide OB No.21/24/3/2022...

**Hon. Deputy Speaker:** Order, Hon. Peter Mwathi. I hear some Members saying that you should table the Statement because the owner of the Statement Request is not there. We like doing things uniformly. Remember, we just did the previous one in the absence of Hon. KJ. There is only one thing which I will do to save the time of the House: Once you have read your Statement, we will simply leave it at that. That is easy. Just read the Statement.



**Hon. Peter Mwathi** (Limuru, JP): I am much obliged, Hon. Deputy Speaker. I am well-guided.

On 24<sup>th</sup> March 2022 at 1930 Hours, Mr. Sam Kalu, who is the Legal Counsel of Transmara Sugar Company Limited, reported at Enosaen Police Station vide OB No.21/24/3/2022 that the Directorate of Occupational Safety and Health Services from the Ministry of Labour and Social Security Services had visited the factory and issued conservatory orders to immediately close down Transmara Sugar Factory against the backdrop of the company's plan to harvest 11,600 tonnes of sugarcane band at Mapashe/Magenje areas along the boundaries of Narok and Kisii counties. On 5<sup>th</sup> March 2022, a consultative meeting was convened at Transmara Sugar Company Offices attended by:

- (i) the Management of Transmara Sugar Company;
- (ii) officers of the Directorate of Occupational Safety and Health Services from Nairobi and Narok;
- (iii) the Sub-County Security Intelligence Committee, Transmara West;
- (iv) the Local Administrator;
- (v) the area Deputy County Commissioner (DCC); and,
- (vi) the Officer Commanding Station (OCS), Enosaen.

The meeting was chaired by the DCC, Transmara West Sub-County. The team from the Directorate of Occupational Safety and Health Services led members in identifying areas of concern that ought to be addressed by the sugar company's management. The members unanimously agreed to convene an all-stakeholders' meeting on 31<sup>st</sup> March, 2022 at Lenamo Springs Hotel, Kilgoris.

Investigations are ongoing vide Inquiry File No.1 of 2022 and statement of crucial witness has been taken. On 28<sup>th</sup> February 2022, investigators visited the Directorate of Occupational Safety and Health Services office at Safety House, Nairobi, with the intention of recording statements. However, the Directorate requested for three days to make a comprehensive report on the same, which would be crucial in the investigation.

The company is working in compliance with the Occupational Safety and Health Act. The company has a current certificate of registration of workplace issued by the Directorate on 30<sup>th</sup> November, 2021, which will expire on 9<sup>th</sup> September 2022. Further, the company conducts its annual occupational safety and health audit and submits the same to the relevant authority.

The sugar company has so far done the following:

- (i) A risk assessment audit report was submitted to the Directorate on 24<sup>th</sup> January...

**Hon. Deputy Speaker:** Have you finished, Hon. Chair? Proceed.

**Hon. Peter Mwathi** (Limuru, JP): The following is what they have done:

- (i) Undertaking a risk assessment audit, whose report was submitted to the Directorate on 24<sup>th</sup> January 2022;
- (ii) Undertaking an annual safety and health audit, whose report was submitted to the Directorate on 24<sup>th</sup> January 2022;
- (iii) Undertaking a fire and safety audit, whose report was submitted to the same institution on 24<sup>th</sup> January 2022;
- (iv) Undertaking a workplace noise assessment, whose report was also submitted to the same institution on 22<sup>nd</sup> February 2022; and,
- (v) Undertaking an occupational air quality assessment, whose report was also submitted to the same institution on 22<sup>nd</sup> February 2022

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. We will now go to a Statement Request by Hon. Duale.

## REQUEST FOR STATEMENT

### ALLEGED MISUSE/WASTAGE OF PUBLIC FUNDS ON BUILDING BRIDGES INITIATIVE

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, pursuant to Standing Order No.44 (2) (c), I rise to request for a Statement from the Chairperson of the Public Accounts Committee (PAC) regarding alleged misuse and wastage of public funds on the Building Bridges Initiative (BBI) Steering Committee and Taskforce, the BBI Secretariat and Principal Secretaries.

On Thursday 31<sup>st</sup> March, 2022, the Supreme Court declared the Constitution of Kenya (Amendment) Bill, 2020 popularly known as the BBI Bill as null and void. The pertinent question that arises is: Were public funds utilised in rolling out the unconstitutional BBI process?

It is estimated that over Kshs30 billion was used by the BBI Steering Committee and Taskforce, the BBI Secretariat and the Principal Secretaries in the formulation and advancement of the BBI Bill. In particular, the BBI Steering Committee and Taskforce spent an estimated Kshs10 billion of public funds on what was termed as “public and stakeholder engagement exercise” for collection of views on the BBI Bill. Further, senior Government officers, including Principal Secretaries, who were also Accounting Officers, spent an estimated Kshs20 billion to roll out the illegal BBI project.

Article 201 (d) of the Constitution provides that public money shall be used in a prudent and responsible way. Further, Section 66 (1) (a) (i) of the Public Finance Management Act No.18 of 2012 provides that Accounting Officers shall monitor, evaluate and oversee the management of public finances in their respective entities, including promotion and enforcement of transparency, effective management and accountability with regard to the use of public finances and take such other actions, not inconsistent with the Constitution. Further, Article 73(2) (d) of the Constitution provides the guiding principles of leadership, and integrity defines accountability to the public for decisions and actions as one of the leadership principles.

Lastly, Article 226 (5) of the Constitution provides that if the holder of a public office, including a political office, directs or approves the use of public funds contrary to the law or instructions, that person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.

The use of public funds by the BBI Steering Committee and Taskforce, the BBI Secretariat and the Principal Secretaries on the unconstitutional BBI Bill was in blatant violation of Articles 73(2) (d), 201 (d) and 226 (5) of the Constitution and Section 66 (1) (a) and (i) of the Public Finance Management Act, 2012.

Hon. Speaker, indeed, pursuant to Article 73 (2) (d), as read together with Article 226 (5) of the Constitution, the Principal Secretaries who authorised the use of public funds and or diverted public funds for advancement of the unconstitutional BBI process should be held personally liable for the misuse and wastage of public funds. Whereas under Article 37 of the Public Audit Act No.34 of 2015, a forensic audit to establish fraud, corruption or other financial improprieties may be undertaken by the Auditor-General only upon request by Parliament, and more so this House, it is worth noting that Article 229 (5) of the Constitution places a constitutional and legal obligation

on the Auditor-General to conduct an audit on the accounts of any entity that is funded from the public funds. In this regard, to the extent that the BBI Steering Committee and Taskforce, the BBI Secretariat and the Principal Secretaries applied and diverted public funds into the unconstitutional BBI process, the Auditor-General has a constitutional obligation under Article 229 (5) of the Constitution, as an independent office, to undertake an audit of the accounts of the BBI Steering Committee and Taskforce, the BBI Secretariat and the Principal Secretaries for possible misuse and wastage of public funds.

Hon. Deputy Speaker, it is on account of these grave concerns that I seek for a Statement from the Chairperson of the PAC on the following:

- (i) What was the exact amounts of public funds that were allocated and utilised by the BBI Steering Committee and Taskforce, the BBI Secretariat and Principal Secretaries in the unconstitutional BBI process?

*(Applause)*

- (ii) Whether in accordance with Article 201(d) of the Constitution, the public funds were used in a prudent and responsible way;

**Hon. Members:** Yes!

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I do not need pedestrian answers on the Floor of the House. There are people who are used to pedestrian engagements. They cannot engage me.

Finally, I would like the PAC Chair to:

- (iii) state whether, in accordance with Article 229 (6) of the Constitution, the public funds were applied lawfully and in an effective way.

Thank you, Hon. Deputy Speaker, if not this Parliament, the next one will deal with this matter.

**Hon. Deputy Speaker:** Hon. Duale, you have put your request on record. I am trying to consult on whether we require a Statement from the Chairperson of PAC. Ordinarily and per the Standing Orders that we recreated, I am going to consult on that matter.

*(An Hon. Member spoke off-record)*

Which one? We normally send these things to the Departmental Committees so that we can get answers from the Executive. In this situation, where would the PAC's response be coming from?

**Hon. Aden Duale** (Garissa Township, JP): I am a Member of PAC. I am sure the Clerk will help you. The substantive Speaker gave a Communication from the Chair on how forensic audit can be sought by Parliament, mainly through PAC and PIC. If you read the Communication of the Speaker, Hon. Muturi, it is only PAC or PIC that has the mandate to, on behalf of the House, write to the Auditor-General on any matter that concerns audit. This is an audit issue.

Hon. Deputy Speaker, I am a ranking Member. I did my homework well. I even read Hon. Speaker's Communication from the Chair.

**Hon. Deputy Speaker:** Hon. Duale, even if you did, you are asking for a Statement from the Chairperson of PAC. That is the thing that I want to consult on. I do not think we need to open this matter for debate now.

*(Loud consultations)*

It is better. The option I have is to simply send the Statement Request to PAC. However, as to how we are going to ask them to read out a Statement like every other Committee, a Departmental Committee or otherwise, is something that we would want to confirm. Maybe, I would only give a chance to two Members.

*(Loud consultations)*

Hon. Members, sometimes you must be respectful. You cannot guide me from where I sit. It is not possible. What I am saying is that it is something I want to confirm. I do not think of where the problem is in that particular one. It is not the issues that arise out of this request but whether we should expect a Statement from PAC. Hon. Duale was part of the team that crafted the section on appearance of Ministers and responding to Statements. So, even if it is Communication that I am going to ask for, Hon. Duale, I would have to look at it. The option I have is whether I want to open it up for Members to make comments on the request as I make that big consultation.

*(Hon. (Dr.) Robert Pukose spoke off-record)*

Hon. Pukose, if you do not want to make a Statement, that is absolutely fine.

*(Hon. (Dr.) Robert Pukose spoke off-record)*

You have just said that you are not interested.

I will give chance to one Member from my right and another one from my left. Let us start with Hon. Sankok. Do you want to say something on this particular matter?

**Hon. David ole Sanko** (Nominated, JP): Hon. Deputy Speaker, this is a very important Statement Request because public funds were used on a document that the High Court, the Court of Appeal, and the Supreme Court declared illegal and unconstitutional or null and void. The reason is because we want to recover this money. Where do we recover this money from? Is it from the Principal Secretaries and the Steering Committee Members or from the Handshake brothers? If it is from the Handshake brothers, since we are aware that the sitting President cannot be sued, we can sue the *bonoko* “president” so that he refunds Kshs15 billion as we wait for four months for Uhuru Kenyatta to become former President and take him to court so that he pays the balance of Kshs15 billion. Public funds must be recovered. Where then do we collect this money from?

*(Hon. T.J. Kajwang’ spoke off-record)*

Hon. Deputy Speaker, let me not get interrupted by Hon. Kajwang’. You are a *bonoko* CJ. You can as well go and...

**Hon. Deputy Speaker:** Members, you sometimes make it extremely difficult. Let us hear from Hon. Kajwang’.

**Hon. T.J. Kajwang’** (Ruaraka, ODM): Hon. Deputy Speaker, we are at the tail-end of the parliamentary term. Many Members would want to speak to their constituents, especially those

who are here and did nothing so that by speaking on the Floor of the House, they may be considered by their electorate. However, we can still be serious and do what we came here to do.

*(Loud consultations)*

A trend has emerged in this House where Members interact with the Speaker freely as though the Speaker is someone you can engage with.

**Hon. Deputy Speaker:** Hon. T.J., I expected you to basically look at...

**Hon. T.J. Kajwang'** (Ruaraka, ODM): I am going there, Hon. Deputy Speaker but I have an issue of order.

**Hon. Deputy Speaker:** Forget about the sideshows.

**Hon. T.J. Kajwang'** (Ruaraka, ODM): There is a trend that has come to this House, where Members freely engage with the Speaker from their seats as though there are no rules that should contain Members.

This is an issue...

**Hon. Deputy Speaker:** Are you able to respond to this particular issue because it is the most important one?

**Hon. T.J. Kajwang'** (Ruaraka, ODM): I am going there. Let me get to the substance. There are ranking Members who are older than I am, but who have used their positions to mislead this House.

An issue such as a Ministerial Statement is a jurisprudient received from Westminster. A Ministerial Question is a Prime Minister's Question. It is directed at a Minister or to the Executive.

*(Hon. Aden Duale spoke off record)*

Hon. Deputy Speaker, I need protection from Hon. Duale. When he was speaking, we were very quiet. He must also listen to other people who have alternative views. Can I be protected from Hon. Duale? He must not think he is the one who has all answers in this House. Can I be protected from Hon. Duale?

*(Chants)*

**Hon. Deputy Speaker:** Order, Members! What is your point of order, Hon. Duale?

**Hon. T.J. Kajwang'** (Ruaraka, ODM): No! No! I am on a point of order.

**Hon. Deputy Speaker:** What is your point of order? Hon. Kajwang', you will still have the Floor.

Order! Order, Members! Can you listen? Take your seat, Hon. Duale. Hon. Members, Hon. Duale has sought opportunity to raise a point of order. Hon. Kajwang' will still have the Floor. Hon. Kajwang', let him raise his point of order then you will finalise what you were saying. That is how it is done here. He is on a point of order then we go back to listening to Hon. Kajwang'.

*(Loud consultations)*

Order! Take your seat, Hon. Duale. Take your seat. Just in case you are not aware, Hon. Members, Hon. T.J. Kajwang' was not on a point of order. He was contributing. I had given him an opportunity to contribute. Let him finalise.

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**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Deputy Speaker, I think we are all entitled to come here and contribute as equal Members of this House. Hon. Duale should not take it upon himself thinking he has all the answers to these questions. All of us are Members of this House by virtue of election. After all, I was elected by more votes than he was. He was elected by 3,000 votes from Garissa. You were elected by 3,000 votes and you come here thinking you are...

**Hon. Deputy Speaker:** Thank you very much. Now take your seat. Hon. Duale, take your seat. Hon. Sankok, take your seat. Everybody has finished their contribution.

You are out of order. What we are going to do is very simple. Let me consult on which Committee to refer the matter to.

*(The Deputy Speaker consulted with the Clerk-at-the-Table)*

Take your seats, Hon. Members. You do not have to be excited about anything. Hon. Duale and Hon. T.J. Kajwang' can discuss their issues there, but we are going to consult on what steps to take. Just take your seats. I gave Hon. T.J. an opportunity expecting him to bring up the legal bit to this matter, but he did not do so. So, let us proceed with the Statement.

*(Several Members rose in their places)*

Before any Member rises on a point of order, every Member should take their seat and be silent. If you continue throwing words between yourselves, it will not help anybody. Hon. T.J. Kajwang' was making a contribution. So, it was right for Hon. Duale to rise on a point of order. It is okay. We know it because we have been here long enough. Towards elections, people want to shout and say all manner of things because they are speaking to constituencies outside this House. I have noticed one particular Member who is shouting all the time. If you ask that particular Member to say anything about this matter, probably the Member does not know what the proceedings are about.

I gave Hon. T.J. Kajwang' opportunity to contribute. A Member did not even notice that Hon. Kajwang' was not on a point of order. I know when I give you an opportunity to contribute you bring your intellectual input to the matter. Another Member on this other side wants to say everything about anything. It is known who the particular Members are. They are shouting. I can assure you, Hon. Members, among all the Members in this House now, it is only one Member who came here earlier than myself. Even if you shout so much, if you are not working very hard down there, there is really nothing much the shouting can achieve. Let us engage in intellectual discourse. Let us legislate.

*(Applause)*

When I give opportunity to a Member like the Member for Ruaraka, please, listen to him. Let us hear if he has anything to contribute to the issue. In the meantime, what every Speaker does is that as they give Members opportunity, they also consult on other issues that relate to the matter at hand. Why are we shouting at each other here? We can do much better by listening to each other. Can we take our peace? I will give an opportunity to the two Members to contribute on the issue of referral. I will make that decision. Even if you shout, it does not matter. The decision that I will make will go on the *Hansard*. It will handle that matter. It is sometimes good to get your minds

off colleagues in the House, and see whether there is any way that can be modified to make the matter even better. That is the only thing that we require here.

For example, when I give Hon. T.J. Kajwang' an opportunity to contribute and give intellectual input, which I know he has, he throws political issues and then he gets a political response. It does not help.

*(Loud consultations)*

This matter will be resolved. There is no problem. We will consult. You can see there are quite a number of Clerks-at-the-Table here. We will consult and make a decision that will be good for the House and posterity. Please, Hon. Members, take your peace.

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

Hon. T.J. Kajwang', I do not need any more of this contribution. It is something that I need to deal with quickly.

*(Hon. Deputy Speaker consulted  
with the Clerks-at-the-Table)*

Next Order!

## **BILL**

### *Second Reading*

THE ELECTIONS (AMENDMENT) BILL

*(Hon. Amos Kimunya on 30.3.2022)*

*(Debate concluded on 5.4.2022)*

Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. I rise on Standing Order No.53 (3) following the Order which the Clerk-at-the-Table has read out. Due to some consultations, which are still going on, kindly allow us one more opportunity, so that you can put the Question on a date which you will decide.

**Hon. Deputy Speaker:** Is that Order No.8? Yes. We will go to the next Order.

*(Putting of the Question deferred)*

*(An Hon. Member spoke off record)*

## **MOTION**

APPROVAL OF THE MEDIATED VERSION OF THE COUNTY

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## GOVERNMENTS ADDITIONAL ALLOCATION BILL

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order No.150, this House adopts the Report of the Mediation Committee on the County Governments Additional Allocation Bill (Senate Bill No.35 of 2021), laid on the Table of the House on Thursday, 31<sup>st</sup> March 2022, and approves the mediated version of the County Governments Additional Allocation Bill (Senate Bill No.35 of 2021).

**Hon. Member:** On a point of order, Hon. Deputy Speaker.

**Hon. Member:** There is no quorum, Hon. Deputy Speaker.

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. I rise on Standing Order No.53(3) to seek that you allow the Committee one more session and you appoint a time, at your discretion, so that you can put the Question next time.

**Hon. Deputy Speaker:** That is done. Next Order.

*(Putting of the Question deferred)*

## CONSIDERATION OF REPORT

## THE COFFEE BILL

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. I rise on Standing Order No.53(3) to seek that you allow me one more opportunity, so that I can consult with the Departmental Committee on Agriculture and Livestock. You will appoint the next opportune moment to put the Question.

**Hon. Deputy Speaker:** Under the circumstances, I proceed to defer Order No.11. If we got a second shot On Order No.10, it would have taken us to Order No.11. We will go to the next Order. We will defer putting of the Question.

*(Putting of the Question deferred)*

## BILLS

*Second Reading*

## THE CHILDREN BILL

*(Hon. Amos Kimunya on 22.3.2022)*

*(Resumption of Debate interrupted on 22.3.2022)*



**Hon. Deputy Speaker:** There was no Member on the Floor. So, I will give the opportunity to any Member. I want to see who is interested to contribute to the Children Bill. Hon. (Dr.) Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Deputy Speaker, thank you for giving me this opportunity to contribute to the Children Bill. At the outset, I must admit that it is voluminous. So, it is not possible to deal on its every aspect.

We need to appreciate the important role that children play in the lives of this country, families and the society at large. We must also note that there are many cases where children are abused or denied their rights as dictated in the Constitution of Kenya, various international conventions, practices and norms all over the country, and the Africa Continent. We have a Children Act which is inadequate as far as the Constitution of Kenya is concerned and due to the changing realities of how children are brought up and managed in the various aspects. Indeed, children are our future all over the world. Consequently, a lot of effort is normally taken to ensure that they are protected adequately.

Allow me to pick a few issues that I came across as I read the Bill. Clause 2 of the Bill is on child abuse, which includes several issues. I want to make a comment on Clause 2(e). It clearly says that dissemination to a child any material, information, education or health service that promotes, induces, condones or normalises sexual activity or behaviour amongst children is an abuse. Many of the people whom I spoke to raised a bit of concern on the import of this clause in respect of children abuse. Through the Ministry of Education and other health providers, we provide sex education to children below the age of 18 years. If dissemination of such material amounts to children abuse, where then do we place the aspect of sex education in our lives and that of our children? Therefore, many stakeholders feel that particular aspect needs to be redefined clearly to ensure there is proper understanding of what constitutes a child abuse offence as far as the curriculum and delivery of sexual education to young people is concerned.

There has been an unending debate in this country on corporal punishment. It is defined in the Bill as physical force which is applied on a child by use of any means, including a cane or other object, with the intention of inflicting pain or discomfort for the purpose of corrective discipline or punishment.

*[Hon. Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Soipan Tuya) took the Chair]*

We are Africans and we are like any other people in this world. We have our own traditional way of discipline and undertaking what we do. Making corporal punishment in the way it is framed here illegal, indeed, is to damage families and generally to make it extremely difficult to correct and put children in line or raise them in the correct way. There can never be any corrective discipline that does not come with sanctions or some form of pain. It is important again that at the Committee of the whole House, we redefine what constitutes corporal punishment both in public schools, private homes or any other corrective facility.

To the uninitiated or to any other person, the definition of a foster parent and a guardian seems to be very confusing. There must be an effort to clearly indicate what constitutes a foster parent or a guardian, so that any person who is reading or applying the Act has no confusion on what constitutes what.

Parent means the mother or father or any person who is liable by law to maintain a child or is entitled to his custody. This particular definition brings a lot of confusion. The definition of parent, foster parent, guardian parent, and a person who has taken parental responsibility must all be very clear. Therefore, we need to be very clear on what we want do and how we go ahead.

There is radicalisation...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Oundo, you had spoken to the Bill.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): No, Hon. Temporary Deputy Speaker. I was called and since I was not ready, I deferred my comments. It is clear on the *Hansard*. I am very clear in my mind. I have been here for four-and-a-half years and I am a fairly fast learner. I remember on that particular day, I clearly raised the concern and the substantive Deputy Speaker, clearly said that since we did not have the numbers, we just move the Bill and there will be another time slated for contributions on the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Okay, I will go by your word.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): You can rest assured, I do not lie.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to intervene. I apologise to my brother for interrupting. I did not wish to do so. There is an issue that I had raised with the Speaker informally, but I want to put it formally. Even as we are moving the Children Bill, I know that it is in the Departmental Committee of Labour and Social Welfare. There are also issues relating to it that ideally should be looked at by the Justice and Legal Affairs Committee (JLAC). I was wondering whether they could have a joint meeting. One of the reasons is because I have seen that my Bill on Child Justice has finally been gazetted, which is creating a different legal framework for children in conflict with the law when this one has a brief mention on children in conflict with the law. I think we will benefit from legal minds whether we should have that one Bill or whether we should have two separate Bills the way South Africa has, so that you have a legal framework that has a civil law for children and one that has criminal. When you have both disjunctive laws, then it means that one is likely to suffer. In this instance, it is the criminal that is suffering because it has very cursory mention. As I had indicated, I had made an informal request to the Speaker. So, I am making a formal request that the two committees sit together because my Bill on Child Justice was dealt with by JLAC, yet this one was dealt with by the Departmental Committee on Labour and Social Welfare. So, I did not have the benefit of appearing before the Departmental Committee on Labour and Social Welfare. I appeared before JLAC.

Hon. Temporary Deputy Speaker, I do not know if you are listening to me because your attention is distracted.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Just go on, Hon. Millie, make your point.

**Hon. (Ms.) Odhiambo- Mabona** (Suba North, ODM): I was just saying that I had the occasion to appear before JLAC with the Child Justice Bill, but I did not have an occasion to appear before the Departmental Committee on Labour and Social Welfare with the provisions which are on the same Bill. Even as we go on, I am not saying that we stop the Second Reading, but is it possible for JLAC and the Departmental Committee on Labour and Social Welfare to sit

together and give guidance because if they find that my Bill on Child Justice is more comprehensive, then we can just bring amendments to remove the provisions on child justice from the Children Bill and fast-track the child justice, so that it moves at the same pace with this one.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Okay. I know we have eaten into some minutes of Hon. Oundo. Hon. Millie, I will just do a bit of consultations with the Clerks and then I will respond to you. Hon. Oundo, I am sure the Clerk will compensate the time lost. Go on.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. As I was indicating, the Bill is fairly comprehensive and it contains issues that I had been told to come and articulate on this Floor. I have mentioned a few. As I continue, when we go to Clause 6 of the Bill, it says that every child shall have a right to a name, a nationality and as far as possible, the right to know and be reared by their parents. The boy-child has sent me. The men who are still in the business of having children like some of my colleagues here and outside there have said that there has been so many cases of fraudulent claims by mothers in so far as parenthood or fatherhood of the child is concerned. Therefore, there has been a request, and I hope the committee handling the Bill is listening. There has been a request that before the child is given a name, which naturally in a patriarchal society like ours, will bear the name of the father, biological fatherhood must be established beyond reasonable doubt. I have been told that that can only be established by way of DNA. So, at the Committee of the whole House, we will have to make an amendment to ensure that before a name is given, the right to know who the father or mother is granted and there must be a scientific process to prove biological motherhood or biological fatherhood. There have been so many jokes all over the place. There has been an advert going round that why waste 18 years of school fees if you can spend Kshs18,000 to save you the 18 years of school fees.

There is also an emerging trend that the Bill does not seem to have captured. I am talking about cases where probably vulnerable families or families that are unable to maintain a child to a certain standard undertake what we call voluntary surrender of parenthood without necessarily amounting to adoption or amounting to relegation of duty. How do we handle such a matter where a parent or parents have had voluntary surrender of parenthood? Those are some of the debates that need to be understood.

If you go to Clause 12, it mirrors some provisions in the Basic Education Act. However, it would have been far much better to tighten it up and clearly make it mandatory that every parent has parental obligation to take their children of school-going age to school and the sanctions be imposed in the event of failure to do so. As it stands, in the Basic Education Act, it only mandates members of the national Government coordinating office to forcibly take the children to school. There seems to be no punishment. There seems to be no sanction. It would seem it is not an offence under the penal code or any other code for a child not to be taken to school. As a requirement, each child must have a right to go to school and it must be the obligation of the parent to do so.

Clause 14 indicates that every child shall have the right to freedom of thought, conscience, religion and religious education subject to appropriate parental guidance and in the best interest of the child. That is fairly contradictory and impossible to impose. In law, a child has no ability to make decisions. Indeed, it will be difficult to understand the best interest of a child. If parents are Catholics and the child associates with Muslims, can the so called child decide they are going to become Muslims without parental guidance because that would be in their best interest?

Again, there is a fairly contentious clause here. This contentious clause spells doom to many parents. Clause 21(a) indicates that no person shall, in the case of a male child, subject a

child to forced circumcision. Circumcision is a tradition in many societies. It is actually recommended on hygienic grounds. If a child, upon attaining adulthood, decides to take parents to court for forced circumcision, how will the parent ever defend himself yet he did it purely out of the need to comply with traditions and medical conditions? There is a false claim on circumcision by some people. It is good *Baba* answered it very well. Circumcision needs to be looked at.

As I said, the Bill is voluminous. We will peruse it at the Committee of the whole House and make sure that we move amendments to it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Oundo, have you finished? Have your words fitted in the cut minutes? I will give you a moment.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): I support. I have said that it is a voluminous Bill. We will go through the Bill with a toothcomb and bring amendments to align it with modern realities, our cultural, traditional and religious values. On that score, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Great. Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. I rise to interrogate this very important Bill. Children are our future. There is no country without children.

This Bill has attracted a lot of interest. I do not know where the interest it attracts emanates from. This Bill was moved in the House before a report of the Committee was tabled. I am a Member of the Departmental Committee on Labour and Social Welfare and even before we finished public participation, the Report was already tabled in the House. It was the first time the Leader of the Majority Party came to the Committee and sat through a whole retreat of the Committee. I do not know what form of interest this Bill attracts from other quarters. We even know there are Members of this House who run children homes. It is really attracting a lot of emotion. We need to prosecute this Bill, so that we can protect our children. It is very voluminous and detailed.

There is also a 20-year renewable moratorium on international adoption. The Government has realised, through a lot of investigations, that our children, in the pretence of being adopted internationally, are trafficked for organ harvesting, sexual molestation and pornographic video businesses. Our children, who are adopted internationally, are going through a lot. There is no law to protect them because they are under the laws of those lands. On international adoption, I thank the Government of Kenya for putting a 20-year renewable moratorium on all international adoptions. There are cartels that have rushed with this Bill to try and reopen, through the backdoor, that moratorium on international adoption, so that they can continue with their illegal business of selling our children abroad. They sell our children for organ harvesting, for some people to grow and marry them, and for some people to use them in the business of pornographic videos. Let us say it as it is.

We have gone to children homes with children who are abandoned and collected on the streets, majority of them being boys. When you go to international adoption, a majority are girls. An old man comes to pretend to be adopting a child only for him to go and use that child as a maid or grow her up for marriage. We do not know whether the child is nine years old when they start the marriage business. There is evidence that children who are adopted internationally and even nationally have ended up being wives of their purported parents or adopters.

The question is: When did they start realising that this is not my biological child and can be a baby oryx that can be adopted in other means? Is it when the child was nine or twelve years old? We have gone to children homes, especially private ones and we know that the highest number of abandoned children in any country are children with disabilities. It is children who are HIV

positive. Go to private children homes and you will find no child with disability. Why? Because they are not sellable and they fetch no money. They are not good breeds for sale. You will not find children with HIV/AIDS yet we know they are the ones who are abandoned. What is the purpose of children homes? They are supposed to assist the most vulnerable children. I think the most vulnerable children are those with disabilities and those who are HIV positive. But you will not find them in private homes because this is a breeding ground for children to be sold. A child with disability is not a very good breed to be sold. It will not fetch any money. These children homes are selling our children. That is a fact.

The Child Welfare Society of Kenya is a Government institution that is mandated to take care of our children. It is sponsored and supported by the Exchequer through this House. It has capacity and homes all over the country. It has enough personnel. It is supposed to take care of our children because it is a Government institution and it cannot sell our children. But the cartels in child trafficking are fighting the Child Welfare Society. In fact, a video was doing rounds which was an expose on the Child Welfare Society of Kenya misusing our children and treating them with drugs that are not prescribed by doctors. We know they were giving children supplements. Some of these are children with disabilities and require supplements. For example, children with cerebral palsy require supplements.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Otiende Amollo, what is out of order?

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Temporary Deputy Speaker. It was not my intention to interrupt Hon. Sankok. However, the more he continues, the more he uses unsubstantiated unparliamentary language. He began by saying that this Bill was sneaked in by cartels when the Bill was presented by the committee mandated by the House. He did not substantiate that. He has now named a particular organisation and accuses it of all sort of unprintables. Hon. Sankok must substantiate that or withdraw his remarks. It is not fair to name entities that are not in this House and cannot defend themselves without substantiation.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Sankok, you know that when you make allegations targeted on an organisation and individual, it can only be through a substantive Motion or through substantiated statements. Just put your contribution into perspective. You are a Member of the Departmental Committee on Labour and Social Welfare.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, Hon. Otiende Amollo did not listen to me carefully. I said that before we tabled our report as a Committee, the Bill was moved. Normally, a report is tabled first and then the Bill is moved after Members have gone through the report. Again, I said that the...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You know your Chair is seated right behind you. Chair, you may want to speak for the Committee on the issue Hon. Sankok is raising. Hon. Sankok, because of that matter, I will give you one more minute to finish. Let me hear what the Chair has to say on what you have said. Let us listen to the Chair on the issues Hon. Sankok is raising about tabling of the Committee's Report and when the Motion was moved.

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Temporary Deputy Speaker, Hon. Sankok has talked about so many things. I do not know which one to single out.

*(Hon. David ole Sankok spoke off record)*

On the tabling of the Report, it is true that the Motion on the Bill was moved by the Leader of the Majority Party and seconded by Hon. Otiende Amollo when the Committee was retreating to do its report. I communicated to the Leader of the Majority Party that we did not have a problem with that. This afternoon, I tabled the Report and Members saw the volumes that we had to deal with. The number of amendments proposed by the various stakeholders was something the Committee could not ignore hence the voluminous two to three Reports that we tabled on the Floor of this House.

On the other comments by Hon. Sankok, I will comment on some of them when I will be making my contribution to the Bill. I submit.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Milly. Hon. Sankok, I will give you your minute to finish.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. Even though it is a good practice to move a Bill when the Committee is present... I am personally interested in this Bill as a practitioner of child rights. In my entire life, I have practised family law on children rights and that is why I am unwell, but I am in the House today. It was not in good standing for the Leader of the Majority Party to move the Bill when the Chair was not there. However, I remember when I raised the matter with the Leader of the Majority Party at the time he was moving it, he indicated that he will move it, but step it down so that the Committee is present when the House debates it. I do not think there was any ill intention. That is one. Two, the issue of concern for me with what Hon. Sankok is raising is relevance. The Child Welfare Society of Kenya is not part of this Bill at all. So, the issue of whether people are trying to undermine it or not does not arise.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Sankok, I will give you two minutes. It is clear now that the Second Reading of the Bill is proper before the House because the Mover had the blessings and permission of the Speaker to do it irrespective of the fact that the tabling of the Report came later. So, let us put that to rest.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I was only trying to build a point. Why all this interest and haste? People are raising points of order because of conflict of interest. I have painfully heard that Hon. Otiende Amollo seconded the Bill. We support this Bill. What I am saying is that, as a House, we should make sure that there is nothing like international adoption. The Child Welfare Society of Kenya, against what Hon. Milly Odhiambo has said, is an important stakeholder. As a Committee, we visited the Child Welfare Society, and the Mama Ngina Children's Home. That is the only place where you can find children with disability. If you can remember, I rescued Ben Busia from Narok where he was detained in a kennel for almost 10 years. He is now housed at the Child Welfare Society. You cannot find children with disabilities like cerebral palsy, who are abandoned in large numbers, in private children's homes because they cannot fetch them any money. We have enough parents in this country who can adopt children.

There is a committee of experts' report that indicated that for every abandoned child in Kenya, there are six Kenyan parents who are willing to adopt them. However, because they cannot pay more money like foreign parents, these children are not given for adoption within our country. Cartels are fighting for us to return international adoption so that they can sell our children overseas for child trafficking, organ harvesting and sex abuse. We will not do that. I urge this House to make sure that as we support this Bill... For us, we have ruled out the issue of foreign adoption forever as other countries like Rwanda.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You will have one minute to finish, Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, there are countries like Rwanda that have done away with private children homes. We should make sure that all our abandoned children are reintegrated into families so that we do not lose our culture. We need enough human resource. As I said, we have enough parents here to adopt our own children. Let us not allow our children to be trafficked abroad. People are now looking for organs from pigs. If you can remember, a pig's heart was used. They will traffic our children for organ harvesting. The Bill as proposed by our Committee will not allow foreign adoption. We request anybody who is for our children not to allow foreign adoption. For those who want to sell our children, sorry to them. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): There is a moratorium against international adoption. Hon. Otiende Amollo, you seconded the Bill and you cannot speak to it.

*(Hon. (Dr.) Otiende Amollo spoke off-record)*

On what basis, Hon. Otiende? Just give him the microphone. Let me hear you, Hon. Otiende Amollo.

**Hon. (Dr.) Otiende Amollo** (Rarieda, JP): Hon. Temporary Deputy Speaker, let it be very clear that I am not speaking to the Bill yet.

The Bill is shown as brought by the Leader of the Majority Party. It has been the practice in this House; a practice I have questioned, whether Bills that relate to particular committees should be brought in the name of the Leader of the Majority Party or in the name of the Chair of the committee. The substantive Speaker, two-and-a-half years ago, ruled that there is nothing wrong with these Bills coming in the name of the Leader of the Majority Party. First of all, it is quite procedural that the Leader of the Majority Party brought and tabled the Bill. On that particular day, and Hon. Millie Odhiambo was here, there was paucity of Members in the House. The Members who are now speaking loudly did not have the courage to come to this House, including Hon. Sankok, to point out the things they are generously pointing out.

The Leader of the Majority Party then asked me, as an agent of necessity, to second the Bill. Being an ardent Member, and having read the Bill, and having found nothing wrong with it, I seconded it. There is no conflict of interest. I never appeared before the Committee and I represent no one. So, to accuse me of conflict of interest for supporting the Committee is quite absurd on the part of Hon. Sankok. However, this is the direction I seek. When I seconded the Bill, I did so by doing the minimum of saying, I second. I asked the substantive Speaker then, and the *Hansard* will bear me out, that I reserve my right to contribute to the Bill. So, the direction I seek of you is whether having requested and having been granted, I now lose it, subsequently.

Thank you.

*(Hon. David ole Sankok spoke off-record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Sankok, listen to me carefully. I heard you say that Hon. Otiende Amollo has a conflict of interest. He has clarified that all he did was to second the Bill. So, you just need to withdraw that statement unconditionally.

**Hon. David ole Sankok** (Nominated, JP): The statement that I made was not with bad intention. It is only that he seconded while the report was not ready. You hear that he was even hijacked just to second because there was a hurry because of the conflict of interest. However, if I did something wrong to Hon. Otiende Amollo...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Just withdraw and apologise.

**Hon. David ole Sankok** (Nominated, JP): I respect him as a senior counsel. I withdraw and apologise to him because he is a senior counsel and a respected Member of this House, but we know there is a chain all the way from the Judiciary to private children's homes which are selling our children.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Now, you are out of order, Hon. Sankok.

*(Loud consultations)*

Hon. Ndindi Nyoro.

*(An Hon. Member interjected)*

No, let us go on. I think things have been clarified enough.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, very much Hon. Temporary Deputy Speaker for the opportunity to contribute. Children are a heritage of our nations. All of us have been children at some point and every adult has to pass through that stage. I would want to highlight a few issues that we should be doing, and one is about safeguarding the children of Kenya.

Looking at it broadly, the parameters we should be looking at as adults and leaders are well defined in the welfare of the children of Kenya. One is the issue of diet and making sure that those who are younger than us are well replenished with the right diet for them to grow to be responsible adults of Kenya. They are a source of labour for our economy.

Two, and very important, is the issue of health. This is making sure that the children we raise are well catered for in matters health. It is for us leaders and the Government to make sure that our children have access to the right health and are raised in a good manner.

I would want to speak more on the issue of education. As we know, the age which a person is called a child is between 0 to 18 years. In between, there are stages of new borns, infants and that of school-going children. Now, school-going children in Kenya means children who are in pre-primary school, primary school all the way to secondary schools. When President Uhuru Kenyatta was campaigning, his team made a promise to all the children of Kenya that there was going to be free secondary education. However, as a Member of Parliament, and I am sure my colleagues can bear me witness, what we call free secondary education in Kenya is more or less like a mirage. We still have to support those who go to day schools which is deemed free by this Government, whereas many of us know that for the day scholars to go through their education years, they have to pay more than Kshs10, 000 per year. There is the feeding programme. When we call it free, it has to be free, indeed. It is, therefore, the responsibility of the Government to make sure that the children of Kenya go through their education years and process in a manner they can afford. And for us to come and tell to our children and their parents that there is free



secondary in Kenya, that is a lie. In practice, they have to pay more than Kshs10, 000 per annum in day schools.

We also need to regularise all institutions like the children's homes and all charitable institutions that deal with children. Some could be predatory, but we need to have a body that regulates and looks into activities of charitable institutions that deal with children in this country.

As I wind up, as a country, it is good to be aware that the education system the children we raise up go through prepares them to be the labour force that our nation will depend on. We need to look at an education system that absorbs everyone. Absorption from primary to secondary school must be 100 per cent. That is why I was referencing that for us to have the 100 per cent transition, education has to be free. We also need to look at what we teach in primary and secondary schools. We currently have the CBC programme, which has turned out to be very expensive for our parents. We also need to look at how the Government can shoulder the burden on Kenyan parents, especially in the CBC regime, which to some is unaffordable. We also need to be forthright on STEM because the world economy currently relies more on changing dynamics in technology. That cannot be done at the tertiary level. It has to start from lower levels for us to have greater emphasis on science, technology, engineering and mathematics. The rate at which the global economy is evolving and the direction it is headed will need much more of STEM that is conceptualised from lower levels and from earlier years of children so that they are prepared well for the new dispensation of the global economy.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Millie, just to go back to the issue you raised on the Children Act and the Child Justice Bill, I will direct that you put your heads together. You notice that the Chairman of the Departmental Committee on Justice and Legal Affairs and the Leader of the Majority Party are not in the House. You raised an issue of concern. For the amendments you proposed to gain the prominence and attention they deserve, you need to consolidate them in one Bill or whichever other best way the four of you will agree on. I will direct that the Leader of the Majority Party convenes a meeting so that you can put your minds together, including with the Chairman of the Departmental Committee on Labour and Social Services. I am sure you will find a way forward.

Hon. Wachira Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. Before I make my contribution to this Bill, I want to note two things. I want my brother Hon. Otiende Amollo to know that the Committee appreciates his seconding of the Bill. We were in consultation with the Leader of the Majority Party and we have no problem with that development. We had actually requested that the Bill be deferred once more, but because of the business of the day they found it necessary to be moved. We have no problem with that. I only want to make a note to his remark that Members did not attend the meeting that day. No, we did not because we were on a retreat to finalise the Report.

The other point I want to make is that it would have been my wish as the Chairman of the Departmental Committee on Labour and Social Welfare to be given priority so that I can put the Bill into perspective before the rest of contributions. We have given Members a chance to contribute without the input of the Committee.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kabinga, it was an oversight. You actually deserve the right to speak before everybody else. But take your time; now you have it.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. Again, I have no hard feelings on that. This Bill should be taken very seriously by this House. It concerns our children. It comes at a time when the country has had a lot of challenges with issues of children. This is a sector that has been dogged by a lot of interests, as Members who have spoken before me have alluded to. This is an area where my Committee took a lot of time to not only engage various stakeholders but also to make physical visits to various facilities. Some of our findings were really shocking. We went to some children's homes and remand centres managed by the Government. The findings and what we heard from various stakeholders is shocking. My Committee has decided to stand very firm on issues to do with children. I know attempts have been made in the past to streamline children services in this country. I know there have been a lot of challenges here and there. People do not work together. Non-state actors have taken over the running of children affairs in this country. My Committee has decided to be firm in the way we handle children's matters.

If you look at the kind of amendments proposed after listening to various stakeholders, you will see that my Committee took this issue very seriously. At times we were retiring at about 11 O'clock in the night. We were still going through various amendments that were presented to us. We decided not to ignore any. Consequently, I can say without any fear of contradiction that the Committee has all the information that it requires to push this particular Bill through.

There are some very important issues that we dealt with as we reviewed this Bill. One of them was on the area of adoption. I do not want to repeat what Members have said, but it is true that adoption has been used in the past as a conduit of trafficking and mistreating children in this country. As a result, we dwelt on the issue very intensively. We also considered the moratorium that was put in place, why it came about and why the Government decided on it through a Cabinet directive. We also looked at improvements that may have been made since the moratorium was put in place. I know there are amendments that will come in this area. Even as we debate here, there are many people who are watching and listening to us simply because there is a lot of interest on the matter. We are determined to move on as a Committee. We decided to retain the moratorium on the basis that the country has not fulfilled some of the promises that were made to allow us to go back to international adoption systems.

The other issue that we dwelt on is to do with children's homes and care institutes. We reviewed the policy on the same. The policy is very clear that over time we should phase out children's homes in this country. We looked at the policy and listened to stakeholders and we made recommendations on the same. We need to move to family care over time and do away with children's homes. That recommendation is contained in our Report. But we also looked at the realities of the same and the Committee decided that we cannot and we will not close them down immediately. We have recommended a period within which we should phase them out so that we engage in family care.

In doing so, we did look at various case studies, including Rwanda and South Africa. We looked at how these countries have gone about the issue. It is true that while Rwanda has stopped inter-country adoption, South Africa reopened the same after they were able to develop a clear legal framework through which one can see how the process is undertaken. I wish Members would take time to look at our Report. Those case studies are attached to the Report. Rwanda is still closed because they have not built the capacity to deal with international adoption, properly documented for the future of the children of the country. That is an area that attracts a lot of interest. Many of the non-state actors want to push this country into opening immediately, even before building up the structures. We advise against that. We need to uphold the moratorium, until such time when we will sit and say that this country is now ready for international adoption.

Hon. Temporary Deputy Speaker, some of our findings were horrible. The international adoption takes place in this country. However, you cannot trace those children in any way, even in the database that we have. When you go to the children's homes, you do not get clear information on the children who have been adopted internationally. South Africa has put in place a central command that keeps all the records. It ensures that any child who moves out of South Africa after adoption can be traced. Even the movement of the parent who adopts that particular child can be traced. Our case is horrible. Probably, we are soft on our Kenyan colleagues who are abroad who adopt our children. We looked at some of the examples of children traffickers like Bishop Deya who is a Kenyan. He participated a lot in children trafficking in this country. We need to strengthen the systems to avoid this.

We also looked at intersex children in this country. This is a community that is not well taken care of. People assume that our children are either male or female. They forget that we have intersex children. Some of them go through tremendous torture in this country because of the way they were born. The Committee had an opportunity to hear from Mr. James Karanja who was born as Ms. Mary Waithira. We understood the issue of intersex children and their problems in this country. There is one challenge that we dealt with. We have clauses that say that a man cannot adopt a female child and a lady cannot adopt a male child. We were not sure on how to deal with intersex children because of the nature of their sex organs.

The other issue that this Committee was really concerned about was the work relations between the various stakeholders in this country in children matters. In this regard, we looked at the Child Welfare Society of Kenya and the National Council for Children's Services. We realised that their work relationship is not the way we expect. It is unfortunate that this Committee may not have enough time to convene meetings between the various entities to bring better work environment among them. Because of that problem, some of the actors take advantage. They align themselves with either Child Welfare Society of Kenya or the National Council for Children's Services. In the process, they carry out activities in this country that do not favour our children.

For this reason, we discovered that some of the strong institutions that have the capacity to help us to take care of the children are fought in this country. Fighting is geared towards:

(a) ensuring that this country cannot phase out children's homes because there are no other alternatives; and

(b) this country continues with international adoptions that have been a problem.

As a result, we made various recommendations. One of them, that is attached to our Report, is ensuring that we understand the functions of the Child Welfare Society of Kenya in the Ministry, National Council for Children's Services and also various other actors. The Child Welfare Society of Kenya is budgeted for in this country. If we have problems with some of these institutions, why are they budgeted for? We realised that it is all about fighting. As a Committee, we will put efforts in the remaining time to ensure that we sit with these institutions, so that each one of them can adhere to its functions as spelt out. If each player, including the non-state actors, can play his part without interfering with the other, we can have order in the manner in which we handle our children in this country.

Hon. Temporary Deputy Speaker, I also commend all the actors, including the non-state ones. As I said, we visited them again. Some of these homes are really doing good things to our children. Some of them struggle to keep children in their homes. They are not supported in any way. This is something that should be looked at within the remaining time, as we phase out children's homes and look for alternatives. We should strengthen various institutions, so that this

country can build a one-stop shop for children in every county. This is where we will have a remand for children.

If a child is in conflict with the law in Turkana County, he or she becomes a problem to the police and other State organs because they have nowhere to keep him or her. There is no remand for children. Going forward, we need a one-stop shop where we can have a remand in one area and infants care unit. We visited the infant care unit in Kabete. I was shocked to see the number of children who are there; they are many. They are one week or two weeks old who have been abandoned in this country because of the economic hardships that we have. We recommend to have these facilities in every county. They should be in the hands of the Government, so that we do not have the conduits that we have observed.

There is one horrible story that we got. There was a time when there were too many abandoned children in hospitals, especially in Nairobi City County. A directive was given that they should be taken to children's homes. When that directive was given, they disappeared within one day. Only two or three were available to be taken to the homes. That begs the question: Where did the other children go to? When those hospitals were asked, most of them said that they traced their parents. If they could not do it in a year, how could they do it within one or two days?

This confirms that we have a real problem in this country on children. As this House considers some of the amendments that will be brought by various stakeholders - some of them will be sponsored - we must be very careful. We must take time to scrutinise them. Otherwise, we will continue having the problems that our children go through. As somebody said, when you go to some of these children's homes, you get shocked.

You find that a school has been running for many years. However, the children whom you find there are two years old. Where are the children who may be 10 or 12 years? What happened to them? Where are they? These are some of the things that disturb this Committee. This is why we have taken so long to consider this Bill. We will take all the interest to scrutinise and look at the amendments that will be brought in this House, to ensure that the position of the Committee is properly documented for the future of the children of this country.

Hon. Temporary Deputy Speaker, I support this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Well said. Let us have Hon. Mishi Mboko, Member for Likoni.

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Thank you, Hon. Temporary Deputy Speaker. I support this Bill which seeks to amend the old Children Act so that it is in tandem with our Constitution. This Bill talks about children in terms of parenting through the biological parents, fostering, adoption and guardianship. All these categories of parenting need to have some regulation so that our children are protected.

This Bill will protect our children against child labour. We have experienced child labour all over our country especially in our *shambas*. We have what we call the *shamba* boys in our homes. We also have what we call maids and most of them are minors. This Bill also seeks to protect children against exploitation, abuse especially gender based violence and children trafficking. Our children are being transported to other countries for forced marriage, forced labour and other abuses. We need to have some regulations to ensure that our children are protected.

This Bill also talks about forced marriage. This is something that is happening in most of our communities and sometimes it contradicts some of our religions. Some religions perceive that if somebody has reached adolescence, she has a right to be married or a right to marry. So, we need to have some regulation or laws to ensure that we protect these minors against forced marriage.

There are children who have both genitalia. They are the ones we call intersex. I do not think the Government has done something to ensure that these children have their fundamental rights. I am looking at a child who has both genitalia and does not know whether she is a girl or he is a boy. We need to have proper centres or special education for these children. Most of them are stigmatised, they do not know where they belong. When you talk about registration for these kinds of children it is also a problem. So, we need to have some regulation or some proper legal framework to ensure that they are protected.

Currently, we have juvenile gangs or minors who are criminals. Anytime these minors participate in crimes, they are taken to normal prisons because we do not have enough centres. In the Coast region, we only have one centre at Shimo la Tewa. This is not enough. It therefore means that all those other minors who commit crimes have to go to prison. Instead of being rehabilitated, they end up becoming hardcore criminals. There is need to ensure that we have these rehabilitation centres to ensure that our children are not left to become criminals.

The other thing is about children with disabilities. Most of the time when we talk about children with disabilities, we forget that we have different types of disabilities. For instance, children with hydrocephalus and spina bifida, children with cerebral palsy and autism. These are children who need special education, special facilities and equipment so that they can access education. Right now we are not doing much for these children.

In our normal school, we have some units. If you go to a primary school, they will have one classroom and they call it a special unit for children with disabilities. Is it enough? Do we have facilities? Do we have proper equipment? Do we have teachers who have been trained to ensure that these kinds of children access education?

Our children have also been exposed to pornography and obscene materials. This is because of new technology, social media and so many other issues. There is nothing being done to ensure that we protect these children in terms of all these.

I know we have vulnerable children, we have street children and orphans. We appreciate that we have these orphanages, children centres but sometimes, those people who organise or start these children centres use them as income generating facilities for themselves or for their own interest. You can see in a place where we have some orphans who are not going to school, they do not eat or dress well, yet there are so many donors who are giving a lot of funds in those centres. So there must be some regulations to ensure that while we appreciate these centres, these children receive proper care.

I also want to talk about education. When you are talking about scholarships and you have been given scholarships in our country, do we put more emphasis on these children with special disabilities? The answer will be no. We are doing very little. It is high time we had special funds. Right now we have the presidential fund for education in terms of scholarships. Why can we not have a certain percentage which will say this percentage will just go directly to children with special needs in terms of education?

In the entire Coastal region, we only have one school for the blind. It is located in my constituency; Likoni. There are so many children and that is why you see parents who do not want to expose their children because they do not know where they are going to take them in terms of education. It is high time when we are doing our budgeting in this Parliament to take care of special children with special disabilities by giving proper funding.

There is the issue of trafficking. We have had so many cases of child trafficking yet we do not have solutions. What kind of measures are we putting in place to ensure that children are not being trafficked? We know about so many brothels where minors have been abused, yet we do not

have any kind of laws or solutions to protect our children whether it is here in the country or outside the country. We have heard of so many cases. Our children have been taken from Kenya, lied to that they are going to be given jobs or are going to be married to wealthy people only to discover that they are being abused. This is another area that we need to look at and ensure that there is proper regulation which is going to be implemented to ensure that our children are safe and free.

When you are talking about foster parents or biological parents, in some cases foster parents are not ready to provide proper care to their children. They deny them education, they beat them and do so many other bad things. So, even before you take a child from a biological parent to a foster parent, there must be a framework to ensure that these foster parents are going to take care of these children who have been taken from their biological parents.

There is the issue of registration for those children who do not have parents; the orphans. They neither have mothers or fathers. According to the laws, you need to take a birth certificate of your father or mother or the identity card of your parents for you to be registered. These children are orphans. There are those who have been left. They do not know who their parents are. There must be a regulation. I know there is a regulation that if children have been seen in this country for a certain period of time, they are presumed to be Kenyan. There needs to be proper legislation to ensure that these children are protected not only for the issue of registration but also for their welfare. This Bill is huge and good. There is the issue of having a council. I know the council is there but we need to strengthen it. This Bill talks of strengthening the council for children so that their issues and matters will be looked into.

I support this Bill and I want to appreciate that my colleagues are also doing the same. I know, as we go, we are going to bring other amendments like Hon. Millie Odhiambo has said, so that we can ensure that we have a comprehensive and all-inclusive Bill, which will touch on all the dynamics in terms of matters to do with children.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Rono Kipkogei.

**Hon. Daniel Rono** (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to weigh in on this Bill. It is a weighty Bill.

First and foremost, I was not around when the Building Bridges Initiative was finally buried. Allow me to congratulate the Judiciary for a job well done at the Supreme Court. We hope that it dies forever. Meanwhile, anybody who might wish to resurrect it should follow its fate.

Every child has a right. Even as we take care of them and look at their rights, we should not deny them the right to international adoption. There are good and bad people in this world. There are bad people here in Kenya and all over the world. If children had a right to choose, they can choose to be adopted in any country they want. But because they cannot choose now, we should make laws that can guide the issues of adoption, their rights and education.

The Committee has extended the moratorium for international adoption to 20 years. I am against that and I think we should bring amendments on this. Whereas you have said that this should continue as per the Act in place, this should only be until such a time that proper rules and regulations are put in place, as the Chairman has rightfully said. I support that because for example, South Africa, which the Chair has referred to, has put proper regulations on issues to do with children's welfare and adoption.

*(Hon. David ole Sankok spoke off record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Sankok, what is your point of order?

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I have so much respect for my colleague here. He is a very intelligent Member of Parliament. However, he is out of order because he is saying that we should allow children to choose which country they should be adopted to. Imagine a one-year-old child who is stolen from Pumwani Hospital, placed in a children's home and taken to court for legal adoption to be sold abroad. That is out of order. Our children cannot decide.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Kipkogei, you may need to clarify that.

**Hon. Daniel Rono** (Keiyo South, JP): Hon. Temporary Deputy Speaker, Hon. Sankok did not listen to me. Sometimes, he hardly listens. I said, "if a child was to choose..." I know Hon. Sankok has challenges with his education. I do not wish to go there because he is my friend and brother.

We have talked about the economic hardships in this country and in other countries. Children can be born in families that may not take care of them. We have children who are abandoned and taken to children's homes. If a good foreigner would wish to adopt such children, as long as regulations are put in place, why would you deny such children to be in good hands, as the case may be in this Bill? This is a good Bill but we should bring some amendments to it.

The other issue is that of children with disabilities. We should have a clear plan for them from the time of birth, education and up to when they get to 18 years. Where do such children go when they become of age because they may not be adopted? The Government must invest in these children.

The Bill also suggests to put in place welfare facilities all over the country. We should narrow this down to every constituency having a welfare home to take care of these children.

Otherwise, this is a good Bill and I will be bringing amendments to it.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Likuyani, Hon. Kibunguchy.

**Hon. (Dr.) Wamalwa Kibunguchy** (Likuyani, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I also stand to support the Children Bill. I am just going to talk about two or three aspects of it.

One is education which is very dear to my heart. Education in this country disadvantages the child. As much as we say that we have free primary and secondary education, in most instances, this is not the case. You will find that even at pre-school level, there is always some payment that parents have to make. When it comes to primary education, there are so many aspects in play and it becomes virtually impossible for the Government to police every school and make sure that things like uniform levies and school feeding programmes are run properly.

I wish there was a decree that education in primary day schools should be free. This is so that parents do not have to pay Ksh10,000 or Ksh15,000 for lunch and remedial fees. My plea goes to the Education Cabinet Secretary, he talks big and rough, but he must admit that he has failed to implement the free primary school education.

I know presidential aspirants are saying that education is going to be free in their governments. I heard one say that, in their tenure, education is going to be free from pre-school to the university. As much as that sounds good, this might not be quite the case in boarding

facilities. It might not even be possible that education will be free. We have to wait and see. May God give us life so that we see whether this will be implemented.

The next thing I would like to talk about is the aspect of adoption. I know adoption is exciting when it comes to international adoption. Everybody is talking about it. I would like to zero in on adoption locally. Adoption of our children locally is quite frustrating to parents who need to adopt children. It has so many stringent conditions that one has to fulfil. I wish it could be made easy. As a doctor who deals with parents who cannot have children, these parents are there and they suffer. In the olden days, especially in my tribe, we used to solve issues of childlessness in families very easily. If it was a question of a woman being unable to give birth to children, the husband was advised to marry a second wife and it was so easy. If it was the question of a man not being able to make a woman pregnant or a man who was infertile, again, that used to be very easy. The brother, the first cousin or whoever would do the services. So, it used to be easy.

These days, with the advent of education and everybody making sure there is fidelity in the family, it is a big issue. For us who treat couples that cannot have children, it is very frustrating because you can do virtually everything and not get it—everything, including the latest innovation called In-Vitro Fertilisation (IVF), but you are not always 100 per cent successful. It comes down to where this couple has to or must adopt a child for them to appear like a complete family.

As we go through this, I would like us to lessen the stringent measures that would make it possible for couples that cannot have children to adopt children. I am talking about local adoption. Everybody is talking about international adoption on which I concur with my colleagues that we should not make it so easy. We do not exactly know in whose hands children fall in when they go out there.

Finally, I commend the Committee for having come up with this aspect of family care rather than having children homes. I believe in family care because it is everywhere and it is documented everywhere that the child is best brought up in a family set up. That is something I really commend the Committee on. I think it is an amendment that we will support wholeheartedly.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Edith Nyenze.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to say that I support the Children Bill.

I am supporting it with interest in children with disabilities. Disability has different classes. There are children who have very severe disabilities. These have not been taken care of in this Bill. These children have very severe disabilities such that they cannot even talk, walk and move. They are just put on beds or wheelchairs. I have come across these children in my constituency. Maybe my colleagues also have such cases. I have so many of them in one of my wards. It is very wanting.

I support the Bill, but I will propose amendments to it to take care of the dignity of children with cerebral palsy and other cognitive and developmental disorders. There should be provision for access to social assistance by children with such severe disabilities and neurological development disorders, through their parents and guardians. These children require special care. Most of the time it is the mother who takes care of them. This mother cannot even participate in any meaningful business because these children cannot be left on their own. It is notable that these children require care all the time. The parents of these children are unable to even mingle with others through merry-go-rounds and other social activities. The parents or their guardians do not undertake any income generating activities.

Granting social assistance to support such children through their guardians or parents will strengthen the families financially. That is why I am proposing that, through the National Social



Security Fund, these children be given special attention so that their parents and guardians can be getting some funds. This will assist these children and ensure that their parents have some income. These parents will even have some money which can be used to hire people to take care of the children as the parents or guardians are freed to do other meaningful activities.

Mine is to recommend that we have special funds for children with severe disabilities. These children do not even go to school. They do not talk.

*(Hon. David ole Sankok, Hon. Daniel Rono  
and Hon. Peter Mwathi consulted loudly)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Hon. Sankok and the two Chairs. You know Hon. Nyenze is raising some critical issues of concern that the Chair should be listening to. But Hon. Mwathi and Hon. Sankok are making sure he does not listen. Please, Hon. Chair, pay attention.

Hon. Nyenze, go on.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Hon. Temporary Deputy Speaker, I am sorry. This did not get you on time. I had actually proposed amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Just go on. You can consult with the Chair later.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): It is okay.

I have said that I am proposing some amendments to the Children Act because of that severity. I am also proposing an enhancement to the definition of the terms “severe disability” because of what I have explained and an enhancement to the provisions on county governments to ensure that they provide services to children with severe disabilities and neurological development disorders free of charge. I also propose that a child with disability should have the right to access child care welfare schemes established by county governments and receive special care free of charge.

Notably, I propose that we have special homes for such children. What the Committee came up with about family care is really good and I support it.

With those remarks, I support the Children Bill with amendments to include such conditions of disabilities.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Okay. You may need to have a sitting with the Chair so that your amendments are accommodated in the next stage.

Hon. Mwathi, are you ready to contribute?

**Hon. Peter Mwathi** (Limuru, JP): Yes I am, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Proceed.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. At the outset, I want to congratulate my Chair of the Departmental Committee on Labour and Social Welfare for the good work that he has done with the Committee and the Secretariat. I will not forget to mention that I was the Chair of this Committee when this Bill was commenced and I left it under the good hands of the current Chair who has done us justice by virtue of what he has brought here as recommendations. I, therefore, want to associate myself with the good work from the output that has come from the Committee. I will be very brief.

It is critical for us to know that we live in a world that we will bequeath to the generations to come. Currently, the generations are our children. We are here to protect the very generations

that we are talking about. I cannot imagine... I have listened to the Chair talking about some children who were at one time at Kenyatta Hospital. They were 300. The moment it was ordered that they be taken to children's homes that are government institutions, in three days only three remained. Two of them were disabled and one was infected by HIV. That means that within those three days, 297 children in this Republic were taken to God knows where. I want to imagine that the inter-county adoption that was happening then must have resulted in our children going outside this country for all manner of rituals or adoptions. What is critical between us in this Assembly - if I may loop you in this, Hon. Temporary Deputy Speaker, imagine the brilliant work you are doing now and that, at one time in a hospital bed, somebody stole you because your mother did not know what was happening at that time. By now, your organs would have been eaten by ants because somebody took you out there, removed your organs and put them into somebody's life who does not belong to this country. We would have lost such a brilliant mind. That applies to all of us.

I am happy to report the case of Rwanda. Rwanda has decided that children of Rwanda belong to Rwanda. Period. We do not need to sell our brains out there. We have very nice professors and legislators like Otiende Amollo, Millie Odhiambo and Mwashako who are my friends. Imagine those people could have stolen and destroyed the good work they are doing. That is why we say no. I want to persuade all of us that we say no. Our children should remain here in the country. The entities that have been doing this work, especially the private adoption homes, are the ones that have been in this business. Let us leave this to the hands of the Government. The maximum one can have is having our children getting foster parents and they are reintegrated back to the society. They will not be sold to where they do not belong.

The Child Welfare Society of Kenya is doing some good work. But I hear people speak about the institutions that we have like Mama Ngina Children's Home. They say that it belongs to the former First Lady. It does not. It is just like how we have Moi Children's Centre in Nakuru. It does not belong to Moi. Tomorrow, we may have another one like Mwathi Children's Care Centre named after the Chair of the Committee on Administration and National Security. It does not mean it belongs to me. It will belong to the Government. These children are ours. So, let us have what is ours. When we were consulting, I was persuading the Chair to follow the regulations that will put in place to ensure that we close all those private institutions and leave our children to be looked after by the Government with the support from the same Government. So, without belabouring the point, as a country, it is time for us to stand up. If you have been in that business and you are listening to me, please, enough is enough. Whatever you have done is enough. Let us stand for our children, our future and for the generation that will one day say that there were people in this august House this day and this time, who talked about their rights and bequeathed them this country without selling them to foreigners.

Thank you.

*(Applause)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): That is well stated. There being no further interest to contribute, I call upon the Mover to reply.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I wish, first and foremost, to thank my colleagues for the strong contributions they have put forward. For the first time, to the Chair of the Departmental Committee on Labour and Social Welfare, the wheel of a car is as good as the driver. I am happy and impressed that the Chair has

moved very well. He has collated all the data and tabled a huge document. He understands the document. He enlightened the House without referring to it. This has been a good debate. Many of the contributors have raised issues that they desire to amend in the Bill. You have gone ahead to advise that the Bill by Hon. Millie should be looked into jointly with this Bill. When the Leader of the Majority Party comes back, I will have to inform him of that directive you have given so that he can invite Hon. Millie together with the Chairs of the Departmental Committee on Labour and Social Welfare and Justice and Legal Affairs committees to harmonize their Bills.

I am happy because I sit in JLAC. I will do the same to the Chair of Departmental Committee on Justice and Legal Affairs (JLAC). I wish to reply.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): That is well in order. You actually sit between the Leader of the Majority Party and JLAC. I am sure you will ensure that, that happens.

Hon. Members, we will defer the putting of the Question until we have that business back on the Order Paper.

*(Putting of the Question deferred)*

Next Order.

### *Second Reading*

#### THE NATIONAL ELECTRONIC SINGLE WINDOW SYSTEM BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Majority Whip.

**Hon. Emmanuel Wangwe**(Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the National Electronic Single Window System Bill, (National Assembly Bill No. 15 of 2021), be now read a Second Time.

This Bill's principal purpose and framework is to facilitate trade and commerce by introducing a national electronic single window system in which data and collection of information on transit of persons and goods is done. The Bill proposes the establishment of a national electronic single window system which shall serve as a single entry point and platform for any person(s) involved in trade and transport. The platform shall allow people to lodge documents electronically, including import or export documents, for processing and approval. The platform shall facilitate electronic payment for fees and levies due and owed to the Government on goods imported or exported for transactions submitted through the system.

The main objective of the system shall be as follows:

- (a) To facilitate the single entry point to submission and receipt of documents or any other information required for trade facilitation;
- (b) To enable the synchronised processing of data or information;
- (c) To enable the standardisation of documents and single decision making for customs release and clearance;
- (d) To facilitate electronic transactions in trade and reduce legal and operational barriers to electronic transactions; and,

- (e) To facilitate coordination and partnerships among the departments responsible for customs, other relevant government ministries, departments or trade agencies and industry players dealing with trade and trade facilitation.

Hon. Temporary Deputy Speaker, without any hint of doubt, this Bill intends to improve and harmonise an area of law that is skewed and that is causing lags and delays in the ports of entry. The Bill requires the Government to co-operate with the agencies concerned in respect of the following:

Making and conducting service level agreements; digitising, underlining of internal operations; registration for use of the electronic systems; payment of fees and levies approved by the Cabinet Secretary; and lastly, entry and operations and generation of received data, among other aspects.

This Bill is focused on trade facilitation. There is plethora of literature that captures the importance of trade and its effects on economic growth. Trade allows countries to specialise; enables technologies, know-how and ideas to spread; promotes competition and economies of scale. Such factors contribute to boosting innovation and productivity which fosters economic growth.

Trade has been credited to have contributed to the reduction of global extreme poverty between 1990 and 2015. This has been achieved through globalisation and easing of trade relations between economies. It is in this similar version that this Bill aims at enhancing the efficiency of electronic transactions as far as international trade is concerned.

This Bill aims to create harmony among trade facilitation organs in Kenya, including clearing and forwarding agents; custom services department; Kenya Ports Authority, among others. In this respect, I urge Members to review this Bill with a fine tooth-comb to appreciate its intent and purpose.

I beg to move and ask the Chair of the Departmental Committee on Trade, Industry and Co-operatives, Hon. Aden, to second.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Aden.

**Hon. Yussuf Adan** (Mandera West, EFP): Thank you, Hon. Temporary Deputy Speaker. At the outset, I wish to second the National Electronic Single Window System Bill (National Assembly Bill No. 15 of 2021).

This Bill was read the First Time on Tuesday, 8<sup>th</sup> June 2021. It was, thereafter, committed to the Departmental Committee on Trade, Industry and Co-operatives, pursuant to Standing Order No.127 having been recommitted from the Departmental Committee on Finance and National Planning. The National Electronic Single Window System Bill (National Assembly Bill No. 15 of 2021) seeks to provide a framework to facilitate trade and commerce using the single window system. This is done through the establishment of the National Electronic Single Window System and prescribing a framework for its operations. The Bill seeks to establish a National Electronic Single Window System known as the Kenya Trade Net.

In terms of what the Bill seeks to achieve, the electronic system allows parties, for example, Kenya Ports Authority, Customs, agents as well as all actors in logistic and transport to lodge standardising information and documents with a single entry point to fulfil all import and export related requirements. Other objectives include provision of efficiency in trade transactions by providing a central platform where traders can get services and permits from all Government agencies that are involved in international trade by making applications through one single system. It also ensures standardisation and faster processing of trade documentation.

In terms of the content of the Bill, the National Electronic Single Window System Bill (National Assembly Bill No. 15 of 2021) contains 42 clauses which seek to provide a legislative framework for a national electronic window system among, others:

- (i) Facilitate single point of submission and receipt of trade data and information;
- (ii) Enable synchronised processing of data and all information;
- (iii) Enable standardisation of documents and single decision-making for custom releases and clearances. The National Electronic Single Window System facilitates electronic transactions across border trade; and also seeks to remove legal and operational barriers to electronic transactions as well as reducing graft;
- (iv) The National Electronic Single Window System facilitates coordination and partnership among departments responsible for customs and other relevant line ministries, and agencies and industry players dealing with international trade and trade facilitation.

The Bill, obviously, contributes to the ease of doing business in the country. Some of the key benefits of introducing this system include:

- i. Reduction in the average number of processes which are tedious and time consuming;
- ii. Reduction in the number of documents required (to eliminate huge paper work);
- iii. Adopting to the green or paperless environment;
- iv. Electronic processing and confirmation of payment is enhanced;
- v. Increase compliance; and
- vi. Reduction of time wastage and providing for ease of doing business as we had earlier said.

Hon. Temporary Deputy Speaker, in prosecuting this Bill, proper procedure was followed. An advertisement was placed in the print media on 11<sup>th</sup> June 2021, requesting for comments on the Bill from members of the public and relevant stakeholders, pursuant to Article 118(1)(b) of the Constitution and Standing Order No.127(3). The Committee received two written memoranda.

The Committee further discussed the Bill with stakeholders on 9<sup>th</sup> March 2022 within Parliament buildings.

At this juncture, I wish to acknowledge the important role played, and appreciate the contribution made by different stakeholders who include the National Treasury, Ministry of Industrialisation, Trade and Enterprise Development; the Kenya Revenue Authority, and the Kenya Trade Network Agency (Kentrade).

While considering the Bill, the Committee noted the proposed amendments by stakeholders. Some were adopted while others were outrightly rejected, but with justification as highlighted in the Committee's Report.

As I conclude, allow me to express my special thanks to the Members of the Departmental Committee on Trade, Industry and Co-operatives, the staff of the Committee for their significant role towards the scrutiny of the Bill and production of this great Report.

The Committee is grateful as well to the offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to the Committee during its many sittings.

Finally, the Committee further wishes to thank all the stakeholders who participated in consideration of the Bill. I will be calling upon the House to support the Committee's amendments to the Bill during the Committee stage.

Hon. Temporary Deputy Speaker, I thank you, and I second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, with that, I now go ahead to propose the Question.

*(Question proposed)*

Let us start with the Member for Funyula, Hon. Oundo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Let me indicate that I am a founder member of the Departmental Committee on Trade, Industry and Co-operatives. I am told it was hived off from the Departmental Committee on Finance and National Planning in the 12<sup>th</sup> Parliament. If I am wrong, I am sure I will be corrected. As a result, for some years, I have interacted with traders, businesspeople and everybody involved in both domestic and international trade. Indeed, the cry has always been about bottlenecks associated with transacting a business deal in this country. I also recall sometime in 2019 when I appeared on *Citizen Television* together with small-scale traders to discuss trade facilitation and how to make import and export processes much cheaper. It was a round-table discussion which illuminated my understanding of the dangers and challenges facing trade in this country.

We need to appreciate that trade is, essentially, an exchange of goods and services. Simply, it means those who have certain goods exchange with those who do not have such goods. Before the discovery of money, we used to practise barter trade where people would meet and exchange goods. If you had cassava, you would exchange with fish. I remember my late aunt taught and exposed me to that kind of trade in the late 1970s when I was a small boy. So, I got interested in the process of trade and trade facilitation.

When many people talk of trade, they think of a physical market where people can go to and exchange goods and services. Due to technological changes and emergence of money and transport network, buyers and sellers do not have to meet physically. They can transact business virtually. Therefore, in order to ease that kind of arrangement, there must be an electronic system. Hence the concept of national electronic single window system. The short and long of it is that we seek to avoid physical movement of documents. Instead of using courier services to move documents from one place to another, we can lodge those documents online and transact and conclude business without even knowing whom you are transacting with, as long as goods move from one place to another. It is more or less akin to the so-called e-business, where you can order a good and you are supplied with it without having to know the seller.

Over the years, the issue of easing trade practices has been one of the strategic goals of the Ministry of Industrialisation, Trade and Enterprise Development. Today, we stand here to support a Bill to actualise that strategic goal. Looking at the Bill keenly, and in order to reduce the number of Acts in the country, this Bill could have been a subset of the ICT Act or the Data Protection Act. The Bill proposes quite a number of amendments to those Acts in order to align them with the legal framework that we need.

If you scrutinise the Bill further, its focus on international trade. It is disappointing that local or internal trade is given a casual mention. These are some of the areas that we will need to fine-tune through amendments at the Committee of the whole House. We need to look at best practices and incorporate both international and local trade. Clause 3 says despite clause 2, the system may be used by a person involved in domestic trade transactions. We must have a seamless system that deals with both domestic and international trade. The truth of the matter is that the supply chain is very clear. There must be a primary producer who sells to either an aggregator or

a broker or a trader, who connects with somebody else in another country to move the goods. It is the same way to import goods from China. There must be an importer, a consolidator and an end receiver, either a hawker or small-scale trader, who then moves the goods to the final buyer. So, we need to find a way of integrating both local and international trade and, more so, with regard to goods that involve exportation and importation.

The system, like any other system, must have safeguards to avoid infringement or data mining. That is why clause 7 will ensure that the system is secure, accessible, simple, confidential and reliable. Any trade system must allow all the actors, both traders and buyers, to access it so that they have adequate information about the goods and services being transacted. Anything that makes the system opaque will imply a market system that is not open, but is closed and not active. And that will hinder decision-making. Efforts must be made to ensure that we have an open system. There exists a Trade Facilitation Agency, which was established by an Executive Order in 2010. It is called the Kenya Trade Network Agency. By passing this Bill, we will incorporate the trade agency to become a body corporate so that it does not operate on Executive's whims. Those are some of the measures that we need to be clear.

The Bill, unfortunately, has a shallow provision that this system will be the national lead agency, presupposing that there will be other agencies involved in trade practices. It presupposes that there could be other agencies that could open a window system to compete with it. We should avoid these levels of windows or bureaucracy. This system should be the sole agency with respect to matters to do with international trade.

Like any other data or ICT system, there is provision for electronic signatures and authentication of documents. Many of us who are old school and who were found by technology, and who might leave before we fully appreciate technology, always worry about how the system works. The system needs to be fool proof.

As I conclude, because I can see my time is up, the Bill provides for appointment of various persons. There will be board members and Chief Executive Officer. Unfortunately, it leaves out the office of a company secretary, which is an important organ that has been incorporated in our system. The opaque appointment of the three other board members is not good. We need to make provision for a competitive process of appointment.

Hon. Temporary Deputy Speaker, I could have said more, but I appreciate the rules of the House. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. David Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to support the Bill.

From the layman's perspective, it is a Bill that will ease licensing and doing business in this country just the way we have the Huduma Namba. We brought all the documents that we carry in our wallets like driving licence and identification card into one particular document to make it easy to transact business. You do not have to go from one Government office to another one seeking services. Huduma Centres also solve some of these issues. You can apply for a certificate of good conduct, identification card and all manner of documents in a one-stop shop. When it comes to businesses, it is the same.

We will bring amendments in the Committee of whole House to make sure that the National Electronic Single Window System will be used for international businesses, as well as local ones. We must make it easy for all of us to do business. The Committee did a good job. However, they viewed the Bill through the lens of the very rich in our society. They forgot that the hustlers contribute a huge chunk of the wheels that drive our economy, even though they run local Small

and Medium-Sized Enterprises (SMEs). That is why it is focused so much on international business. We will bring amendments to make sure that even those who do business locally are catered for. The world has moved to digital way of doing business. We, as a country, cannot be left behind. Currently, you can order for any commodity that you want anywhere in the world, and you receive it at your doorstep without even knowing the seller, how it arrived and whether it was *via* the sea, air or road. We should move with that speed.

This Bill has advantages. It will reduce the number of processes, when you are doing business. These processes scare away potential investors in this country, who can bring massive businesses that can employ our youth, as well as pay taxes that will enable us pay loans. They are tiring. When you have money, you have a choice to invest either in Kenya, Uganda, Tanzania or any other country in the world. When we make these processes easier, then we will attract those very big investors who will do business in this country.

FedEx Corporation is a very big company that does business digitally. How can we attract it when we have a red tape and bottlenecks in registration and doing business? We do not have regulations to safeguard their interest. As I said before, those big companies and very rich individuals have choices. We do not have a choice in Kenya. We only have to attract those businesses, businesspeople and investors for us to clear our loans. Our Gross Domestic Product (GDP) is Kshs9 trillion. The loans that we owe other countries and financial institutions amount to Kshs12 trillion. We are already on negative. We are barely surviving. The gross domestic income in Kenya is Kshs96,000 per annum. Every Kenyan owes our loaners around Kshs206,000. You can see the quagmire that we are in. We do not have a choice but to attract them.

Hon. Temporary Deputy Speaker, the National Electronic Single Window System will also reduce the number of documents which are required. The businesspeople have a lot of documents like the business permits. Sometimes, you require a big safe to put them. There are those who come to check those businesses like the National Construction Authority (NCA) and the county governments' staff who check business permits. The system will reduce the number of documents that you need to operate a business.

It will also bring green or paperless environment. At the moment, the world is digital. Why should I carry documents that can get lost at times? If you have a lounge or hotel, you have to keep all those receipts, in case Kenya Revenue Authority (KRA) comes. You have to keep all the documents like Tourist Levy Fund and Pay As You Earn (PAYE). There are other many documents that you need to keep. This Bill will reduce them. The system will be paperless.

It will help in electronic processing and confirmation of payments. This is very important. When I pay, I can just walk with my phone. If you ask me whether I have paid, I will produce my phone and you scan some form of QR code. I am not an Information and Communications Technology (ICT) expert. There are some codes that they can scan to confirm that you have paid. When you travelled abroad during the COVID-19 pandemic, you did not have to carry the COVID-19 vaccination certificate. You only need to carry your electronic copy and they scan to see whether it is genuine or not. This will also expose those people who are very good in faking documents. Some of them survive in this country by faking all manner of documents. This system will curb that.

The National Electronic Single Window System will increase compliance on regulations. This is very easy. When you do it at the comfort of your bedroom, I can tell you that you will be compliant. However, if I am told that I have to move from one Government office to another one, I will not comply with the regulations because I do not have that time. These rich businesspeople



have the luxury and choices to say where it is easier to do business and they can migrate to that country. We, as a country, are very poor. We do not have any choice but to attract them.

Hon. Temporary Deputy Speaker, the system will reduce time wastage and provide ease of doing business. I mentioned this one. This is a very good Bill which has come at the right time. Let us be present during the Committee of the whole House, so that we can bring amendments to ensure that the Bill is not only for the rich but also, it is for every business. Currently, it is for international businesses. It mentions local businesses casually. We need to customise it, so that we even include local businesses, including hustlers like *mama mboga* and *boda boda* riders.

Lastly, I thank this House today. It has made a history by protecting our children. It has rejected the international adoption which is a conduit of selling our children for organ harvesting. We have also done away with private children's homes which steal our children from hospitals.

I support this Bill.

*(Applause)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Sankok, you are out of order. You will even confuse the *Hansard*. You are talking about a totally different Bill which was dispensed with. You have to be relevant.

Hon. Wambugu, did we remove you or you removed yourself from the request list?

*(Hon. Ngunjiri Wambugu spoke off-record)*

Okay. Let us have Hon. Mwashako.

**Hon. Danson Mwashako** (Wundanyi, WDM – K): I thank you, Hon. Temporary Deputy Speaker. I will be very brief because colleagues have contributed immensely on this Bill. I stand to support the National Electronic Single Window System Bill. We must support anything that improves the ease of doing business in this country. Today, we have so many entrepreneurs in this country who want to get into international trade. We must support them as a country.

We have also been championing and seeking investors with foreign direct investment to come and do business in this country, so that we are able to grow our economy in a way that millions of Kenyans who are seeking employment can find jobs. I want to commend this Departmental Committee on Trade, Industry and Co-operatives. They have processed this Bill quickly and now it is in the Second Reading. I urge my colleagues in this House that we should prepare to conclude this Bill soonest possible even before we go back to seek another mandate.

I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this very important Bill. The world has become a global village. In one of the conferences I was sponsored by this House to attend before COVID-19, this was a major topic in relation to co-operatives and many other businesses. The people who came to present were talking about the future; where the world is going when it comes to electronic dealings and making business cheaper. They were talking of paperless society where we could save on paper, trees and many other things and that we will have a system that works for everybody. We had a presentation that talked of a future where there was going to be vehicles run electronically and will not be driven by humans. It could happen 100 years to come. One of the biggest challenges is how we legislate those electronic issues so that it goes round and covers the

whole globe and becomes a single system. We have begun this and have a medium of communication. We will end up in a situation where you will only carry your phone and all transactions are verifiable on your phone, whether you are travelling or issues to do with your passport or confirmation that you are COVID -19 positive or not.

Since a lot has been said with regard to this particular Bill, I support it and urge Members that, as we go to the Committee of the whole House, we make the necessary amendments to make it better. We have experts in this area in the House.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): There being no other interest, I call upon the Mover to reply.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, allow me to appreciate my colleagues for the wonderful contributions they have made. I would want to single out the great Member, Hon. Sankok, who represents 6.5 million people. His contribution has gone well and I am pretty sure that his population will benefit from the single window system once the Bill is assented to.

There are various proposals in terms of amendments which the Committee has proposed. I wish to request that my colleagues support it at the Committee of the whole House, so that we have a well-polished Bill. We are all importers of goods. We all survive because of business. Once business is made possible, we will all be happy and our country will move forward.

Thank you, Hon. Temporary Deputy Speaker. I wish to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well. We shall once again defer the putting of the Question, until when we have the business back on the Order Paper.

*(Putting of the Question deferred)*

Let us go to the next Order.

*Second Reading*

#### THE HUDUMA BILL

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, I beg to move that the Huduma Bill, (National Assembly Bill No. 57 of 2021), be now read a Second Time.

The primary objective of this Bill is to provide for a primary law on civil registration and legal identity management by establishing the National Integrated Identity Management System (NIIMS) and provide for the enrolment into the system, assigning of the Huduma Namba and issuance of legal identity document.

The over-arching objectives of the Bill are one, it aims to consolidate the law on civil registration and legal identity management for our great Republic. Two, it seeks to establish a digital national population database to be a primary source of foundational and functional data for a resident individual. Three, it seeks to anchor into law, unified mechanisms for registration of births, deaths and recognition of vital events of a citizen or resident. Four, it seeks to give legal recognition to the Huduma Namba, its issuance and issuance of the identity documents, and five; it provides mechanisms that ensure integrity, confidentiality and the security of personal data under the NIIMS database.

Hon. Temporary Deputy Speaker, let me discuss the above objectives one by one in quick succession to bring Members up to speed on the overall intent of this Bill.

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One, being the consolidation of civil registration and legal identity. This Bill in Clause 4 proposes to establish the NIIMS which is to consist of the systems database, the Huduma Namba which is assigned at birth and the Huduma card issued. The NIIMS database will be an integrated digital population register of resident individuals enrolled under the law. It will contain the foundational data and functional data. The NIIMS database will firstly operate as the primary source of foundational data for every enrolled resident individual. Secondly, it will enable the use of biometric data to identify and enroll individuals and, finally, it will facilitate or aid the use of personal data under NIIMS to assign the Huduma Namba, issue Huduma Card, issue passport and support access and issuance of copies of legal identity documents. The Huduma Card will constitute sufficient proof of identity to facilitate access to any public service which may require official identification. Consequently, all Government, if this law passes, will rely on the NIIMS database to authenticate the foundational data of an individual.

The second objective being the establishment of a digital national database to be a primary source of foundational and functional data for resident individual, as initiated and captured in the Committee's Report, the Bill will establish the NIIMS database in which the foundational and functional data of a citizen or a resident will be maintained for use and retrieval for ease of delivery of services. In fact, this House passed the Data Protection Act and established the Office of the Data Protection Commissioner. Therefore, we should not be worried that a lot of data is being aggregated.

As Members may be aware, many advanced jurisdictions use this approach. Let me take the example of the social security number in the United States of America which is coordinated by the Social Security Administration (SSA). The SSA is integrated such that it captures information relating to social security, employment, medicare, social security insurance, disability and security statements. I am happy that we can benefit from the analysis detailed in the Committee's Report to appreciate the underlying objective of this Bill.

The last objective in number three and four, is the legal recognition of a unified mechanism for registration of a citizen and the consequent issuance of the Huduma Namba. It is the view of the foregoing that this Bill seeks to create a legal basis for a unified mechanism for registration of births, deaths and the recognition of vital events of a citizen, resident as well as giving legal recognition in an Act of Parliament to the Huduma Namba and the consequent issuance of the relevant identity documents. This Bill has in its purpose and intent the need for expedience of public services to the citizens of our great Republic. I have read through the Committee's Report which is well articulated and more so, the comparative analysis captured and how different countries deal with these issues. I urge Members to support this Bill. Any complementary amendments to make it even better are encouraged.

Thank you, Hon. Temporary Deputy Speaker. I beg to move and ask the Chairperson of the Departmental Committee on Administration and National Security, Hon. Mwathi, to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Mwathi.

**Hon. Peter Mwathi** (Limuru, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second this Bill. In seconding, I associate with the notes or sentiments that have been given by the Mover.

In the interest of time, I let the House know that, on its First Reading on 21<sup>st</sup> December 2021, the Bill was referred to the Committee. The Committee proceeded to undertake public participation in which case an advertisement was placed in the dailies on 23<sup>rd</sup> December 2021. Thereafter, we held consultations with the State Department for Immigration. We met key stakeholders among them the National Registration Bureau, the Registrar of Marriages, Refugee

Affairs Secretariat, the National Social Security Fund, the National Hospital Insurance Fund (NHIF), the Kenya Revenue Authority, the National Transport and Safety Authority (NTSA), the Independent Electoral and Boundaries Commission (IEBC) and the Office of the Data Protection Commissioner. We also engaged key civil society organisations in the name of the Undugu Society of Kenya, the Nubian Rights Forum, NAMATI Kenya, the Lawyers Hub Kenya, the National Coalition of Human Rights Defenders - Kenya, Amnesty International Kenya, Kituo cha Sheria, Katiba Institute, among others.

It is important to know that the Ministry of Interior and Coordination of National Government has invested a lot of money in ensuring that this consolidated legislation on registration of persons, including other information and data, is brought to one platform. One will not have to carry several documents like an identity card and possibly a passport when he or she is visiting various institutions in the name of KRA, NSSF and NHIF. It is happening in many other countries, including Estonia which did a very comprehensive presentation before the Committee. It was quite a noble idea that the Ministry could take. It is important and instructive to note that the Ministry has so far spent Kshs450 million. In that, we have 11,000,000 cards done. The process is proceeding. It was being done under administrative procedures and arrangements. That is why we need this Bill passed so that we can anchor it in law.

I know there has been concern. Let me speak to those concerns, especially from the State Department of Immigration. That, immigration officers were going to be mere data collectors yet we know that they deal even with security issues. I want to mention here and now that Clause 72(4) of the Bill provides that a public officer who immediately before the commencement of this Act, was a member of staff of the entities known as the National Registration Bureau, the Civil Registration Services, the State Department of Immigration and the Integrated Population Registration Services shall, upon such commitment, be deployed to carry out the functions of their respective services within NIIMS. None of them is being moved out of what they are doing. Their duties and functions are going to remain the same. The Committee is of the view that this provision is meant to ensure that each of the entities retain their functions as they are.

The Kenya Citizenship and Immigration Act (No. 12) of 2011, on which the immigration function is anchored, has not been repealed. I am emphasising this because there have been issues with immigration saying that the law is going to be repealed by the Huduma Bill. I can confirm here that it is not going to be repealed and that their duties are going to remain the same. The Huduma Bill of 2021 only provides for minor amendments on the Act to harmonise it with its provisions.

The Committee noted with appreciation that this is in realisation that the immigration function is more than just personal data collection. The functions of the Directorate of Immigration Services as outlined in Clause 4(1) of the Kenya Citizenship and Immigration Act remain intact. However, the Committee is recommending some amendments to the Bill as it is, to ensure smooth carrying out of all the functions within the NIIMS. Specifically, there has been a proposal to have amendments to ensure that there is no single office that takes over all the functions of the other entities.

The independence of the mechanism is also going to be addressed by the amendments that are contained in the Report. The issue of births happening outside health institutions is also going to be taken care of; it was not there before. Possibility of access to personal data by unauthorised personal has been curtailed by the amendment. Kenyans with no identity cards who would feel that they are not going to be taken care of will be taken care of by the regulations.

Lastly, let me thank your office and the Office of the Clerk of the National Assembly for the support. I also thank Members of the Committee who worked tirelessly to ensure the process is completed. Members made great sacrifices given that the country is already in election mood. I must recognise the good support that the Committee received from its secretariat in processing this Bill.

With those many remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Wambugu.

**Hon. Ngunjiri Wambugu** (Nyeri Town, JP): Thank you very much, Hon. Temporary Deputy Speaker. I stand to support the Huduma Bill (National Assembly Bill No. 57 of 2021). At the outset, I am member of the Departmental Committee on Administration and National Security. I would like to focus this House on the primary reason why this Bill is important. In the corporate sector today, we have big emphasis on what we call “know your customer” where for you to serve your customer well, you need to know as much as possible about that customer. The Government’s primary customer is the Kenyan citizen or a member of the Kenyan population. As it is right now, the information of this client is scattered in all manner of places. We have drivers’ licence in one place, IDs somewhere else and immigration passports somewhere else. That means that the Government is not efficient in how it serves the customer.

The purpose of this Bill is to create efficiency and transparency on how the Government is serving its customer. The most exciting part about this Bill is the ability to consolidate all the information we have about our Kenyan population. That will allow us to plan and allocate resources to the right places. Once we know our customer, the citizens, and the people living with us, even if they are foreigners in terms of what they need, where they are, their level of education and abilities, we can allocate resources to them efficiently. This Bill is going to take us in that direction. Of course, there have been concerns. In this age of technology, there are concerns about what will happen with that information. That information exists as it is right now. If it is going to be misused, it has been misused. In fact, this Bill creates a capacity for that information to be protected more than it is being protected now.

The other thing that is important for us as we think about and we consider this Bill is that we have been served by laws that were made before this country got independence in many capacities. We need to take this country to the level of the 21<sup>st</sup> and 22<sup>nd</sup> Century. This Bill is taking us there.

I also want to raise the fact that once we have a single source of information on the Kenyan population, our ability to function as a nation; and to deal with very many other things will be enhanced. Just before this Bill, we had the Bill on the single entry for purposes of managing trade. Many laws that we pass in this House depend on us having an efficient and effective process of managing the information we have about our population.

The Huduma Bill will help this country. It will take us to the level where we are more efficient, effective and transparent. It is going to serve every Government moving forward from here to plan and allocate resources well and ensure those of us in this House are able to represent those who elected us efficiently. It is also going to be a platform for us to access information even of our own respective constituencies and counties so that when we are representing the people who elected us, we are able to do it from a point of information.

I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Nyikal Wambura, please, organise yourself in three minutes. Then you can transfer the other thoughts to the remaining seven minutes.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support this Bill.

The main issue here is the single registration. This is so that older registrations that we have in this country, be it voter registration, marriage certificate, birth certificate, death certificate, National ID, driving licence, passports and so on, all those are identities that should be linked to each other because they are identifying one person for various services. That is an important key about it.

There are also service identities like in areas of NHIF. We are broadening our social protection. We have support for orphans, vulnerable children, the elderly, people living with disability, farm input, and even school feeding programmes, all these should all be linked because if you do not do that, you will have difficulty in tracing who is doing what and where you are offering services. There is a big problem of double-dipping but, if you have a single system, you can pick people and, if they make a mistake, you close them from everywhere. If you are offering services, you can identify those people everywhere. In my view, that is extremely important.

It is also important to note that it affects many Acts and, there will be consequential amendments. This has been taken care of well in the Second Schedule. The most important thing to look at when you get a single identity that carries many things is the issue of security. If one cracks into the system, the person is then exposed everywhere. But we have a Data Protection Act. We have just discussed the National Electronic Single Window System and if you look at these things, they are coming together.

I support, but we also have to look at it carefully in the area of data protection and protection of individuals as we expose them to a single identity which, if somebody cracked into it, will expose them severely.

With that, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Nyikal, are you done?

**Hon. (Dr.) James Nyikal** (Seme, ODM): I am.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Great. So, you have no more time allocated for you. With that Hon. Members, we can now adjourn.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 7<sup>th</sup> April 2022 at 2.30 p.m.

The House rose at 7.00 p.m.