

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 10<sup>th</sup> October 2017

The House met at 2.30 p.m.

*[The Speaker (Hon. Muturi) in the Chair]*

### PRAYERS

### PAPERS LAID

**Hon. Speaker:** We may start. I confirm there is quorum. Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Annual Report and Financial Statements of the Public Service Commission for the Financial Year 2016/2017.

Annual Report and Financial Statements of the Technical and Vocational Education and Training Authority for the year 30<sup>th</sup> June 2016.

Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2016 and the certificates therein:

- a) Kisii University;
- b) Kenya Wildlife Service;
- c) Simlaw Seeds Company Limited;
- d) Kenya Water Towers Agency;
- e) Jaramogi Oginga Odinga University of Science and Technology;
- f) Wiper Democratic Movement-Kenya;
- g) Kenya National Trading Corporation;
- h) Konza Technopolis Development Authority;
- i) Uwezo Fund Oversight Board;
- j) Teachers Service Commission;

The Reports of the Auditor-General on the Financial Statements in respect the following constituencies for the year that ended 30<sup>th</sup> June 2016 and the certificates therein:

- a) Tigania West Constituency;
- b) Ndaragwa Constituency;
- c) Mwea Constituency;
- d) Kiambu Town Constituency;
- e) Laikipia North Constituency;
- f) Samburu North Constituency;
- g) Bureti Constituency; and
- h) Mukurwe-ini Constituency.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chairperson, *Ad Hoc* Committee on Supplementary Estimates, Hon. Limo.

**Hon. Limo:** Hon. Speaker, I beg to lay the following Paper on the Table of the House: The Report of the *Ad-Hoc* Committee on the Supplementary Estimates for the Financial Year 2017/2018.

**Hon. Speaker:** Very well. The Chairperson, Select Committee on the Election Laws, 2017, Hon. Cheptumo.

Hon. Cheptumo, I approved that Report quite some time back.

*(Hon. Cheptumo searched his phone)*

It looks like it is contained in the *WhatsApp* messages in your phone. But, it is ready. Can you confirm that?

**Hon. Cheptumo:** Hon. Speaker, please give me a minute because it was to be brought to me shortly.

**Hon. Speaker:** Well.

**Hon. Cheptumo:** I am sorry. I beg to lay the following Paper on the Table of the House: The Report of the Select Committee on Election Laws, 2017 on its consideration of the Election Laws (Amendment) Bill (National Assembly Bill No. 39 of 2017).

Thank you, Hon. Speaker.

**Hon. Speaker:** Is it “National Bill” or “National Assembly Bill”?

**Hon. Cheptumo:** It is a National Assembly Bill No. 39 of 2017.

**Hon. Speaker:** The HANSARD should get you correct.

Next Order.

## NOTICE OF MOTION

### APPROVAL OF THE REPORT ON SUPPLEMENTARY ESTIMATES FOR THE FINANCIAL 2017/2018

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

THAT, this House adopts the Report of the *Ad-Hoc* Committee on the Supplementary Estimates for the Financial Year 2017/2018, laid on the Table of the House on Tuesday, 10<sup>th</sup> October 2017 and pursuant to the provisions of Article 223 of the Constitution and Standing Order 243, approves:

- (i) an increment of the total recurrent expenditure for Financial Year 2017/2018 by Kshs63,513,309,301 in respect of the Votes as contained in the Schedule;
- (ii) reduction of the total capital expenditure for the Financial Year 2017/2018 by Kshs24,899,676,347 in respect of the Votes as contained in the Schedule;
- (iii) an overall increment in the total budget for the Financial Year 2017/2018 by Kshs38,613,632,954 in respect of the Votes as contained in the Schedule; and
- (iv) further resolves that the Schedule forms the basis of the enactment of the first Supplementary Appropriation Act, 2017.

## SCHEDULE: SUPPLEMENTARY ADJUSTMENTS FOR FY 2018/18 IN KSHS

Vote, Program me Codes & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recur rent Estim ates	Change In Gross Capita l Estima tes	Change In Gross Total Estim ates	Recurr ent	Capital	Total	Recurr ent	Capital	Total
<b>1011 The Presiden cy</b>	<b>(835,4 40,293 )</b>	<b>(216,50 0,000)</b>	<b>(1,051, 940,29 3)</b>	-	-	-	<b>7,866,96 6,719</b>	<b>893,50 0,000</b>	<b>8,760,46 6,719</b>
0702000 P2 Cabinet Affairs	(406,4 10,037 )	428,25 0,000	21,839 ,963			-	1,730,03 9,614	645,25 0,000	2,375,28 9,614
0703000 P3 Governm ent Advisory Services	(39,19 6,875)	-	(39,19 6,875)			-	975,772, 905	-	975,772, 905
0704000 P4 State House Affairs	(106,4 16,745 )	(90,750 ,000)	(197,1 66,745 )			-	3,246,55 4,755	230,25 0,000	3,476,80 4,755
0734000 P.6 Deputy President Services	(283,4 16,636 )	(554,00 0,000)	(837,4 16,636 )			-	1,914,59 9,445	18,000, 000	1,932,59 9,445
<b>1021 State Departm ent for Interior</b>	<b>5,100, 000,00 0</b>	<b>465,70 0,000</b>	<b>5,565, 700,00 0</b>	-	-	-	<b>111,919, 293,000</b>	<b>18,082, 496,88 9</b>	<b>130,001, 789,889</b>
0601000 P.1 Policing Services	2,443, 000,00 0	(1,500, 000,00 0)	943,00 0,000			-	81,026,7 88,581	9,925,0 00,000	90,951,7 88,581
0602000 P.2	2,657,	1,965,7	4,622,			-	23,747,1	6,082,2	29,829,3

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
Planning, Policy Coordination and Support Service	000,000	00,000	700,000				26,501	00,000	26,501
0603000 P3 Government Printing Services	-	-	-			-	770,983, 833	150,00 0,000	920,983, 833
0605000 P.4 Population Management Services	-	-	-			-	6,249,24 4,085	1,925,2 96,889	8,174,54 0,974
0736000 P8: NGO Regulatory Services	-	-	-			-	125,150, 000	-	125,150, 000
<b>1023 State Department for Correctional Services</b>	-	-	-	-	-	-	<b>21,535,3 69,313</b>	<b>900,00 0,000</b>	<b>22,435,3 69,313</b>
0624000 P.3 Betting Control, Licensing	-	-	-			-	119,933, 224	-	119,933, 224

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
and Regulation Services									
0604000 P1 Correctional services	-	-	-			-	21,014,6 16,887	854,33 6,504	21,868,9 53,391
0623000 P.2 General Administration, Planning and Support Services	-	-	-			-	400,819, 202	45,663, 496	446,482, 698
<b>1032 State Department for Devolution</b>	<b>(100,4 08,370 )</b>	-	<b>(100,4 08,370 )</b>	-	-	-	<b>1,007,39 1,630</b>	<b>3,539,3 00,000</b>	<b>4,546,69 1,630</b>
0712000 P7: Devolution Services	(30,49 9,989)	-	(30,49 9,989)			-	792,462, 645	2,519,3 00,000	3,311,76 2,645
0732000 P.3 General Administration, Planning and	(69,90 8,381)	-	(69,90 8,381)			-	214,928, 985	1,020,0 00,000	1,234,92 8,985

Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
Support Services									
<b>1033 State Department for Special Programmes</b>	<b>2,185, 335,87 2</b>	<b>32,825, 000</b>	<b>2,218, 160,87 2</b>	-	-	-	<b>4,338,44 5,872</b>	<b>4,552,2 75,000</b>	<b>8,890,72 0,872</b>
0713000 P 8: Special Initiatives	2,221, 130,87 2	-	2,221, 130,87 2			-	3,379,40 7,801	-	3,379,40 7,801
0733000 P.9 Accelerated ASAL Development	34,637 ,500	46,400, 000	81,037 ,500			-	734,723, 595	4,547,7 50,000	5,282,47 3,595
0743000 P.3 General Administ ration, Planning and Support Services	(70,43 2,500)	(13,575 ,000)	(84,00 7,500)			-	224,314, 476	4,525,0 00	228,839, 476
<b>1034 State Department for Planning and Statistics</b>	<b>(330,4 54,765 )</b>	<b>(9,501, 182,84 4)</b>	<b>(9,831, 637,60 9)</b>	-	<b>2,000,00 0,000</b>	<b>2,000,00 0,000</b>	<b>5,383,99 5,235</b>	<b>29,977, 673,15 6</b>	<b>35,361,6 68,391</b>

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
0706000 P1 : Economic Policy and National Planning	(123,656,026)	(6,426,265,044)	(6,549,921,070)		1,500,000	<b>1,500,000</b>	1,110,781,029	27,078,817,356	28,189,598,385
0707000 P2 : National Statistical Information Services	-	-	-			-	2,333,333,297	1,454,800,000	3,788,133,297
0708000 P3: Monitoring and Evaluation Services	(26,312,981)	(43,792,800)	(70,105,781)			-	128,163,530	128,180,800	256,344,330
0709000 P4: General Administration Planning and Support Services	(175,866,425)	-	(175,866,425)			-	349,705,548	-	349,705,548
1013000 P.7 Integrated Regional Develop	(4,619,333)	(3,031,125,000)	(3,035,744,330)		500,000,000	<b>500,000,000</b>	1,462,011,831	1,315,875,000	2,777,886,831

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
ment									
<b>1041 Ministry of Defence</b>	<b>1,686, 984,81 9</b>	<b>-</b>	<b>1,686, 984,81 9</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>105,261, 384,819</b>	<b>45,000, 000</b>	<b>105,306, 384,819</b>
0801000 P.1: Defence	1,800, 000,00 0	-	1,800, 000,00 0	-	-	-	103,941, 000,000	45,000, 000	103,986, 000,000
0802000 P.2 Civil Aid	-	-	-			-	200,000, 000	-	200,000, 000
0803000 P.3 General Administ ration, Planning and Support Services	(113,0 15,181 )	-	(113,0 15,181 )			-	1,120,38 4,819	-	1,120,38 4,819
<b>1052 Ministry of Foreign Affairs</b>	<b>(3,175, 928,50 1)</b>	<b>(1,752, 500,00 1)</b>	<b>(4,928, 428,50 2)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>14,570,0 71,499</b>	<b>247,49 9,999</b>	<b>14,817,5 71,498</b>
0714000 P.1 General Administ ration Planning and Support Services	(487,8 93,513 )	(235,00 0,000)	(722,8 93,513 )			-	2,703,59 8,372	75,000, 000	2,778,59 8,372



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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
0715000 P.2 Foreign Relation and Diplomac y	(2,571, 672,23 8)	(1,517, 500,00 1)	(4,089, 172,23 9)			-	11,693,4 35,950	172,49 9,999	11,865,9 35,949
0741000 P4 Economi c and Commerci al Diplomac y	(98,27 7,250)	-	(98,27 7,250)			-	43,635,7 50	-	43,635,7 50
0742000 P5 Foreign Policy Research, Capacity Dev. and Technical Cooperati on	(18,08 5,500)	-	(18,08 5,500)			-	129,401, 427	-	129,401, 427
<b>1063 State Departm ent for Basic Educatio n</b>	<b>23,136 ,411,4 31</b>	<b>749,98 8,600</b>	<b>23,886 ,400,0 31</b>	<b>183,988, 154</b>	<b>100,000, 000</b>	<b>283,988, 154</b>	<b>83,269,3 99,585</b>	<b>7,256,7 18,600</b>	<b>90,526,1 18,185</b>
0501000 P.1 Primary Educatio	(56,65 3,013)	(128,60 7,900)	(185,2 60,913 )	183,988, 154		183,988, 154	16,966,6 64,925	4,471,9 55,600	21,438,6 20,525

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
n									
0502000 P.2 Secondary Education	23,583 ,251,8 00	1,188,7 59,000	24,772 ,010,8 00		100,000, 000	100,000, 000	57,799,7 11,118	2,651,3 75,500	60,451,0 86,618
0503000 P.3 Quality Assurance and Standards	(9,758, 027)	(219,00 0,000)	(228,7 58,027 )			-	4,142,48 4,757	83,000, 000	4,225,48 4,757
0508000 P. 8 General Administration, Planning and Support Services	(380,4 29,329 )	(91,162 ,500)	(471,5 91,829 )			-	4,360,53 8,785	50,387, 500	4,410,92 6,285
<b>1064 State Department for Vocational and Technical Training</b>	<b>(105,1 43,007 )</b>	<b>8,356,9 01,000</b>	<b>8,251, 757,99 3</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>2,535,35 6,993</b>	<b>14,002, 901,00 0</b>	<b>16,538,2 57,993</b>
0505000 P.5 Technical Vocational	(39,64 5,513)	8,252,9 01,000	8,213, 255,48 7			-	2,333,47 9,487	11,873, 901,00 0	14,207,3 80,487

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
al Education and Training									
0507000 P.7 Youth Training and Develop ment	(11,62 4,052)	104,00 0,000	92,375 ,948			-	50,563,4 48	2,129,0 00,000	2,179,56 3,448
0508000 P. 8 General Administ ration, Planning and Support Services	(53,87 3,442)	-	(53,87 3,442)			-	151,314, 058	-	151,314, 058
<b>1065 State Departm ent for Universit y Educatio n</b>	<b>5,033, 786,75 5</b>	<b>(7,232, 250,00 2)</b>	<b>(2,198, 463,24 7)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>90,755,3 04,284</b>	<b>5,435,8 49,998</b>	<b>96,191,1 54,282</b>
0504000 P.4 Universit y Educatio n	5,177, 615,33 6	(6,777, 750,00 2)	(1,600, 134,66 6)			-	87,148,0 05,550	5,284,3 49,998	92,432,3 55,548
0506000 P. 6	(34,85)	(454,50)	(489,3			-	3,064,41	151,50	3,215,91

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
Research, Science, Technology and Innovation	2,671)	0,000)	52,671 )				8,082	0,000	8,082
0508000 P. 8 General Administration, Planning and Support Services	(108,9 75,910 )	-	(108,9 75,910 )			-	542,880, 652	-	542,880, 652
<b>1071 The National Treasury</b>	<b>3,992, 154,27 5</b>	<b>2,840,9 70,466</b>	<b>6,833, 124,74 1</b>	-	-	-	<b>81,434,4 54,275</b>	<b>46,749, 013,08 2</b>	<b>128,183, 467,357</b>
0717000 P1 : General Administration Planning and Support Services	4,711, 862,34 9	1,707,2 62,158	6,419, 124,50 7			-	76,202,4 71,629	6,775,5 95,102	82,978,0 66,731
0718000 P2: Public Financial Management	(578,0 28,086 )	1,147,2 08,308	569,18 0,222			-	3,878,66 2,007	38,580, 314,18 0	42,458,9 76,187
0719000 P3:	(123,8	(13,500	(137,3			-	952,775,	1,338,1	2,290,87

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
Economic and Financial Policy Formulation and Management	41,757 )	,000)	41,757 )				318	03,800	9,118
0720000 P4: Market Competition	-	-	-			-	340,000, 000	55,000, 000	395,000, 000
0740000 P5 Government Clearing Services	(17,83 8,231)	-	(17,83 8,231)			-	60,545,3 21	-	60,545,3 21
<b>1081 Ministry of Health</b>	<b>(90,64 4,005)</b>	<b>(956,23 2,265)</b>	<b>(1,046, 876,27 0)</b>	<b>246,200, 000</b>	<b>-</b>	<b>246,200, 000</b>	<b>30,877,3 76,247</b>	<b>30,022, 431,05 4</b>	<b>60,899,8 07,301</b>
0401000 P.1 Preventive, Promotive &RMNC AH	(51,64 0,385)	(45,000 ,000)	(96,64 0,385)			-	1,588,38 1,257	7,262,8 24,415	8,851,20 5,672
0402000 P.2 National Referral &	(85,51 7,250)	(99,500 ,000)	(185,0 17,250 )	96,200,0 00		<b>96,200,0 00</b>	15,954,1 52,328	9,847,3 63,400	25,801,5 15,728

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
Specialized Services									
0403000 P.3 Health Research and Develop ment	-	(195,000,000)	(195,000,000)	-		-	5,497,163,179	473,000,000	5,970,163,179
0404000 P.4 General Administ ration, Planning & Support Services	55,501,625	(729,232,265)	(673,730,640)	150,000,000		<b>150,000,000</b>	6,101,965,750	2,014,905,265	8,116,871,015
0405000 P.5 Health Policy, Standards and Regulatio ns	(8,987,995)	112,500,000	103,512,005			-	1,735,713,733	10,424,337,974	12,160,051,707
<b>1091 State Departm ent of Infrastru cture</b>	<b>1,162,632,071</b>	<b>(5,000,000,000)</b>	<b>(3,837,367,929)</b>	-	-	-	<b>53,820,632,071</b>	<b>129,987,591,571</b>	<b>183,808,223,642</b>
0202000 P.2 Road Transport	1,162,632,071	(5,000,000,000)	(3,837,367,929)			-	53,820,632,071	129,987,591,571	183,808,223,642

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
	1	0)	9)					71	
<b>1092 State Department of Transport</b>	<b>276,43 1,343</b>	<b>(7,800, 000,00 0)</b>	<b>(7,523, 568,65 7)</b>	-	-	-	<b>6,327,13 1,343</b>	<b>88,969, 432,00 0</b>	<b>95,296,5 63,343</b>
0201000 P.1 General Administration, Planning and Support Services	288,02 5,637	1,000,0 00	289,02 5,637			-	689,346, 875	783,00 0,000	1,472,34 6,875
0203000 P3 Rail Transport	-	(300,00 0,000)	(300,0 00,000 )			-	248,310, 000	75,284, 000,00 0	75,532,3 10,000
0204000 P4 Marine Transport	(2,434, 557)	(7,500, 000,00 0)	(7,502, 434,55 7)			-	364,600, 324	6,800,0 00,000	7,164,60 0,324
0205000 P5 Air Transport	(7,772, 636)	(1,000, 000)	(8,772, 636)			-	4,580,07 6,187	5,802,4 32,000	10,382,5 08,187
0216000 000 Road Safety	(1,387, 101)	-	(1,387, 101)			-	444,797, 957	300,00 0,000	744,797, 957
<b>1093 State Department for Maritim</b>	<b>(56,44 0,382)</b>	-	<b>(56,44 0,382)</b>	-	-	-	<b>218,589, 618</b>	-	<b>218,589, 618</b>

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
e Affairs									
0219000 P 1 Shipping and Maritime Affairs	(56,44 0,382)	-	(56,44 0,382)			-	218,589, 618	-	218,589, 618
<b>1094 State Department for Housing &amp; Urban Development</b>	<b>(116,9 31,399 )</b>	<b>(1,034, 935,00 0)</b>	<b>(1,151, 866,39 9)</b>	-	-	-	<b>1,608,76 8,601</b>	<b>13,237, 065,00 0</b>	<b>14,845,8 33,601</b>
0102000 P.2 Housing Development and Human Settlement	(26,16 9,690)	(234,00 0,000)	(260,1 69,690 )			-	432,434, 189	5,725,0 00,000	6,157,43 4,189
0105000 P 5 Urban and Metropol itan Develop ment	(47,72 6,845)	(703,43 5,000)	(751,1 61,845 )			-	224,977, 551	7,479,5 65,000	7,704,54 2,551
0106000 P 6 General Administ	(29,35 6,208)	-	(29,35 6,208)			-	238,120, 895	-	238,120, 895

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
ration Planning and Support Services									
0218000 P 7 Regulation and Development of the Construction Industry	(13,678,656)	(97,500,000)	(111,178,656)			-	713,235,966	32,500,000	745,735,966
<b>1095 State Department for Public Works</b>	<b>(56,474,883)</b>	<b>(1,632,067,500)</b>	<b>(1,688,542,383)</b>	-	-	-	<b>789,575,117</b>	<b>544,022,500</b>	<b>1,333,597,617</b>
0103000 P 3 Government Buildings	(31,467,946)	(1,529,670,000)	(1,561,137,946)			-	339,230,686	509,890,000	849,120,686
0104000 P 4 Coastline Infrastructure and Pedestrian Access	(3,314,876)	(102,397,500)	(105,712,376)			-	79,889,145	34,132,500	114,021,645
0106000 P 6 General	(21,692,061)	-	(21,692,061)			-	370,455,286	-	370,455,286

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Administration Planning and Support Services									
<b>1103 State Department for Water Services</b>	<b>386,908,971</b>	<b>2,475,146,698</b>	<b>2,862,055,669</b>	-	-	-	4,404,068,971	32,252,516,698	36,656,585,669
1001000 P.2 General Administration, Planning and Support Services	(53,289,702)	-	(53,289,702)			-	593,451,456	151,000,000	744,451,456
1004000 P.3 Water Resources Management	270,024,622	1,500,000,000	1,770,024,622			-	1,564,558,928	6,187,600,000	7,752,158,928
1017000 P.4 Water and Sewerage Infrastructure Develop	170,174,051	975,146,698	1,145,320,749			-	2,246,058,587	25,913,916,698	28,159,975,285

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ment									
<b>1104 State Department for Irrigation</b>	<b>(53,87 6,460)</b>	<b>200,00 0,000</b>	<b>146,12 3,540</b>	-	-	-	901,423, 540	12,458, 300,00 0	13,359,7 23,540
1014000 P.4 Irrigation and Land Reclamation	(49,07 6,479)	200,00 0,000	150,92 3,521			-	896,163, 609	6,628,3 00,000	7,524,46 3,609
1015000 P.1 Water Storage and Flood Control	-	-	-			-	-	5,830,0 00,000	5,830,00 0,000
1016000 P.3 General Administration, Planning and Support Services	(4,799, 981)	-	(4,799, 981)			-	5,259,93 1	-	5,259,93 1
<b>1105 State Department for Environment</b>	<b>(94,85 8,989)</b>	<b>(1,463, 375,00 0)</b>	<b>(1,558, 233,98 9)</b>	-	-	-	2,743,44 1,011	2,165,6 25,000	4,909,06 6,011

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
1002000 P.2 Environment Management and Protection	(20,78 9,482)	(638,15 0,000)	(658,9 39,482 )			-	1,334,70 7,697	1,890,5 50,000	3,225,25 7,697
1010000 P.1 General Administ ration, Planning and Support Services	(39,01 6,183)	-	(39,01 6,183)			-	330,536, 643	-	330,536, 643
1012000 P.3 Meteorol ogical Services	(35,05 3,324)	(825,22 5,000)	(860,2 78,324 )			-	1,078,19 6,671	275,07 5,000	1,353,27 1,671
<b>1106 State Departm ent for Natural Resource s</b>	<b>(620,5 50,083 )</b>	<b>(663,25 0,000)</b>	<b>(1,283, 800,08 3)</b>	-	-	-	12,892,4 49,917	3,214,0 70,990	16,106,5 20,907
1003000 P.3 Natural Resource s Manage ment and	(620,5 50,083 )	(663,25 0,000)	(1,283, 800,08 3)			-	12,892,4 49,917	3,214,0 70,990	16,106,5 20,907

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Protection									
<b>1112 Ministry of Lands and Physical Planning</b>	<b>(151,431,399)</b>	<b>(206,625,000)</b>	<b>(358,056,399)</b>	-	-	-	2,312,568,601	3,563,375,000	5,875,943,601
0101000 P. 1 Land Policy and Planning	(151,431,399)	(206,625,000)	(358,056,399)			-	2,312,568,601	3,563,375,000	5,875,943,601
<b>1122 State Department for Information Communications and Technology &amp; Innovation</b>	<b>(290,971,922)</b>	<b>(5,799,521,166)</b>	<b>(6,090,493,088)</b>	-	-	-	985,318,078	13,447,478,834	14,432,796,912
0207000 P1: General Administration Planning and Support Services	(72,999,918)	-	(72,999,918)			-	214,359,507	-	214,359,507

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0210000 P4: ICT Infrastructure Development	(153,020,266)	(6,106,250,000)	(6,259,270,266)			-	217,079,529	12,590,750,000	12,807,829,529
0217000 P5 E- Government Services	(64,951,738)	306,728,834	241,777,096			-	553,879,042	856,728,834	1,410,607,876
<b>1123 State Department for Broadcasting &amp; Telecommunications</b>	<b>(138,526,765)</b>	<b>(573,000,000)</b>	<b>(711,526,765)</b>	-	-	-	1,957,173,235	191,000,000	2,148,173,235
0207000 P1: General Administration Planning and Support Services	(77,766,168)	-	(77,766,168)			-	233,770,111	-	233,770,111
0208000 P2: Information And Communication Services	(60,760,597)	(407,250,000)	(468,010,597)			-	1,515,953,124	135,750,000	1,651,703,124

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0209000 P3: Mass Media Skills Develop ment	-	(165,75 0,000)	(165,7 50,000 )			-	207,450, 000	55,250, 000	262,700, 000
<b>1132 State Departm ent for Sports Develop ment</b>	<b>1,279, 858,79 3</b>	<b>2,389,9 99,999</b>	<b>3,669, 858,79 2</b>	-	-	-	3,748,33 3,817	2,950,0 00,000	6,698,33 3,817
0901000 P.1 Sports	1,279, 858,79 3	2,389,9 99,999	3,669, 858,79 2			-	3,748,33 3,817	2,950,0 00,000	6,698,33 3,817
<b>1133 State Departm ent for Arts and Culture</b>	<b>(72,64 9,600)</b>	<b>(405,72 8,010)</b>	<b>(478,3 77,610 )</b>	-	-	-	2,865,77 5,296	641,25 0,000	3,507,02 5,296
0902000 P.2 Culture	(20,99 3,447)	(326,97 8,010)	(347,9 71,457 )			-	1,336,61 3,161	95,000, 000	1,431,61 3,161
0903000 P.3 The Arts	(15,07 1,601)	(71,250 ,000)	(86,32 1,601)			-	692,010, 890	23,750, 000	715,760, 890
0904000 P.4 Library Services	(3,193, 438)	(7,500, 000)	(10,69 3,438)			-	698,764, 569	522,50 0,000	1,221,26 4,569
0905000 P.5	(33,39	-	(33,39			-	138,386,	-	138,386,

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
General Administration, Planning and Support Services	1,114)		1,114)				676		676
<b>1152 State Department for Energy</b>	-	<b>7,381,793,651</b>	<b>7,381,793,651</b>	-	-	-	2,052,500,000	82,548,497,961	84,600,997,961
0211000 P1 General Administration Planning and Support Services	-	-	-			-	354,889,337	327,000,000	681,889,337
0212000 P2 Power Generation	-	(2,072,000,000)	(2,072,000,000)			-	786,987,274	14,560,499,652	15,347,486,926
0213000 P3 Power Transmission and Distribution	-	3,795,103,651	3,795,103,651			-	790,303,296	60,837,308,309	61,627,611,605
0214000 P4 Alternative Energy	-	5,658,690,000	5,658,690,000			-	120,320,093	6,823,690,000	6,944,010,093

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	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
Technologies									
<b>1153</b> State Department for Petroleum	(46,77 7,593)	(1,561, 625,00 0)	(1,608, 402,59 3)	-	700,000, 000	<b>700,000, 000</b>	195,232, 407	4,276,8 75,000	4,472,10 7,407
0215000 P1 Exploration and Distribution of Oil and Gas	(46,77 7,593)	(1,561, 625,00 0)	(1,608, 402,59 3)		700,000, 000	<b>700,000, 000</b>	195,232, 407	4,276,8 75,000	4,472,10 7,407
<b>1161</b> State Department for Agriculture.	<b>4,127, 698,34 0</b>	<b>5,467,2 94,148</b>	<b>9,594, 992,48 8</b>	3,700,00 0,000	350,000, 000	<b>4,050,00 0,000</b>	14,116,2 98,340	16,419, 094,14 8	30,535,3 92,488
0107000 P1: General Administ ration Planning and Support Services	1,065, 153,48 1	(132,75 0,000)	932,40 3,481			-	4,462,88 5,676	460,25 0,000	4,923,13 5,676
0108000 P2: Crop Development and Management	3,073, 584,58 7	5,615,3 05,148	8,688, 889,73 5	3,700,00 0,000		<b>3,700,00 0,000</b>	9,489,66 5,191	14,521, 577,42 2	24,011,2 42,613

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0109000 P3: Agribusiness and Information Management	(11,039,728)	(15,261,000)	(26,300,728)		350,000,000	<b>350,000,000</b>	163,747,473	1,437,266,726	1,601,014,199
<b>1162</b> State Department for Livestock.	<b>2,062,738,271</b>	<b>(1,805,647,250)</b>	<b>257,091,021</b>	-	-	-	7,114,150,771	3,693,332,750	10,807,483,521
0112000 P 6: Livestock Resources Management and Development	2,062,738,271	(1,805,647,250)	257,091,021			-	7,114,150,771	3,693,332,750	10,807,483,521
<b>1164</b> State Department for Fisheries and the Blue Economy	<b>(211,834,152)</b>	<b>(493,080,000)</b>	<b>(704,914,152)</b>	-	-	-	1,844,465,848	420,920,000	2,265,385,848
0111000 P5: Fisheries Develop	(30,304,705)	(453,330,000)	(483,634,705)			-	1,549,912,465	407,670,000	1,957,582,465

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ment and Management									
0117000 P6: General Administration, Planning and Support Services	(51,342,271)	-	(51,342,271)			-	132,687,033	-	132,687,033
0118000 P7: Development and Coordination of the Blue Economy	(130,187,176)	(39,750,000)	(169,937,176)			-	161,866,350	13,250,000	175,116,350
<b>1172 State Department for Investment and Industry</b>	<b>(152,156,192)</b>	<b>(2,687,131,880)</b>	<b>(2,839,288,072)</b>	-	525,000,000	<b>525,000,000</b>	2,189,243,808	3,218,930,120	5,408,173,928
0301000 P.1 General Administration Planning and Support Services	(104,660,315)	-	(104,660,315)			-	386,652,659	180,000,000	566,652,659

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0302000 P.2 Industrial Development and Investments	(47,49 5,877)	(1,661, 506,88 0)	(1,709, 002,75 7)		400,000, 000	<b>400,000, 000</b>	849,783, 149	1,997,4 93,120	2,847,27 6,269
0303000 P.3 Standards and Business Incubation	-	(1,025, 625,00 0)	(1,025, 625,00 0)		125,000, 000	<b>125,000, 000</b>	952,808, 000	1,041,4 37,000	1,994,24 5,000
<b>1173 State Department for Cooperatives</b>	<b>(26,71 2,552)</b>	<b>(105,00 0,000)</b>	<b>(131,7 12,552 )</b>	318,700, 000	-	<b>318,700, 000</b>	737,987, 448	385,00 0,000	1,122,98 7,448
0304000 P.1 Cooperative Development and Management	(26,71 2,552)	(105,00 0,000)	(131,7 12,552 )	318,700, 000		318,700, 000	737,987, 448	385,00 0,000	1,122,98 7,448
<b>1174 State Department for Trade</b>	<b>(250,0 89,707 )</b>	<b>(256,25 0,000)</b>	<b>(506,3 39,707 )</b>	-	-	-	2,164,31 0,293	71,250, 000	2,235,56 0,293
0307000 P 3: Trade	(250,0 89,707)	(256,25 0,000)	(506,3 39,707)			-	2,164,31 0,293	71,250, 000	2,235,56 0,293

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Development and Promotion	)		)						
<b>1183 State Department for East African Integration</b>	<b>(194,504,104)</b>	<b>-</b>	<b>(194,504,104)</b>	<b>-</b>	<b>-</b>	<b>-</b>	1,356,495,896	65,000,000	1,421,495,896
0305000 P 1: East African Affairs and Regional Integration	(194,504,104)	-	(194,504,104)			-	1,356,495,896	65,000,000	1,421,495,896
<b>1184 State Department for Labour</b>	<b>(236,956,488)</b>	<b>(408,075,001)</b>	<b>(645,031,489)</b>	<b>-</b>	<b>-</b>	<b>-</b>	1,792,943,512	636,024,999	2,428,968,511
0910000 P 5: General Administration Planning and Support Services	(83,328,809)	-	(83,328,809)			-	478,154,933	-	478,154,933
0906000 P 1:	(66,49)	(150,75)	(217,2)			-	466,033,	50,250,	516,283,

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Promotion of the Best Labour Practice	7,928)	0,000)	47,928)				781	000	781
0907000 P 2: Manpower Development, Employment and Productivity Management	(87,12 9,751)	(257,32 5,001)	(344,4 54,752)			-	848,754, 798	585,77 4,999	1,434,52 9,797
<b>1185 State Department for Social Protection</b>	<b>5,770, 712,57 2</b>	<b>(295,79 4,717)</b>	<b>5,474, 917,85 5</b>	-	-	-	15,218,0 12,572	14,663, 955,28 3	29,881,9 67,855
0908000 P 1: Social Development and Children Services	(327,1 11,442 )	(133,42 5,000)	(460,5 36,442 )			-	3,010,25 8,449	894,97 5,000	3,905,23 3,449
0909000 P 2: National Social Safety	6,190, 046,85 4	(157,11 9,717)	6,032, 927,13 7			-	12,056,4 21,924	13,767, 230,28 3	25,823,6 52,207

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Net									
0914000 P 3: General Administration, Planning and Support Services	(92,22 2,840)	(5,250, 000)	(97,47 2,840)			-	151,332, 199	1,750,0 00	153,082, 199
<b>1191 Ministry of Mining</b>	<b>(176,8 69,950 )</b>	<b>394,50 0,000</b>	<b>217,63 0,050</b>	-	-	-	1,287,59 4,267	1,650,8 21,429	2,938,41 5,696
1007000 P.1 General Administration Planning and Support Services	(133,8 00,191 )	(45,000 ,000)	(178,8 00,191 )			-	790,690, 898	15,000, 000	805,690, 898
1008000 P.2 Resources Surveys and Remote Sensing	(14,45 5,912)	(270,75 0,000)	(285,2 05,912 )			-	170,572, 219	90,250, 000	260,822, 219
1009000 P.3. Mineral Resources	(28,61 3,847)	710,25 0,000	681,63 6,153			-	326,331, 150	1,545,5 71,429	1,871,90 2,579

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Management									
<b>1201 Ministry of Tourism</b>	<b>(79,44 1,386)</b>	<b>(2,940, 750,00 0)</b>	<b>(3,020, 191,38 6)</b>	-	-	-	2,777,45 8,614	980,25 0,000	3,757,70 8,614
0306000 P 2: Tourism Develop ment and Promotio n	(79,44 1,386)	(2,940, 750,00 0)	(3,020, 191,38 6)			-	2,777,45 8,614	980,25 0,000	3,757,70 8,614
<b>1211 State Departm ent for Public Service and Youth Affairs</b>	<b>939,26 7,402</b>	<b>(1,098, 100,27 3)</b>	<b>(158,8 32,871 )</b>	-	-	-	14,455,9 17,402	11,891, 899,72 7	26,347,8 17,129
0710000 P 5: Public Service Transfor mation	(275,3 97,203 )	(514,27 3,273)	(789,6 70,476 )			-	1,586,84 7,286	1,781,2 11,684	3,368,05 8,970
0709000 P4: General Administ ration Planning and Support	1,382, 190,42 8	-	1,382, 190,42 8			-	5,551,58 5,773	-	5,551,58 5,773



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Services									
0711000 P6: Youth Empowerment	(167,525,823)	(583,827,000)	(751,352,823)			-	7,317,484,343	10,110,688,043	17,428,172,386
<b>1212 State Department for Gender</b>	<b>(188,481,629)</b>	<b>(242,250,000)</b>	<b>(430,731,629)</b>	-	-	-	1,424,218,371	3,187,750,000	4,611,968,371
0911000 P 1: Community Development	-	-	-	-		-	470,000,000	2,130,000,000	2,600,000,000
0912000 P 2: Gender Empowerment	(93,869,370)	(242,250,000)	(336,119,370)			-	753,026,131	1,057,750,000	1,810,776,131
0913000 P 3: General Administration, Planning and Support Services	(94,612,259)	-	(94,612,259)			-	201,192,240	-	201,192,240
<b>1252 State Law Office</b>	<b>(304,375,231)</b>	<b>(1,102,750,000)</b>	<b>(1,407,125,231)</b>	-	45,000,000	45,000,000	4,383,634,769	388,178,571	4,771,813,340

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
<b>and Department of Justice</b>									
0606000 P.1 Legal Services	(147,357,660)	(10,500,000)	(157,857,660)			-	1,953,662,838	3,500,000	1,957,162,838
0607000 P.2 Governan ce, Legal Training and Constituti onal Affairs	(23,801,852)	(1,045,000,000)	(1,068,801,852)		45,000,000	45,000,000	1,747,977,029	360,000,000	2,107,977,029
0609000 P. 4 General Administ ration, Planning and Support Services	(133,215,719)	(47,250,000)	(180,465,719)			-	681,994,902	24,678,571	706,673,473
<b>1261 The Judiciary</b>	(1,070,766,360)	(879,925,000)	(1,950,691,360)	-	-	-	12,361,768,912	3,248,975,000	15,610,743,912
0610000 P 1: Dispensat ion of Justice	(1,070,766,360)	(879,925,000)	(1,950,691,360)			-	12,361,768,912	3,248,975,000	15,610,743,912

Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
<b>1271 Ethics and Anti- Corruption Commission</b>	300,00 0,000	-	300,00 0,000	-	-	-	3,068,54 0,000	1,268,0 00,000	4,336,54 0,000
0611000 P.1 Ethics and Anti- Corruption	300,00 0,000	-	300,00 0,000			-	3,068,54 0,000	1,268,0 00,000	4,336,54 0,000
<b>1281 National Intelligence Service</b>	3,150, 000,00 0	-	3,150, 000,00 0	-	-	-	29,754,0 00,000	-	29,754,0 00,000
0804000 P.1 National Security Intelligence	3,150, 000,00 0	-	3,150, 000,00 0			-	29,754,0 00,000	-	29,754,0 00,000
<b>1291 Office of the Director of Public Prosecutions</b>	(305,6 37,538 )	(80,000 ,000)	(385,6 37,538 )	-	-	-	1,944,44 2,462	2,550,0 00	1,946,99 2,462
0612000 P.1 Public Prosecuti	(305,6 37,538 )	(80,000 ,000)	(385,6 37,538 )			-	1,944,44 2,462	2,550,0 00	1,946,99 2,462

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
on Services									
<b>1311 Office of the Registrar of Political Parties</b>	(79,22 2,690)	-	(79,22 2,690)	-	-	-	798,527, 310	-	798,527, 310
0614000 P.1 Registration, Regulation and Funding of Political Parties	(79,22 2,690)	-	(79,22 2,690)			-	798,527, 310	-	798,527, 310
<b>1321 Witness Protection Agency</b>	(121,0 12,507 )	-	(121,0 12,507 )	131,000, 000	-	131,000, 000	442,380, 483	-	442,380, 483
0615000 P.1 Witness Protection	(121,0 12,507 )	-	(121,0 12,507 )	131,000, 000		131,000, 000	442,380, 483	-	442,380, 483
<b>2011 Kenya National Commission on Human Rights</b>	(60,64 3,700)	-	(60,64 3,700)	-	-	-	389,766, 300	-	389,766, 300

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
0616000 P 1: Protection and Promotion of Human Rights	(60,64 3,700)	-	(60,64 3,700)			-	389,766, 300	-	389,766, 300
<b>2021 National Land Commission</b>	<b>(358,2 32,450 )</b>	<b>(300,00 0,000)</b>	<b>(658,2 32,450 )</b>	-	-	-	<b>1,093,76 7,550</b>	-	<b>1,093,76 7,550</b>
0113000 P1: Land Administration and Management	(180,3 64,992 )	-	(180,3 64,992 )			-	202,117, 228	-	202,117, 228
0114000 P2. General Administration, Planning and Support Services	(71,47 0,435)	-	(71,47 0,435)			-	820,095, 345	-	820,095, 345
0115000 P3. Land Disputes and Conflict Resolutions	(74,07 3,544)	-	(74,07 3,544)			-	52,097,4 56	-	52,097,4 56

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
0116000 P4. National Land Information Management System	(32,323,479)	(300,000,000)	(332,323,479)			-	19,457,521	-	19,457,521
<b>2031 Independent Electoral and Boundaries Commission</b>	<b>10,000,000</b>	<b>(45,000,000)</b>	<b>9,955,000,000</b>	<b>2,000,000,000</b>	<b>-</b>	<b>2,000,000,000</b>	<b>32,860,477,459</b>	<b>712,210,000</b>	<b>33,572,687,459</b>
0617000 P.1 : Management of Electoral Processes	10,000,000	(45,000,000)	9,955,000,000	2,000,000,000		2,000,000,000	32,860,477,459	712,210,000	33,572,687,459
<b>2041 Parliamentary Service Commission</b>	<b>(3,131,447,963)</b>	<b>(2,412,500,000)</b>	<b>(5,543,947,963)</b>	<b>1,691,566,119</b>	<b>1,900,000,000</b>	<b>3,591,566,119</b>	<b>10,287,068,157</b>	<b>2,637,500,000</b>	<b>12,924,568,157</b>
0722000 P.2 Senate Affairs	(1,285,069,525)	-	(1,285,069,525)	828,342,515		828,342,515	5,290,539,449	-	5,290,539,449
0723000 P. 3	(1,846,000)	(2,412,000)	(4,258,000)	863,223,000	1,900,000,000	2,763,223,000	4,996,520,000	2,637,500,000	7,634,020,000

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
General Administration, Planning and Support Services	378,438)	500,000)	878,438)	604	0,000	3,604	8,708	00,000	8,708
<b>2042 National Assembly</b>	<b>(3,692,484,022)</b>	<b>-</b>	<b>(3,692,484,022)</b>	<b>2,117,499,399</b>	<b>-</b>	<b>2,117,499,399</b>	<b>19,591,048,577</b>	<b>-</b>	<b>19,591,048,577</b>
0721000 P.1 National Legislation, Representation and Oversight	(3,692,484,022)	-	(3,692,484,022)	2,117,499,399	-	2,117,499,399	19,591,048,577	-	19,591,048,577
<b>2051 Judicial Service Commission</b>	<b>(306,622,300)</b>	<b>-</b>	<b>(306,622,300)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>183,537,700</b>	<b>-</b>	<b>183,537,700</b>
0619000 P. 1 General Administration, Planning and Support Services	(306,622,300)	-	(306,622,300)	-	-	-	183,537,700	-	183,537,700
<b>2061 The Commission</b>	<b>26,711</b>	<b>-</b>	<b>26,711</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>391,711,</b>	<b>-</b>	<b>391,711,</b>

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
ion on Revenue Allocation	,063		,063				063		063
0724000 P.1 Inter- Governmental Revenue and Financial Matters	26,711, 063	-	26,711, 063			-	391,711, 063	-	391,711, 063
2071 Public Service Commission	(7,575, 000)	(45,000, 000)	(52,575, 000)	-	-	-	1,351,425, 000	15,000, 000	1,366,425, 000
0725000 P.1 General Administration, Planning and Support Services	(7,575, 000)	(45,000, 000)	(52,575, 000)			-	1,024,568, 639	15,000, 000	1,039,568, 639
0726000 P.2 Human Resource management and Development	-	-	-			-	202,189, 957	-	202,189, 957
0727000 P.3	-	-	-			-	124,666,	-	124,666,

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Vote, Program Codes & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
Governance and National Values							404		404
<b>2081 Salaries and Remuneration Commission</b>	<b>47,934,499</b>	-	<b>47,934,499</b>	<b>15,700,000</b>	-	<b>15,700,000</b>	<b>609,634,499</b>	-	<b>609,634,499</b>
0728000 P.1 Salaries and Remuneration Management	47,934,499	-	47,934,499	15,700,000		<b>15,700,000</b>	609,634,499	-	609,634,499
<b>2091 Teachers Service Commission</b>	<b>56,457,400</b>	-	<b>56,457,400</b>	-	-	-	201,893,457,400	118,000,000	202,011,457,400
0509000 P.1 Teacher Resource Management	414,910,000	-	414,910,000			-	195,473,566,350	-	195,473,566,350
0510000 P.2 Governance and Standards	(30,526,438)	-	(30,526,438)			-	53,988,812	-	53,988,812

Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
0511000 P.3 General Administration, Planning and Support Services	(327,9 26,162 )	-	(327,9 26,162 )			-	6,365,90 2,238	118,00 0,000	6,483,90 2,238
<b>2101 National Police Service Commission</b>	<b>(18,59 6,220)</b>	<b>(65,000 ,000)</b>	<b>(83,59 6,220)</b>	-	-	-	467,393, 780	-	467,393, 780
0620000 P.1 National Police Service Human Resource Management	(18,59 6,220)	(65,000 ,000)	(83,59 6,220)			-	467,393, 780	-	467,393, 780
<b>2111 Auditor General</b>	<b>(373,7 34,385 )</b>	<b>(176,25 0,000)</b>	<b>(549,9 84,385 )</b>	208,502, 085	112,500, 000	<b>321,002, 085</b>	5,110,76 7,700	171,25 0,000	5,282,01 7,700
0729000 P.1 Audit Services	(373,7 34,385 )	(176,25 0,000)	(549,9 84,385 )	208,502, 085	112,500, 000	321,002, 085	5,110,76 7,700	171,25 0,000	5,282,01 7,700
<b>2121 Controller of Budget</b>	<b>(80,06 9,000)</b>	-	<b>(80,06 9,000)</b>	-	-	-	494,931, 000	-	494,931, 000

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
0730000 P.1 Control and Management of Public finances	(80,069,000)	-	(80,069,000)			-	494,931,000	-	494,931,000
<b>2131 The Commission on Administrative Justice</b>	<b>(59,710,598)</b>	-	<b>(59,710,598)</b>	-	-	-	416,789,402	-	416,789,402
0731000 P.1 Promotion of Administrative Justice	(59,710,598)	-	(59,710,598)			-	416,789,402	-	416,789,402
<b>2141 National Gender and Equality Commission</b>	<b>(93,045,793)</b>	-	<b>(93,045,793)</b>	-	-	-	352,824,207	-	352,824,207
0621000 P 1: Promotion of Gender Equality and Freedom	(93,045,793)	-	(93,045,793)			-	352,824,207	-	352,824,207

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Vote, Program Code & Title	Proposed Increase/Reduction 2017/18			Ad Hoc Committee Recommendations			Revised Supplementary Estimates FY 2017/18		
	Change In Gross Recurrent Estimates	Change In Gross Capital Estimates	Change In Gross Total Estimates	Recurrent	Capital	Total	Recurrent	Capital	Total
from Discrimination									
<b>2151 Independent Policing Oversight Authority</b>	<b>95,860,000</b>	<b>(150,000,000)</b>	<b>(54,140,000)</b>	-	-	-	695,860,000	-	695,860,000
0622000 P.1 Policing Oversight Services	95,860,000	(150,000,000)	(54,140,000)			-	695,860,000	-	695,860,000
<b>Total Programmes</b>	<b>52,900,153,544</b>	<b>(30,632,176,347)</b>	<b>22,267,977,197</b>	<b>10,613,155,757</b>	<b>5,732,500,000</b>	<b>16,345,655,757</b>	<b>1,054,000,641,966</b>	<b>617,997,651,359</b>	<b>1,671,998,293,325</b>

Thank you, Hon. Speaker.

**Hon. Speaker:** Order, Hon. Cheptumo. Let me move to the next Order.

## BILL

### *First Reading*

#### THE COMPUTER AND CYBERCRIMES BILL

*(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)*

**Hon. Speaker:** Next Order.

**MOTION****RATIFICATION OF PROTOCOL TO OPERATIONALISE THE  
EXTENDED JURISDICTION OF EAST AFRICAN COURT OF JUSTICE**

THAT, cognisant of the Report of the Select Committee on Regional Integration of the 11<sup>th</sup> Parliament on the Ratification of the Protocol to operationalise the Extended Jurisdiction of the East African Court of Justice, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, this House approves the Ratification of the Protocol to operationalise the Extended Jurisdiction of the East African Court of Justice.

**Hon. Speaker:** Debate on this Motion was concluded when the House last met. Therefore, what remained is for the Question to be put, which I hereby do:

*(Hon. A. B. Duale on 28.9.2017)*

*(Debate concluded on 28.9.2017 - Afternoon Sitting)*

*(Question put and agreed to)*

**BILLS***Second Reading***THE ELECTION LAWS (AMENDMENT) BILL**

**Hon. Cheptumo:** Thank you, Hon. Speaker. I beg to move that the Election Laws (Amendment) Bill (National Assembly Bill No. 39 of 2017) be read a Second Time.

On 1<sup>st</sup> September 2017, the Supreme Court, with a majority decision of four Judges, nullified the election of President Uhuru Kenyatta. The court further directed that the Independent Electoral and Boundaries Commission (IEBC) conduct elections within 60 days from that date.

Hon. Speaker, the issues raised by the Supreme Court still remain disturbing, especially as we head to the fresh presidential election. As a patriot, a Kenyan, a leader and an elected Member of the great people of Baringo North, I could not sit and contemplate the possibility of deficiencies highlighted by the court as well as other challenges that arose from the election process.

Hon. Speaker, as you may recall, there were also several cases filed in the High Court by a number of Kenyans prior to the elections on 8<sup>th</sup> August 2017. Allow me to quote three cases that were filed before the elections of 8<sup>th</sup> August 2017.

The first case is Peter Solomon Gichira versus the Independent Electoral and Boundaries Commission (IEBC) and another. That is Petition No.234 of 2017 where the Court held that Section 29 of the Elections Act contravened the letter and spirit of the Constitution in Article 38 on political rights; as read together with Article 137 (1)(d).

The second case is that of Kenneth Otieno versus Attorney-General. That is Petition No.127 of 2017, where again the court held that Section 44 (8) offends the Constitution. Finally,

referring to those two cases is the IEBC versus Maina Kiai and five others. Equally, another issue was addressed here and it was held that the presidential election results declared by the constituency returning officer are final in respect of the constituency and can only be questioned by an election court.

Hon. Speaker, you can see from what I have said so far that in those three cases, issues of concern touching on the election process in the country arose. I said there are well over eight cases of that nature raising various constitutional and legal issues that I could not sit and wait as a responsible patriot, citizen and as a leader of this country. The Bill I have sponsored also seeks to align the Elections Act with three decisions I have referred to and, in effect, align the Act with the relevant provisions of the Constitution. That is the foundation and basis, among others, that I felt it was important for me to come forth before this august House and take the challenge and raise these concerns.

Close reading of election-related laws also reveal that where there are gaps in the law, indeed, there can be many and variant interpretations depending on the number of lawyers interpreting them. This is a highly litigant country where every Kenyan lawyer will have different interpretations of various situations and laws. Therefore, the Bill proposes specific amendments to fill existing gaps in our scheme of laws and may lead to a legal and constitutional crisis if not addressed prior to the conduct of the fresh elections.

Before highlighting the contents of the Bill and the thinking behind it, I am under obligation to note that upon the Bill being read the first time, this House approved a Motion setting an *ad-hoc* committee which was under my chairmanship. That Committee was mandated to look into these laws and undertake public participation, which I would like to report to this House that indeed for close to a week we had time to listen to the members of the public.

Hon. Speaker, allow me at this point in time to very sincerely thank the Kenyan people and institutions – both private and government – which had time to come before us. There were even areas where Kenyans were being told not to go before the Committee. Kenyans refused to listen to that call. They came forward and spoke what they thought about these proposed amendments. I would like to say here in this august House that the perception that was created outside there that these proposed amendments were meant or geared towards benefiting one coalition of this House is far from the truth. We stood as a Committee of the House duly established and constituted in accordance with our laws, our Standing Orders and the Constitution and we represented all Kenyans. We listened to those who supported the amendments and those who did not. Therefore, during the public hearings, we received views from members of the public, religious groups, constitutional commissions, professional associations, the civil society organisations, non-governmental organisations, members of the business community both from the formal and informal sector, information communication technology organisations, the media, political parties-related institutions and, in particular, the IEBC.

I want to inform the nation that we received views from across all sectors of our society and I am proud that Kenyans took advantage of that public participation process to come forward and give their input. When they go through the Report that we have tabled today, my colleagues will realise that the comments were overwhelming because we captured every Kenyan in the HANSARD from the memoranda and so on. So, members will have a chance also to go through our report.

**Hon. Speaker:** Hon. Cheptumo, just one minute for me to indicate to members that the Report is available in Room No.8. Even as you move, it is important to tell members that the

Report is available. Those who may be interested can have a look at it because it will help guide the debate.

**Hon. Cheptumo:** Yes, Hon. Speaker. I agree and earlier I shared with my colleagues but let me also emphasise because perhaps others were not present. We have enough copies of our Report in Room No.8. So, members feel free to have a copy so that as we give our input in this Second Reading of the Bill, we have an informed debate because there are very important issues raised by the members of the public.

Further, the proposal contained in the Report just tabled shall inform the basis of the amendments that I shall move 1 at the Committee stage on behalf of the Committee. It is important for me at this point to mention that we were not doing public participation in vain. It was not a public relations exercise. That is why after listening to the public, there were valuable ideas that informed the Committee in dropping some of the amendments. I shall note the clauses in which I am fully in agreement with the Committee.

Hon. Speaker, allow me to move to the specific clauses of the Bill. I believe my colleagues have copies of the Bill because as I take you through, it is important that you refer to those clauses. Clause 2 of the Bill seeks to amend Section 2 of the IEBC Act.

The definition of the chairperson under the Act is so restrictive. It only talks about the chairperson with no provisions for a situation where that chairperson is not available - either he is absent or that office has fallen vacant. Therefore, Clause 2 of the Bill seeks to amend Section 2 of the Independent Electoral and Boundaries Commission Act. The current definition of the word is limited and does not provide adequate room for continuity in the event the person appointed as the IEBC chairperson either resigns or is incapacitated in a manner that precludes him or her from carrying out the duties of the office of the IEBC Chair. This is especially with regard to discharge of duties that only a person holding the office of the IEBC Chair can discharge.

Article 138(10) gives the IEBC Chair the responsibility to declare the results of the elections - in the case of presidential elections - and deliver a written notification of the results to the Chief Justice and the incumbent President. Those are the clear words of Article 138 (10). That is the kind of responsibility that the Chair has. What would happen if that Chair was to be absent - for whatever reasons - and an election is held? It means, therefore, that there will be nobody to declare the results. It also means that there will be nobody to deliver a written notification of the results to the Chief Justice. How then will this country move in a situation where Kenyans exercised their sovereign will to elect a President and there is nobody to perform the functions under Article 138 (10) of the Constitution? Those are the issues I noted which this House has the responsibility to legislate and pass laws on. That is why when I hear people saying that we are doing public relations and trying to dilute the constitutional provisions, I wonder what that means. Given the scenario that I have stated, it is justifiable that this House addresses that situation.

Article 259(3)(b) of the Constitution states:

“Every provision of this Constitution shall be construed according to the doctrine of interpretation that the law is always speaking and, therefore, among other things –

(b) any reference in this Constitution to a State or other public office or officer, or a person holding such an office, includes a reference to the person acting in or otherwise performing the functions of the office at any particular time.”

Again, I am not quoting the Bible or the Quran. I am quoting the supreme law of the land – the Constitution. Therefore, how then can those proposed amendments become unconstitutional? This is an Assembly of elected national leaders. If we do not do it, who will do

it? That is why on 8<sup>th</sup> August, these Members were given the power to pass laws. I do not want to go beyond that. I just want to humbly submit before this House that it is important that we expand the definition of a chairperson to include another person who is acting in that office.

Allow me to now go to Clause 3 of the Bill which seeks to amend Section 6 of the IEBC Act. The clause touches on the qualification of appointment as the IEBC chairperson. It is important for Members to know that under Section 6 (1) of the IEBC Act, the qualification for the Chair of the IEBC is that the person should have the qualifications to be a Judge of the Supreme Court. That provision is critical because it is important to note the nature of the functions and the business of IEBC. I was convinced that we needed to expand the qualifications of the IEBC Chair again. Section 6(1) of the Act is so limiting and narrow. It gives one single profession of law, to provide the leadership of IEBC.

We have the Ethics and Anti-Corruption Commission with a bishop as its chair. When I was vetting that Chairman of the Commission, I asked him how possible it was for him to perform the function. Being a bishop who should be praying for people, how would he then chase a thief and arrest him? Finally, this House approved the Bishop as the Chair of the EACC. We should not allow the chair of IEBC to have the single qualification of being a lawyer. It is against the provisions of the Constitution under Article 232, which requires that all offices should be competitive.

Just to confirm how much we value public participation, in the public areas, so many Kenyans supported the idea of this proposed Amendment Bill. Some said that we should allow that particular person holding the office of the Chairman of the IEBC to be a lawyer. In the Committee of the whole House stage, I will inform the House that after discussions, we felt that it was important that that particular provision not be amended. As a Committee, we also agreed that we retain that qualification that the Chair of IEBC should be a lawyer. Again, when the debate was ongoing and people were shouting around, they said they want to reduce the powers of the Chair of the Commission. I can confirm to the House that the Committee I was chairing, with very great minds from the Senate and this House, agreed that we retain that position because there are other functions in the Commission which require a lawyer to preside over. So we agreed that we retain that position. In the Committee of the whole House stage, I will propose an amendment to that particular section.

We confirm to the nation that we did not take the public participation as a public relations exercise. We valued them and have carried their proposals.

Allow me to go to Clause 4 of the Bill. This clause seeks to amend the Second Schedule of the IEBC Act, with regard to the quorum required for the conduct of business of the IEBC and the threshold required for decision-making at the Commission.

This is for continuity purposes and it is being corrected by the oversight Joint Parliamentary Select Committee on the Independent Electoral and Boundaries Commission. You recall in April this year, we had a Joint Parliamentary Select Committee for this House and the Senate which was dealing with the IEBC matters. There was a serious omission in that particular report because the membership of the Commission at that time was nine. That Committee reduced the number from nine to seven. Unfortunately, they did not also reduce the quorum. When the commissioners were nine, the quorum was five. When that Committee reduced the number of the commissioners from nine to seven, they still also maintained the quorum at five. That was a big anomaly. Therefore, this amendment is meant to rectify that, so that we do not again maintain a higher quorum level while we have reduced the number of commissioners from nine to seven. That is the essence of that proposed amendment under Clause 4.



The same relates to the issue of decision-making. You will agree with me that quorum is linked to decision-making of the Commission. If you have seven members and you say the quorum shall be half the number of commissioners, it means that you can actually have members meeting but cannot make a decision. If you have four members or three members sitting, and yet the law says it should be half of the total number, it means you can have a meeting duly constituted with quorum but cannot make a decision because you need all the members to be present. We are reducing that so that at least you have not less than three members present who will vote to make a decision. That is the distinction between the quorum of members who are present and voting, and where you have the quorum, but you require the entire membership of the Commission to be present to make a decision. These are the issues and we have to let the IEBC function. One can ask why we are doing this. The answer is that the law is there to deal with anticipated situations. Therefore, I submit humbly before this august House that we cannot retain a provision in our laws which we know can pose a serious challenge to the Commission in the event that they want to meet and make decisions, yet you require the entire seven members to be present to make it. We need the quorum of members who are present and voting to participate in the decision-making of the Commission.

Let me go to Clause 5 which seeks to delete Section 29 of the Elections Act to remove the requirement that persons who nominate a presidential candidate must be members of the candidate's political party, and further that persons who nominate independent presidential candidates must not be members of any political party. This is part of cleaning of our laws. That particular section has been declared unconstitutional in the case of Mr. Peter Solomon Gichira versus IEBC, which I referred to earlier. The court told us that the entire Section 29 of the Act is in violation of Article 27(4) and 137 of the Constitution to the extent that they imposed an unconstitutional and discriminatory requirement on persons seeking to be nominated to run for a presidential election. If I choose not to be a member of a political party, why should I be denied a chance to choose a presidential candidate? What we are doing in this proposed amendment is to merely clean up our laws so that we remove what has been declared unconstitutional by our courts, so that we do not mislead Kenyans. That is our duty. No man or woman in this country can do that business. It is us. That is the essence of Clause 5 of the Bill. I am supporting this with the constitutional requirement provisions, and also the judicial decisions of our courts.

Clause 6 of the Bill seeks to amend Clause 39 of Elections Act 2011. In the amendment, it proposes that apart from the electronic transmission of the results to the constituency tallying centre and the national tallying centre, the Commission should also manually transmit the results. From the argument in the Supreme Court, it was clear that forms 34A were alleged not to have been received. I would like to make this point very clear because there is a perception outside there that we are going back to the dark days. They say the dark days of Kenya African National Union (KANU). I do not know how dark those days were, but the point here is we as a House are being accused of passing laws that are taking us back to those days. Let me surprise this House by quoting what one of the participants said. I want every Member to listen because it is very important. I would like to thank the Member for Tetu Constituency, I believe she is here. You have a great lady. I will give you the name later. She voted in a polling station called Ithite Primary school in Tetu constituency, Nyeri County. She represents the mothers united for peace. Let me read her words. This document is in the volumes of the Committee's Report.

She said, "My first contact with my leaders on that day of 8<sup>th</sup> August 2017 was the ballot paper. By 6 a.m. in the morning, I was already at a polling station waiting to vote for my president and other leaders. I walked manually. I presented my identification card to the election

team manually. I presented my fingers for fingerprints manually, picked the ballot paper manually, ticked the name of my presidential candidate and other leaders in the ballot paper manually, proceeded to the ballot box and dropped the ballot paper in the ballot box manually. I waited and thereafter went back home manually. This marked the end of my voting, and I went home manually.”

*(Laughter)*

My business and responsibility as a citizen is to express my right to choose my leaders and do so manually. Any other process was not my business.”

*(Applause)*

She went ahead and posed a question as to where her vote went in light of the decision of the Supreme Court to nullify the election.

Hon. Speaker, I can say without fear that a substantial process of our election is actually manual. The only time the electronic process comes into play is at the time of transmission of results to the national tallying centre. It is, therefore, important for this House to give equal weight to the manual transmission. Again, the question is: what is manual transmission? Is it possible to have manual transmission? Shockingly, when the Independent Electoral and Boundaries Commission appeared before us, they agreed with us and that lady I have just talked about--- The IEBC even went further and said, instead of using a manual transmission there should be physical delivery. The framers of the Constitution were not wrong when they provided, in Article 118 of the Constitution, for public participation. Without that provision, we would not have had the opportunity to listen to that lady from Tetu Constituency.

We want to give equal weight to the process of manual transmission which is actually physical delivery of the results. Therefore, in the Committee of the whole House, I will be moving some amendments particularly to Clause 6 so that we provide for that position. In addition, Clause 6 of the Bill seeks to address an issue determined by the High Court of Kenya in the Maina Kiai Case, which I highlighted earlier. This is in regard to the expression of provisional results which led the court to declare the current Section 39(2) and (3) of the Elections Act unconstitutional. So, again, our intention under Clause 6 is to clean up our laws so that what has been declared unconstitutional in Section 39(2) and (3) is removed from our laws so that we move forward.

I will now move to Clause 7 of the Bill. It seeks to amend Section 44 of the Elections Act in the usage of technology in election. The Clause seeks to amend Section 44 of the Elections Act to exclude political parties as a specifically identified category of stakeholders. It further seeks to give the Commission general powers to make regulations in respect to the use of technology. This shall ensure that the Commission has the direction to provide for the most appropriate mechanism on the use of technology in electoral processes.

Additionally, the amendment proposes deletion of sub-sections 6 and 7 of Section 44 of the Act. This was applicable to the elections held on 8<sup>th</sup> August 2017. Sub-sections 6 and 7 relate to provisions dealing with elections held on 8<sup>th</sup> August 2017. Therefore, they are not relevant in this particular case. That is the position in *Kenneth Otieno versus Attorney-General and others in Petition 127 of 2017*.

Allow me to move to Clause 8 of the Bill. It seeks to amend Section 44(a) of the Elections Act by requiring the IEBC to establish a complementary mechanism limited to identification of voters. You realise that Clause 39 of the Bill would have taken care of provision of electronic transmission of results as well as the manual bit, as I have said earlier. In our proposed Clause 44(a) we seek to provide for a complementary system for voter identification because it is equally critical.

Clause 9 of the Bill seeks to amend Section 83 of the Elections Act, 2011. This section was the focus of the presidential election. The Supreme Court was of the view that the petitioner had the burden of proving that the election was not conducted in accordance with the principles laid out in the Constitution and the electoral laws or that the non-compliance with the principles laid out in the Constitution and election laws affected the results of the elections. I do not need to read that. What we are saying here is that Section 83 has two aspects: one, in an election petition, it is the business of the petitioner to establish one aspect of that section. If you can prove that the elections were not done in accordance with the Constitution, then an election has to be nullified. The same argument applies to the second part of the particular section. What we would like to propose is that it will be the business of the petitioner to ensure that you prove to the Supreme Court that the election was not conducted in compliance with the Constitution.

The second aspect under Section 83 is about showing that non-compliance with the Constitution and the laws, indeed, substantially affected the results. The problem with ambiguous laws is that they are subject to interpretation by different people. We want the law to be clear. We are going for the repeat presidential election on 26<sup>th</sup> August 2017 and we have a chance to amend the laws to realign them so that if this issue arises in the future, we will not be accused of watching and waiting until too late.

In our region, the same provision as proposed in this Amendment Bill is in use in Nigeria, Ghana, Zambia, Tanzania and Uganda. I cannot explain how we did not provide for our laws to be realigned in that manner. What is relevant now is for this House to make a decision and amend our laws.

As I conclude, Clause 10 of the Bill seeks to insert Section 86(a). In a nutshell, presidential elections are covered in three situations. One, normal elections under Article 138 of the Constitution; two, the run-off; and three, presidential election anticipated under Article 140(3) which arises after nullification of the election. Whereas the other two scenarios have clear constitutional provisions, we have a problem with regard to presidential election under Article 140(3). The law is silent and the Constitution is not very clear. I want this august House to be remembered as the House that was able to provide for a procedure in a situation where we have a case of election like the one arising on 26<sup>th</sup> October this year. That is why I took up this issue and that is the essence of my proposal on Clause 10 of the Bill. I want to summarise because my time is over.

Finally, Clause 11 touches on the issue of enhancing the penalties for a returning officer and presiding officer. We went through the law. We looked at Section 6 of the Elections Act. We listened to Kenyans. It is clear that Section 6 of the Elections Act has very elaborate provisions touching on offences by an officer of the IEBC. We are only enhancing the penalty from Ksh3 million to Ksh5 million. I will also be moving an amendment to this particular clause of the Bill during the Third Reading of this Bill. That brings me to the end of my submissions on this matter but allow me to invite my colleague to second. We want to be very clear. There were issues about timelines, and claims that we are rushing the Bill. It has been said that the timing is wrong and unconstitutional. The responsibility of this House, as stated in the Constitution, is to have no

limited time. We have no timeframe within which to make laws, amend the existing laws or create new laws. We have that unlimited time. Those who allege that position also know that we have no limited time to legislate.

I want to thank my colleagues for having time. Some of them even appeared before the Committee to give their views. I call upon the leaders who are opposed to this law to appreciate that we want to make laws for posterity. We have no intention whatsoever, as a Committee, of making this law for Jubilee or Uhuru Kenyatta. We are making this law for Kenyans and for the future of this country. It is now clear that this law is meant to benefit Kenyans. I am proud that this House has a chance to clean up our laws so that we have clear provisions in our laws.

I, therefore, thank the Members of the Committee for spending close to two weeks in this House and within Parliament...

**Hon. Speaker:** I want to give you one minute to make a very profound statement for purposes of the HANSARD because I can recall you began by giving the history, which is good. As you know, we need to see on record that you beg to move that the Election Laws (Amendment) Bill (National Assembly Bill No.39 of 2017) be now read a Second Time. That is very important for the HANSARD.

**Hon. Cheptumo:** I did that at the beginning.

**Hon. Speaker:** I am giving you one minute so that you can do that alongside other remarks.

**Hon. Cheptumo:** Thank you for giving me just one minute to make this point. Why I am saying this is because sometimes I do not feel good as a Kenyan when those of us who know the truth chose to mislead Kenyans for selfish interests. My appeal to the country is that let us all be truthful to our country. Let us be loyal to our country and to our laws.

I therefore move that the Election Laws (Amendment) Bill (National Assembly Bill No.39 of 2017) be now read a Second Time.

I request my colleague, Hon. Murugara, to second.

**Hon. Speaker:** Member for Tharaka.

**Hon. Murugara:** Thank you, Hon. Speaker. I rise to second the Report and the proposed amendments as eloquently and ably presented by the Chairperson of the *Ad Hoc* Select Committee, Hon. William Cheptumo. I fully associate myself with the representations he has made in the Report. Briefly, it is a Report of the Select Committee of this House.

However, most of what is contained in the Report is what Kenyans presented to the Committee. The Committee collated the views received from members of the public and condensed them into a Report to be presented to this House when dealing with the proposed amendments.

The notion that was out there, and the hullabaloo that met this House and the Committee regarding the proposed amendments, is possibly going to die as Kenyans will be well informed that the proposed amendments have nothing to do with the Constitution and the Judiciary. The House is cleaning up the existing electoral laws so that we can eventually have election laws which will enable this country to conduct a smooth election on 26<sup>th</sup> October and thereafter.

There was the notion that the Judiciary was under attack. That is far from the truth. In fact, none of the proposed amendments touches on the Judiciary because this House is cognisant of the fact that the Judiciary is independent and has to discharge its duties independently. The three laws that have been touched on are the Elections Act, the IEBC Act and the Election Offences Act. Hovering over our heads in this House like the proverbial sword of Damocles is the pronouncement by the Supreme Court; that unless the mistakes that were made and the

breaches that were observed are rectified, any election that is going to be conducted under similar circumstances would be nullified. There is a burden on this august House to streamline our election laws so that once we have an election, it is conducted in accordance with the law, and that it passes the test given by the Supreme Court.

Let me also thank the Members of the Committee. We had to endure long working hours. It was tiring, but I hope this House will find the Report and the proposed amendments to be in consonance with the spirit that made the House establish the Committee for the related purposes. I wish to point out just a few of the proposed amendments because the Chairperson has ably gone over the same. He elucidated what the amendments encompass. I believe it is quite clear to all of us, that what has been produced is in accordance with the mandate given to this House.

Clause 2 is for purposes of continuity. It is to ensure that there is no vacuum at any one given time. So, in case anything happens to the Chairperson of the Commission, then the Vice-Chairman will ably step in. In the absence of the Vice-Chairman and the Chairman, the Committee will be at liberty to choose one of its own members to sit in as Chair and discharge all the duties that are to be discharged. That way, the Commission will not be in limbo to discharge its duties in the absence of the Chairman.

Clause 3 is in respect of the same amendment that is being introduced that, among other things, we have to clarify what happens when the Chairman is absent or when there is a vacancy in the office of the Chairman. This is why there is a definition at the provision of what happens in case of absenteeism and in the case of a vacancy.

Clause 4 seeks to ensure that there is quorum for the Commission while discharging its duties. Here, it was the considered view of the Members that we did not give a specific number. We decided to give a percentage of 50 per cent so that even if membership goes up or down, it remains a percentage. We also considered decision-making where we looked at Article 250 of the Constitution and said that in every constitutional commission, membership ought not to be less than three and not more than nine. That is why we decided that at any instance of decision-making, the membership will not go lower than three.

We also looked at Clause 5, where we are trying to clean up the statute. A provision that has been declared unconstitutional needs to be repealed from statute books. It needs to be deleted. Therefore, until when this House considers the same provision and either makes it better, or agrees to leave it out, it remains dead.

Clause 6 seeks to amend Section 39 of the Elections Act. It is purely to bring to reality the point that technology can fail. It is a real possibility out there bearing in mind that we rely on third parties to render those services. Technology can fail and where it fails, we can go manual. I think that is why the lady from Tetu said that the election was manual. We need a manual delivery of the results such that we are able to tally and make a decision especially where there is inconsistency.

The last one is about enhancement of the penalty clause. Every Kenyan must know that elections are paramount. Elections must be held, and so if you bungle, or misbehave, or misconduct, or act recklessly, you will be punished.

With those remarks, I second the Report and the amendments.

*(Question proposed)*

**Hon. Speaker:** Member for Bobasi, Obiri Momanyi.

**The Member for Bobasi** (Hon. Innocent Obiri Momanyi): Thank you, Hon. Speaker. This is my maiden speech. I want to take this opportunity to thank the great people of Bobasi for giving me this opportunity to serve them. This opportunity has been a preserve of one or two people for a long time.

I have listened and followed the proceedings of this House and particularly the honourable Select Committee on the proposed changes to the laws. I wish to make my contribution.

After the nullifications of the elections, I followed what the Supreme Court said and I did not see anywhere the Supreme Court had problems with the law. They had problems with other things, but not with the law. Therefore, they went ahead and ruled according to the law. They did not suggest that the law had any problem. I do not know why then we need to change the law at this point. Laws are meant for long-term use. When I look at the spirit these amendments and the speed with which they have been introduced, I see them being made specifically for the re-election of 26<sup>th</sup> October 2012. In my view, laws should not be made for a specific purpose or intention. I know there are two parties that are going to contest in the re-election – I happen not to be a Member of either of the two, so I do not have the baggage of having to follow any of them. I am a Member of the PDP. The parties that are going for the re-election are Jubilee and NASA. However, these laws are being made exclusively by Jubilee to be used by both parties. It is my humble submission that these laws should have been debated and passed by Members from both parties.

*(Loud consultations)*

**Hon. Speaker:** Order, Members! The Member is making a maiden speech.

**The Member for Bobasi** (Hon. Innocent Obiri Momanyi): Hon. Speaker, I need to be protected.

**Hon. Speaker:** Continue.

**The Member for Bobasi** (Hon. Innocent Obiri Momanyi): That is my view, and you can have yours. That is what democracy is all about.

I have a few problems with the provisions in the amendments, but the biggest reason I think it is not the right thing to do, is the spirit of those proposed amendments. I believe they are being brought forward specifically for the re-election and they are being deliberated upon by one party. Democracy is good because it is rule by the majority. However, the majority must take cognizance of the views of the minority.

I wish to oppose that Bill. Thank you.

**Hon. Speaker:** Very well. That is why you were elected to come here; to do exactly what you have done. It is your right to rise in your place and oppose or express yourself whichever way with regard to any proposed legislation. Do not feel intimidated, Member for Bobasi. You are within your right to express yourself as you have done.

Member for Marakwet East.

**Hon. Bowen:** Thank you, Hon. Speaker. I rise to support this Bill. Hon. Cheptumo and the team did a very good job.

I have had a small time to go through the Report and exactly what the Supreme Court pronounced itself on. The amendment will address many of those concerns which were raised. It is very important at this point that Kenyans and other people know that the Bill in this House this afternoon is not meant only for the 26<sup>th</sup> October elections. This will be the law after 26<sup>th</sup>. The

Government is made of three arms. This is Parliament and it is independent of the Executive and the Judiciary. No one should dictate to this House whether to pass this law or not. It is the right of this House and Hon. Members to discuss any Bill any time as long as it is a Bill which will help Kenyans and the country in the coming election and in future elections.

The amendment provided for the case of the Chairperson of IEBC is very simple. What if the chair is not feeling well or is absent? The Bill is basically providing a way of having another person to take over the roles of a chair and announce results. There is nothing wrong with that.

For the case of alternative transmission of results, the IEBC commissioners appeared before the committee and called for manual delivery of these forms to the tallying centre. Hon. Cheptumo said that a lady came before their committee, and she was just a representative of so many Kenyans. A man, a woman or a young man has gone to vote. You have chosen your leader and you go home. Someone somewhere did not sign the form; the form was not stamped. Whose problem is that? Can we make it now that the IEBC, when printing the ballot papers, let them print the ballot papers together with the names of all the voters in all the polling stations? Can they make rubber stamps for all Kenyans who are eligible to vote so that when my mother goes to the polling station, she goes also with her rubber stamp, she gets her form, she votes and signs and stamps herself? That is in case there is an issue ahead of her, she is able to come and say this was my paper or this was not my paper. We need to respect the rights of the voter at that time of marking or choosing a leader. If there is an issue in future or a server was defective - my mother does not know what a server is. She does not know a password or those kinds of things.

This law also addresses the negligence of those officials of the IEBC; the presiding officers and returning officers, who are not going to sign or do their work diligently. In case you are a presiding officer and there are so many errors in forms 34A, 34B and 34C some of which were not signed as were pronounced at the Supreme Court... Actually, many of them were from the Opposition side. When they saw they lost, they called their officers not to sign those forms just to sabotage the process so that they can get a leeway. The law which we are discussing today is that when you are an election officer, you have a responsibility to this country and its many millions of voters. If you do not sign your form, if you do not stamp your vote, if you do not do what is expected of you, then you should carry the cross. What is wrong with that? I think we need to have these people work responsibly.

We want to tell Kenyans who are saying that we are rushing these laws - from this side of the House where I am talking from - that we are supporting this Bill. We do not have a problem.

*(Laughter)*

It is the right Bill and we want to ask Kenyans to prepare themselves for the repeat presidential elections come 26<sup>th</sup>. For those who are seeking to demonstrate, which is also provided for in the Constitution, let them do their demonstrations peacefully. Let them stop violence and destruction of property. As we speak, there is no vacuum in the leadership of this country. President Uhuru is still the commander-in-chief of the Defence Forces. He is still the president of Kenya. So we should not be gagged as Members. This is the Legislature. We have the right to legislate any law; like we do not direct the Judiciary on what to do. We do not expect anybody to tell this House what to do and what not to do.

I want to support this Bill. I have amendments. When we get to the committee stage of this Bill, we encourage Members to bring amendments so that we make laws for posterity and for the prosperity of this country.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Very well. Of course Article 94(5) of the Constitution says that no person or body has the power to make provision having the force of law except Parliament. That is the Constitution and it does not say when it is we should do it. It does not tell you, you should do it in December or in January or February. So it is good.

Hon. Kangogo, you have said it loudly, but I wanted it to be said by somebody else who I can see. Hon. Gladys Shollei, Member representing Uasin Gishu County.

**The Member for Uasin Gishu County** (Hon. (Ms.) Gladys Jepkosgei Boss Shollei): Hon. Speaker and fellow Members, it is my pleasure to take the Floor of this august House not only to make remarks on the business at hand, which is the Election Laws (Amendment) Bill, 2017, but also to make my maiden speech as is the parliamentary tradition.

I want to start by thanking the people of Uasin Gishu County, the home of champions, the source of champions and the city of champions, for choosing me as their representative. I will endeavour to do my utmost to articulate issues and legislate matters that are dear to their hearts. I am honoured to be in this Chamber. I would also like to point out that, indeed, I have now served in all the three arms of the Government. I served in the Executive as CEO of the National Council for Law Reporting, as Deputy CEO at the electoral commission, and as the Chief Registrar and finally now in this National Assembly as a legislator. And on a light note, I can now say I am a total public servant.

The import of this brief history is that I have interacted with electoral laws in various capacities and stages of my public service life. At the IEBC, then the electoral commission, which was formed after the 2007 violence, and also as part of the recommendations by the Kriegler Report, we were able to run the first ever referendum in the history of Kenya, which gave birth to the current Constitution. This was the first time that technology was used for biometric registration in that particular election.

In 2013, while at the Judiciary as Chief Registrar, we handled the first presidential election petition under the new Constitution, where incidentally the use of technology was also an issue in question before that court.

Hon. Speaker, following the 2013 decision, Parliament made amendments to the electoral laws to cure the perceived shortcomings that were raised in the 2013 Presidential Elections Petition. At that time, indeed, the majority decision recognised that the amendments were necessary and that all these legislative enactments that needed to be undertaken were to ensure conformity with the Constitution so that elections would be free and fair. Interestingly, we are here yet again to address perceived shortcomings in our laws that were raised by the 2017 Presidential Election Petition in our courts. Review of laws in general and in principle shows our willingness to adapt to new thinking on the evolving situations, hence the reason why I support these current amendments.

If you recall our history, in the year 2007 the Kriegler Report, recommendations were made for new electoral laws. At that time, our predecessors in this Parliament managed to pass a law establishing a new body called the IEBC which was supposed to manage elections. It also required the IEBC to implement electronic systems for managing, tallying and sending the elections results. All these recommendations have largely been implemented by the electoral commission. The recommendations of the Kriegler Report also did not only stop at elections management, but included electoral dispute resolutions. This is reason why our predecessors in this Parliament were able to pass legislation that put a statutory onto the amount of time that you can hear an election petition, hence the limit to six months which we are benefiting from today.



I wish to draw the attention of both the minority and majority decisions of the Supreme Court, 2017. It recommended that there have to be changes to our electoral decisions and therefore, it is my hope that this House will approach this debate in a sober and bipartisan manner.

Hon. Speaker, I wish to bring to the House's attention the amendments that are before us. The first amendment is in relation to the position of the Chair of the IEBC because nature abhors a vacuum. It is therefore, in order to make amendments to ensure that that vacuum does not exist.

More recently, if you can all recall, when the Chief Justice, Dr. Mutunga retired, the Vice-Chair of Judicial Service Commission (JSC) was able to perform the duties of the Chair to ensure there was no vacuum. It is, therefore, in order to have similar legislation in relation to IEBC. The same goes to the powers given to the Commissioners that would be acting as Chairs at that time. The amendment to Clause 5 proposes to delete Section 29 of the Elections Act. This amendments are also pursuant to a court decision; Gichira versus the IEBC case. Therefore, it is in order and should get all our support.

Amendment to Clause 6 seeks to amend Section 39 of the Elections Act, which provides for electronic transmission and physical delivery of the results to ensure that at any stage, any discrepancies detected are capable of being checked against the source of the documents which is the polling station and the final result. The proposed amendments are not in any way meant to water down the constitutional principles of holding free, fair and transparent elections; rather they are to anchor these principles in practice via statute.

Legislative amendments to laws following a court decision are not unique to Kenya. All of us know that in the United States of America, congress over ruling of the Supreme Court's decision is not in particular an exceptional event. It is, therefore, not the first time this is happening. I hope that our international partners who are watching us will not make it look like it is only the Kenyan Parliament that is making amendments following a decision. It happens all the time in the USA and it is an ongoing tug of war between the Congress and the USA Supreme Court. It occurs from time to time in the USA and the Congress may feel that they need to fill some of the gaps which in the court's opinion prevent improper interpretation or sometimes actually to undo what we believe is a prudent precedent established by our courts. We are therefore in order as this 12<sup>th</sup> Parliament to make these amendments to these laws. As a general proposition, this type of deflective intercourse between the Court and the Congress is valuable and even creates friction because it checks the errors by each of the coordinate branches.

As I conclude, I believe and support these amendments because they will ensure that our future elections will be efficient, transparent and that is living up to the constitutional thresholds of holding elections. I support the amendments.

Thank you.

**Hon. Speaker:** The Member for Marakwet East talked about this side of the House. Member for Laikipia County, the Floor is yours.

**Hon. (Ms.) Waruguru:** Thank you, Hon. Speaker. This afternoon, I am glad to be contributing from the other side of the House. I confirm to Kenyans that this side of the House is very sound, vibrant and excited about the amendments and the Bill in front of the House this afternoon.

Hon. Speaker, I confirm to our dear Kenyans that there is nothing wrong as far as what I am hearing Hon. Members from my side here complaining about, that the qualifications of the Chairman of IEBC must be that of the Judge of the High Court. There was an opportunity that the Members of the Opposition wanted to exploit by making sure they do demonstrations and

mob justice against Messrs. Wafula Chebukati and Ezra Chiloba, which we must tame this afternoon by making sure the powers that the Chairman has can also be the same as those of the Vice-Chair, in the absence of a Chairman. So, if anybody thought by taking out Messrs. Ezra Chiloba or Wafula Chebukati to the streets of Nairobi they will create room for them to create a constitutional crisis, then they are very wrong and it will come to an end this afternoon.

Hon. Speaker, we also want to confirm that the quorum---There have been problems with the Commissioners of IEBC. There are some people who have been thinking that if there are wrangles within the institution, the chairman will not attain the necessary quorum. We are going to give them *muarubaini* this afternoon. The quorum shall be three members.

Thirdly, we want to confirm to Members what the role of the chairman is. Yesterday, the lawyer who was representing IEBC, Mr. Paul Muite, appeared before the Supreme Court and sought for interpretation and clarity on the mandate of the Chairman of the IEBC on 26<sup>th</sup> October 2017. From what the Committee has done, it is very clear that he will verify. He should be ready to address discrepancies that would come from the physical and digital transmission of the results.

We also want to address the challenge that made the IEBC to be taken to court by the Opposition – live transmission of the results. We want to be clear that it is not in the interest of the Jubilee Government to deny Kenyans the information they feel is important to them and to the State. We will make sure that the IEBC officials do their job and make sure that we get live transmission of the results as the county tallying centre relays results to the national tallying centre manually. It is an offence for anybody who is working for the IEBC as an election official not to do their job willingly. If money has been poured, or will be poured, let people know that they will be responsible for their mistakes. This afternoon, we will make sure that such individuals will be taken to where they belong. Criminals have their special place where they should be put.

Hon. Speaker, I also want to address the issue of technicalities as dealt with by the Committee. Clause 9 deals with the technicalities that made the Supreme Court to nullify the election of Hon. Uhuru Kenyatta following the general elections of 8<sup>th</sup> August 2017. We want to make sure that nobody, especially Members of the Opposition, led by former Prime Minister Raila Odinga gets an opportunity to run to court on the basis of technicalities he cannot ascertain. Once this Bill is passed, anybody who takes the IEBC to court will be required to prove beyond reasonable doubt that they have credible evidence that there was no compliance by the IEBC.

Finally, I concur with the Members of the Committee that looked at the memoranda that were brought to Parliament by members of the public. As we move forward, we would want to make sure that the process is very simple; and that it relates very well with members of the public so that they do not feel that they have been deprived of their rights, or that they have been deprived of an opportunity to know who their authentic leader is.

I want to confirm to Kenyans that this country is safe and stable. The IEBC is on track. They know their job. They have no role other than the one that is stated in the law that has been passed by this House. Kenyans should not be cheated by anybody that the law that we are about to pass will affect, in any way, the preparations of the IEBC for the repeat presidential election. As I support this Bill, I would request the Members who have absconded this sitting – I understand that some are very busy throwing blows at each other outside Parliament - to come back. If people want to fight, let them do so using their brains and mouths, and using the Constitution of Kenya.

With those remarks, I support.

**Hon. Maore:** Thank you, Hon. Speaker, for giving me the opportunity to contribute to this good piece of law. You remember the issues that we have been grappling with, about the Supreme Court ruling, for nearly two months now. The country has been paralysed. In the process of paralysing the country, we have managed to create a moment of crisis. The element of crisis is not established in law. It is the political temperatures that have been deliberately engineered to cause problems. The same engineering is being called upon to visit this House when it comes to debating this issue.

Those who are fighting this Bill have come up with the story of timing. They do not say that there is a problem in any part of this Bill. They insist that the timing is wrong, but they do not tell you that when somebody went to the Supreme Court to seek the nullification of the presidential election results, they did not anticipate that they will create a monumental problem like the one they have created for this country. When the Supreme Court asked the country to prepare for a repeat presidential election to be conducted within 60 days from the day of the judgment, you have seen the mischief played. Instead of preparing for the election, we have had a problem of people who do not want an election. That is what has brought confusion in this country. Kenya should have been the most stable democracy in the world. After the 1<sup>st</sup> September Supreme Court ruling, everybody expected that there would be chaos, but there was no chaos.

I have seen a lot of hypocrisy among donors and civil society organisations, which are not civil these days, who seem to invite a moment of instability that does not exist. If it was any other country in Africa, in particular, there would have been bloodshed in the next 48 hours, which nobody would have come to stop. We thank the institutions of this country, which are intact. A stool has three legs, just like the State – the Legislature, Executive and Judiciary. The country can do without a Judiciary for a moment. The country can do without Parliament even for four or five years. However, the country cannot last without a president for one hour. The presidency is a confluence around which all the other institutions revolve. It is for that reason that we should not take it casually when somebody says: “I went to the Supreme Court and I got a ruling, but I may wish to withdraw from the repeat presidential election.”

The Constitution and the laws of this land are being addressed very well. When we went to the polling stations and voted, just like the chairman of the *ad hoc* committee ably described, we had no problems. The problem came in when somebody went to court and complained about the process. The Chief Justice put it very well. He said, “We are not addressing an event. It is a process.” This afternoon, the country is invited to address the anomalies that might have been in that process. As of now, the IEBC cannot receive results manually because the law prohibits us from doing so. When we now say that we need a simultaneous or an alternative method, we should get the support of every Kenyan, including those on the other side of the House.

Hon. Speaker, this country is for all of us. On 26<sup>th</sup> October 2017, we will address the issues that we have been grappling with – the unchartered waters that we have been going through. We do not want a story of a returning officer of the presidential election who is so permanent and individualised that if he had a flu or diarrhoea that morning, we would not have anybody to announce the results of the presidential elections. The powers of the Chairman of the IEBC in the Constitution are clear, but we want to address the issue of a returning officer of the presidential election. There is nothing so judicious about the chairman of the electoral commission that it has to be an individual and it has to be described like this. It can be a member of the IEBC who has been appointed by the others to stand in and, in this case, in our succession tradition in the IEBC, there is the name of a vice-chairperson.

I do not see the attachment to an individual to be the actual presiding officer and in his absence, nobody else can be able to announce the results of the presidential election. It is not done in any other place. These are the problems that have been brought about by laws that were passed from demonstrations and in the midst of tear gas. This is what happened to this law. People passed a law which does not have a succession clause. They passed a law which is suffocating in its own details. So, this afternoon, we want to clarify that when the IEBC does receive the results, the Chairman should announce them. In his absence, the Vice-Chairperson should do it. It does not have to be this unfair to a country to state the time is wrong. Time for what? October 26<sup>th</sup> is coming. This is the right time. This is the hour. This is the National Assembly which should correct this. We do not have a spare country where we can experiment with individuals who feel so obsessed with an agenda that we do not have to care about. I heard somebody complaining saying that the story of the economy does not arise. We have been having economic problems for the last 90 days or one year because of political uncertainties when we want to reward hard working Kenyans. Whatever you sell, whether it is food, service or petrol, nothing is working because of the political uncertainty arising out of a careless Supreme Court ruling that did not go into the details of what they were putting the country into. We respect the ruling but, if you look carefully, they were not aware of what they were driving us into as a country. They did not anticipate the mischief of our leaders who do not care about the country, and who are not patriotic. That is because patriotism is an invitation to answer the call of duty for the country and not to the individual.

So, when we get into the issue of the candidates who want to withdraw from the election thinking they can create a crisis, the Constitution and the law in Sections 138, 139 and 140 are very specific. They anticipate the absence of another candidate because of death and they say what should happen. They do not anticipate mischief, malice, bad intentions and bad manners of politicians. So, as we address the amendments this afternoon, we need to worry about our own country and say very clearly that we love it more than we love individuals. Thank you.

**Hon. Speaker:** Member for Kitutu Chache North.

**Hon. Angwenyi:** Thank you, Hon. Speaker, for giving me a chance to contribute to this important Motion. The Supreme Court ruled that our votes did not make any sense on 8<sup>th</sup> August 2017 and that we must repeat the polls. It also ruled that those elections will be conducted by IEBC as it is today. I saw members of the Opposition rejoicing and dancing in town. I saw that leader with grandchildren dancing in town because of the judgement which had been made in his favour. I am surprised. Apparently, he never accepted the entire judgement which said that the presidential elections have been nullified and fresh presidential elections will be conducted within 60 days. He accepted the nullification, but does not seem to have accepted the fresh elections to be conducted by IEBC. He is giving conditions and terms which he calls irreducible demands against IEBC. At one time, he said that we should respect independent institutions like the Judiciary, which we do. Our side has respected it. We have said we do not agree with the decision, but we will respect it because it has been made by a proper institution. How come he does not respect an independent institution called IEBC? IEBC is as independent as the Judiciary. If you respect the Judiciary, then you should respect IEBC and those others.

We have since learnt that a decision was made on fake documents. We have not gone to the streets to demonstrate. How could a decision be made on fake documents? Instead, we have abided by the decision of the Supreme Court and we are campaigning for the election that will be done on 26<sup>th</sup> of this month. If for any reason the other candidate fears--- I can see he has cause to fear because half of the few people he had have moved over to Jubilee. So, he does not want to

be embarrassed. Instead of receiving 6 million votes, he will receive one million votes from Nyanza. That is why he may want to withdraw. I sympathise with him. Has he withdrawn? If he has withdrawn, he has withdrawn with reasons. He has realised that he is going to garner very few votes. But why should he put Kenyans into violence? He seems not to mind. Yesterday, some three people who were demonstrating were knocked down by a vehicle. One person was shot in the foot. He does not care and does not feel sympathy for those people who are suffering because of his demand for demonstrations in the country.

On Friday, I read a story in *The Star* newspaper about two ladies in Mathare. One is 19 years old and the other one is 21 years old. The two ladies lost their husbands following the announcement that declared Uhuru the winner of the presidential election of 8<sup>th</sup> August, 2017. His opponent asked people to demonstrate against that declaration. Those two young girls have lost their husbands. It does not seem to affect him at all. He has no sympathy for those two young girls with one child each. He wants to put more and more young girls in that situation. I do not know what has become of Kenyans. Why can Kenyans not think about this? Which is better – to handle the situation in Parliament or to handle it through demonstrations in the streets? Which is better – to read a Motion in Parliament or to destroy a supermarket in Kisumu? Which is better – to campaign peacefully or to campaign through demonstrations with consequences? They have demanded that some officers at IEBC be removed and then they want to do that violently because the law does not allow. Everybody is assumed to be innocent until you prove him or her to be guilty in a court of law. We want to tell the Commissioners of the Independent Electoral and Boundaries Commission to stay firm. You are Kenyans the same way these people demanding for your removal are. Stay firm because the Constitution provides very well that no person can be violently removed from his position or wherever he stays. That is a right. You cannot be removed from wherever you are violently. Our National Super Alliance (NASA) friends - I do not know whether they are friends or opponents - are demanding to violently remove those officers from the IEBC. They are going against the Constitution. I am even surprised why the Director of Public Prosecutions (DPP) has not investigated and taken them to court because they are violating the rights of those officers of IEBC.

This country is great. We will now spend another Kshs14 billion or Kshs15 billion to conduct this fresh election. That money could have been used to provide jobs for close to 100,000 young people. But now we are spending it because of somebody who can never be satisfied until and unless he wins. He cannot win because Kenyans have known that he cannot provide proper leadership. That is why he has vied for the presidency the last four times and has lost. Every time he loses, he demands that the electoral body must be dissolved. If we agree to dissolve this election body, why can we not ask him to appoint his mother, wife and children to be the commissioners of IEBC? Maybe, then he will be satisfied because he will never be satisfied. He demanded for the removal of Kivuitu and he was removed. He demanded for Hassan to be removed and he was removed. He is now demanding that Chebukati and his group should be removed. If we accept that, then we should ask him to provide members of his family to be commissioners of the IEBC. Ida can be the chairperson. Is she a lawyer? The others can be commissioners so that they are satisfied. Even if they were the commissioners, there is no way he would beat Uhuru-Ruto. These people have done their job very well for Kenyans. They are doing much more for Kenyans and are peaceful. They do not go around getting people's kids killed. Therefore, they have wider support now than they had on 8<sup>th</sup> August.

There are those who are complaining that we are rushing the law. The Supreme Court pronounced itself and said that if we conduct the election with those irregularities, it will nullify

the election again. We do not want to go in that direction. We need to correct the irregularities and make laws which will make it impossible for people to make those irregularities and illegalities an issue; in which case, the elections that we will hold on 26<sup>th</sup> October will be free, fair, democratic and transparent.

With those remarks, I beg to support the Bill.

**Hon. Speaker:** Now, I am unable to know who is on which side of the divide. Let me just follow the screen. Let us have the Member for Kajiado South.

**Hon. Katoo:** Thank you, Hon. Speaker. I rise to support this Bill. A lot has been said about the specific clauses of the Bill. Let me just generalise and say that having read this Bill, I was able to conclude the three objectives that this Bill is trying to achieve.

One is that we have had elections always being mishandled by the election officials such as the presiding and returning officers, mostly at the grassroots level. Therefore, one of the loopholes that this Bill seeks to close is to insulate the election from the mischief of the election officials. That has been elaborated when we read about the offences of those who mishandle the election. It is a good objective.

Again, the court pronounced itself and talked about many ambiguities in the laws relating to elections. It is good that we support these proposed amendments as another objective to remove the ambiguities in the law relating to the conduct and transmission of the results. When we talk of manual and electronic transmission of results, there is need to remove those ambiguities on how to transmit those results.

My final objective as it has been said is that there is need to avert the risk of the IEBC chairperson being unable or unwilling to declare the winner of the presidential election. Therefore, those three key items will make me support this Bill.

Out there, there has been the notion that it is not the right time to amend the election laws. We are about three weeks away from the October 26<sup>th</sup> Presidential Election. I remember the ruling of the famous Maina Kiai Case, that made a lot of fundamental changes to election laws, was done exactly three weeks to the elections. No one at that time talked of the timing not being right. Why is the timing not right for these amendments and yet the timing is the same? It was three weeks to the elections then; it is now three weeks to the elections.

Those people out there talking about international best practice should know that international best practice is only there in accounting procedures and practices. In law, and especially in the situation we are in as a country, it is politically self-serving to talk of a best practice scenario. Kenya is confronting a new challenge that has never been witnessed before in Africa and has only been witnessed in a handful of other countries. Even in the so-called old democracies such as the United States of America (USA), the United Kingdom (UK) and France, for over 250 years, they have not had a single presidential election nullified by a supreme court in those democracies. Therefore, there is neither a precedent on what we are experiencing as a country nor best practices anywhere in the world. Therefore, the current situation in Kenya will be a learning or reference point in future for other countries.

The Supreme Court of Kenya said that elections are a process. I fully agree with that. It is good that as Parliament, we amend these laws and re-orient the election laws to the processes that the Supreme Court talked about. The processes the Supreme Court talked about were issues of technicalities, administrative errors, irregularities and illegalities, rather than the results. They based the ruling mostly on the processes rather than the results. The results are the ones that signify the will of the people.

Therefore, to avoid another unnecessary nullification, it is good that this House makes these changes to align all the electoral laws to the processes, Hon. Speaker. I want to say that the most important thing is that we do it with stable emotions. We do it with the sole aim of making elections efficient and effective. We do it with the sole purpose of bringing the country together.

Having said that, I want to talk about three proposed amendments. These are the three clauses in this Bill. The colleagues who have spoken before me have talked a lot about Clause 3. It is proposing to bring changes on the Independent Electoral and Boundaries Commission Office, specifically the office of the chairperson. It is good to note that IEBC is the only body in Kenya where the Vice-Chairperson or a temporary chairperson elected by the commissioners cannot conduct any lawful business. When Hon. Deputy Speaker or the Temporary Deputy Speakers are in the Chair in this House, they conduct lawful business. When the President is out of the country, the Deputy President conducts lawful business in this country. At the Judiciary, the Deputy Chief Justice, in the absence of the Chief Justice, conducts lawful business. However, IEBC is the only body where the chairperson is everything. In the absence of the chairperson, the whole business of an institution comes to a standstill. Therefore, it is good that we propose these changes to provide for proper conduct of the IEBC affairs, its businesses and for the effective management of elections. That is why Clause 3 in its entirety is trying to institutionalise the IEBC by removing the situation where the person and the office of the chairperson are seen as one and the same thing. This will put election management at risk. Therefore, it will be good to separate the two. More so, it will institutionalise the institution such that in the absence of a certain person, it goes on. It is like a business. It is a going concern.

Currently, if the Chairperson of the IEBC is unable to declare presidential results for whatever reason, then that will trigger a constitutional crisis because no one else can declare the winner of presidential elections. This is a lacuna. It was an oversight of the framers of the Constitution. We should have seen this long time before. Therefore, I support that proposal that the Vice-Chairperson or any other commissioner elected by the commissioners, in the absence of the Chairperson and the Vice-Chairperson, can conduct lawful business.

Clause 6 is trying to bring clarity on the transmission of results. Everything is manual at the polling station level, the constituency tallying centre level and at the national tallying centre. The national returning officer announces results based on their manual forms 34A and 34B which are filled at the polling stations. It is good to make it clear that authority will be on manual transmitted results, in case of discrepancies between the two.

**Hon. Speaker:** Member for Kiharu.

**Hon. Nyoro:** Thank you very much, Hon. Speaker. I rise to support the amendments. For a start, I want to submit to this House that the issue before us is not only purely about changing our electoral laws, but also a matter of stability in our country. In many African countries and even beyond, the stability of any country is premised on how it conducts its elections and thereafter.

I want to bring to the attention of this House that the news out there is that the former presidential candidate of the National Super Alliance has opted out. It is a good thing for our country because probably we will end up saving a lot of billions which could otherwise be spent in building roads in Kiharu and any other constituency within our Republic. One of the issues I want to point out is having the IEBC Vice-Chairperson standing up in the gap of the Chair of the IEBC. Being the body that brings forth the democracy of our country or takes care of our elections, it should be the pinnacle of democracy in this country. Therefore, having one person taking hostage of that institution and that his duties cannot be transferred is a paradox. The same

body that brings forth democracy in our country by way of conducting elections should set the example.

I want to say that the change of quorum from five to three commissioners is a very good thing. This House has set an example. Where we have committees of more than 15 people, we have set the quorum of four Members. Therefore, it is a good thing. We have seen electoral commissions in other countries which have only three commissioners in total. Therefore, I believe that having a leaner team will be more efficient in terms of quorum, so that we do not have a few individuals who will hold our country back.

I want to go back to the point of the IEBC Chair and his responsibilities being transferable. It also behoves this House to check other institutions. I want to pinpoint one institution in regard to the issue at hand, and it is the Supreme Court. I believe we should also explore a possibility where the Chief Justice who is supposed to swear in the President-elect is not able or cannot make it to do that responsibility. We should check into that, so that we can have the Deputy Chief Justice or any other Judge of the Supreme Court take up that matter, so that we do not have a lacuna in our electoral process.

I find it suspicious when people start claiming out there, especially politicians from NASA, that the timing of changing the electoral laws is suspicious. In regard to 26<sup>th</sup> October, there is no way as a patient, you will go to a hospital, you are diagnosed with malaria and then you are given tablets by the doctor and told to take them after you get well. You are prescribed those tablets to feel well but not after you get well. Therefore, as we look at 26<sup>th</sup> October in terms of the presidential election, it is very good timing for our country. We have seen there is need as we proceed to 26<sup>th</sup> October, so that we fill all the voids and vacuums. We do not want to have a situation where we run in circles, as a country, where a person wins and the other one goes to the Supreme Court and we go into an endless circle that has a huge cost to our economy.

With those few remarks, I beg to support the Bill. Thank you very much.

**Hon. Speaker:** Member for Kajiado South.

**Hon. Manje:** This is the Member for Kajiado North.

**Hon. Speaker:** I am just following the names as they are.

**Hon. Manje:** Thank you, Hon. Speaker.

**Hon. Speaker:** It looks like Members who are seated on the left of the Speaker were left to log in. It looks like all the people who logged in are the ones who are seated on the right side of the Speaker. What do we do?

*(Loud consultations)*

**Hon. Manje:** Thank you, Hon. Speaker, for giving me this chance to contribute to these dear amendments. I support them fully. The situation in our country is that the majority has been denied... This time calls on us to come up with very good laws for this country.

Hon. Speaker, there are three issues I will touch on, but before I do that, I would like to assure the Opposition that Kenyans, this time round, will not fight. It is because we have matured enough. We can only argue in Parliament and not go to the physical part of it.

The presidency unifies this country. When we are making laws, especially concerning the election of the President, we have to be careful not to leave any lacuna. In my view, that is what this particular law is trying to modify.

I want to touch on Clause 6(a). It is about tallying, counting and then manual and electronic transmission. To take an actual physical copy to the tallying centre is not a weakness. That is the real thing. We only go to electronic transmission because the other one is tiresome



and clumsy. However, if we were to have any good method of transporting all the 290 Forms 34B to the national tallying centre, that would be the correct thing to do. Then when there is discrepancy between the electronic and the original one, it is common sense that the original one is the correct thing because the scanned copy is from the original. It becomes obvious that we should go by the original copy, which is the copy from the polling station.

I also want to touch a bit on the composition of the Commission. There is a time I was a commissioner at the Teachers Service Commission (TSC). So, I know very well that according to our Act of Parliament, whenever we sat down even as three commissioners to deliberate on issues of the Commission, the decisions we reached were binding. We used to go out anywhere, assemble three commissioners and deliberate and the action we would take would be binding to the whole TSC. Therefore, the proposed amendment here only serves to streamline the decision that you require only three commissioners to have a quorum to deliberate upon an issue.

Apart from conducting elections, there are other functions of the IEBC. For example, they can sit and discuss a certain polling station. You need to have the nine commissioners sitting down to discuss, say, a polling station somewhere, but it is also true that three of them can sit and come up with a decision, maybe, to change that polling station.

When it comes to qualifications of the Chairman of the Commission, I think we should consider any qualified Kenyan. There is a unit in the University of Nairobi that is called Pure Management Science. It does not really focus on whether you fall in the lower division or something else. If you really are a manager, then you can manage elections even if you are not a lawyer.

I also want to touch on Clause 10(a) which is very important. Now, where one of the candidates withdraws from an election, then it means the remaining candidate will be declared the President. That is what this Bill is trying to address. Even in a football match, because the National Super Alliance candidate likes to give an analogy of a football match, if one team does not appear in a competition, the other one is generally awarded the marks. The law should be changed so that if one of the candidates withdraws, then the other one is awarded the presidency. We should not subject Kenyans to another election.

I also want to touch on penalties. If somebody deliberately fails to sign the forms, he or she should be charged harshly by our laws. That is because that would be a show of great weakness. We should not be subjected to a petition again only to find that some documents were not signed. Furthermore, the returning officers and presiding officers are paid to do the job. If they are paid to do the job, they should do the correct thing. Otherwise, they should be punished.

Apart from that one, we should bring a further amendment saying that if a presiding officer or a returning officer sends information to any other part or place other than to the Independent Electoral and Boundaries Commission, they should be penalized. You remember they were saying that they would have a tallying centre somewhere. It is because they thought some of the presiding officers would send the correct information to their tallying centre, which was to find its own way to the IEBC servers. Such a person should also be punished. Therefore, the returning officer or the presiding officer should send information to IEBC only. Otherwise, that person should be punished heavily.

It is also very important to say that the scanned document, because it is the truthful one, should be sent to the constituency tallying centre and also to the national tallying centre. It should be followed by the manual part to the constituency tallying centre just the way it happened for the members of the county assemblies (MCAs) and Members of Parliament. Actually, it did not require the returning officer to wait for the scanned form or the electronic

transmission to the constituency to declare the Member of Parliament a winner. The same thing should happen to the election of the President. So, they should wait for the physical part before declaring results.

I support this Bill. As politicians, we should be sensitive about our country and make sure that we guide the country inside Parliament through argument. We should not take our country in the wrong direction. Demonstrations are not good for this country. We are not giving a very good example if we go that direction. I request the Members of the Opposition to come to Parliament and take their respective seats so that we can argue out issues. As a result of the 8<sup>th</sup> August 2017 elections, many Members of Parliament were elected on the Jubilee Party ticket. It would be good for Hon. Raila Odinga to realise that this time round, he is wrong because Jubilee Party has the majority. This time round, he is wrong.

With those many remarks, I support these amendments.

**Hon. Speaker:** Member for Kitui South.

**Hon. (Ms.) Nyamai:** Thank you, Hon. Speaker. I rise to support these amendments. I would like to congratulate my colleague Hon. Cheptumo for coming up with a coherent report. This is a very important time for us as a House because we are doing a very important thing; that is, making laws.

Article 82 of our Constitution gives Parliament the responsibility of legislating on elections. Specifically, Article 82(d) of the Constitution says that Parliament should legislate on the conduct of elections and referenda and any other matters that are related to elections. So, this is a very important time. We should take up our responsibilities seriously in order to do what we should do to ensure that we follow the Constitution. In any case, we shall be implementing Articles 94 and 95 of our Constitution regarding the roles of the National Assembly.

These amendments make a lot of sense to me. I went through the Report. I also looked at the summarized clauses as presented by the Committee, which I would like to say did a very good job. I watched the patience of the Chair and the Members as they interviewed people from different parts of the country. The Committee collected views from people who are highly educated, as well as people who are not highly educated. The Committee also collected the memoranda that those people brought with them, after listening to them carefully.

These amendments give an opportunity to IEBC to have some continuity. It is very difficult for the country to wake up every morning and find out how the officials of IEBC are doing. That is because we are not sure if the Chair is unwell or indisposed. What is it that he could do? I am seated next to Hon. Gathoni wa Muchomba who has shared with me a 72-page document that is a bit worrying. I do not want to comment on it on the Floor of the House right now because I have not read it fully, but I must say that we have looked at some of the issues that have been raised at a recent Press statement and it is a bit worrying. It is good when a person is not ready for an election to withdraw because this country is bigger than an individual. We have children who would like to grow. We have farmers who are waiting for the rain to come so that they can grow their crops. We have businessmen who have not been able to import commodities, and they would like to do so. They are not sure of the market the next day, next week or next month. Because of that uncertainty, this country is losing big economically. A time comes when an individual makes a decision for the sake of the country. That is something which should happen. I believe that in a few hours' time, in a day's or two days' time, we will be sure of what decision will be made by an individual.

Today there is a lot of excitement and willingness to debate on the NASA side. I can see people holding notes and willing to debate on the amendment laws. I have seen goodwill. It is

unfortunate that I am not able to identify the new members because they are still new, but I can tell that they are really NASA, and that they are willing to support the amendment laws for the sake of the country.

As I said, the proposed amendments will give continuity to the IEBC. As I said, it is a bit worrying to have to keep on checking how the IEBC Chair is doing. These amendments give us an opportunity to identify another person who will perform the duties of the Chair of the IEBC, in his absence. Therefore, the amendment gives continuity and ensures that there is no lacuna or vacuum in the law.

Also, changing this law ensures proper representation. We cannot always have all the commissioners present. The amendment has very clearly stipulated quorum for debating matters at the IEBC. It is good that they did not give a specific number; they just said half of the membership. This makes a lot of sense. This is also in line with Article 250 of the Constitution. I can see that the Committee was very much aware of that. They have said that they should not be less than three and they should not be more than nine. That means they read widely and applied the law appropriately. I have heard many people, especially from the other side, where I do not belong--- I am very happy not to belong to that side because it is very difficult to live your life. You cannot be able to express your opinion. You must be told what to say, when to come to the House and even what to read.

The amendment on Clause 5 benefits both NASA and Jubilee coalitions. We are being given an opportunity to allow any person to participate in an election, including presidential elections. I have just reflected on the meaning of “Ndinda”. Where I come from, many people voted for Dida because that name was being pronounced as “Ndinda” by the election officials who were reading it out to voters who needed assistance. In my community, “Ndinda” is a name of a woman. So, most people would say, “I would like to vote for Ndinda”. I believe that he got so many votes from my area.

Clause 5 of the amendment gives a chance to anybody without discrimination to participate in an election, including a presidential election. These amendments, especially Clause 6, make sense. It is the most important when it comes to using technology in elections. It is the most important point that I would like to speak about because we vote manually and we do everything manually. Where I come from, 50 per cent of the people who vote are assisted voters. They do not know that somebody is supposed to sign a form. They do not know that there are forms 34A and 34B. They do not know that the forms have a watermark. They do not even know how results are transmitted, but the presidential election results of 8<sup>th</sup> August were nullified based on a process.

Clause 6 says that the results shall be physically delivered. I think it is important because we know very well that technology fails. It has failed before. It can fail now and it will definitely fail in the future. This is a very important amendment for our people. The same clause also talks about verification. It was a shame to notice that there were documents which were clearly wrong, and the IEBC officials did not verify the changes that may have been made by individuals either by making a mistake or deliberately. It is important that people are forced to verify information that has been recorded, and also ensure that, as that information reaches the constituency tallying centres, Kenyans get updated on how the elections are going. It is important. This is a very important amendment. It is worth being put in the law.

Matters of procedure are in Clause 9. It is a shame that a matter of procedure can bring about cancellation of an election. That is what we saw. We have already seen the impact of this within our streets, where we have people running around. I saw a picture today in the newspaper

of a woman who decided to just walk around at a main street in the city glad in a brassiere. This is a country we love. Our children are asking us: “Mama, why is this woman improperly dressed?”

Hon. Speaker, I would like to thank you very much for giving me a chance.

**Hon. Speaker:** Member for Gichugu.

**Hon. Githinji:** Thank you, Hon. Speaker, for giving me an opportunity to contribute to this debate. First of all, I must be excited by hon. Members on your left for being supportive of the Bill before this House. I would like to start by saying that one of the pivotal roles of Members of Parliament is to legislate. It is not upon people from outside this country to do so. It is not upon the people who are demonstrating on the streets to dictate to the Members of the National Assembly as to when they should be legislating in order to put the electoral rules in this country into the right path.

Having said so, the amendments that are sought in this Bill are very crucial for the stability of this country and for proper elections to be conducted.

First, I wish to agree with all Hon. Members who have contributed in support of the composition of the Commission. When a commission is being formed, the persons who apply to be commissioners normally go through a very rigorous vetting process and each one of the members of the Commission can as well chair and preside over the proceedings of the Commission. So, when the Chairman of the IEBC is not present for any reason, the Vice-Chairperson or any other member - if the Vice-Chairperson is not present - could be elected to chair. That way, the business of the Commission will proceed since it is important for this country.

*[The Speaker (Hon. Muturi) left the Chair]*

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

Section 44 deals with technology and it has been proposed that it should be amended. The proposed amendment that the Commission implements another mechanism for purposes of voter identification is very crucial. In the election of 8<sup>th</sup> August 2017, many people went to vote and because their fingerprints could not be detected by the Kenya Integrated Election Management System (KIEMS), they were turned away. This amendment seeks to cure that problem. So, no registered voter would be turned away just because of a failed KIEMS machine. Also, there is no vote that will not be considered at the national tallying centre just because there was no electronic transmission of the same. This is a clear rectification of the Integrated Electronic Electoral System which encompasses three procedures; that is, biometric registration, electronic identification and electronic transmission.

A further amendment is sought to insert another Section 44A. This gives the Commission the independence that it derives from the Constitution. If you allow so many stakeholders, including political parties, to venture into the electronic systems, the independence of the Commission is bound to be taken away. So, this is one area that is seeking to strengthen the independence of the Commission.

Hon. Temporary Deputy Speaker, I do not know why our opponents are saying that some of these amendments that are being sought are not proper, when actually one of the amendments that is being sought is to remove a section which has already been declared by the court as

unconstitutional. It means that they may want to use that provision of the law that has been declared unconstitutional to nullify elections that may follow. These amendments are not only being made for the purposes of the re-election on 26<sup>th</sup> October 2017. They are being made even for future elections so that we do not fall into the problems that we found ourselves in after the Supreme Court ruling.

Another exciting amendment is the one that states that if there is a discrepancy between electronic transmission and physical delivery of the results, then the physical delivery of the results will prevail. That is addressed under Section 39. That should always be the case because voters at every polling station vote manually. Every person expects that the votes are cast manually and that everything was done manually as has been indicated by the Co-Chairman of the Joint Select Committee. It is those results that should be declared because they are the original results. Electronic transmission could fail. Figures can be changed during transmission, but the figures that are indicated on Forms 34A and 34B, which are also signed by the agents, cannot be changed. Other figures can change because of the failure of technology and so forth.

To sum up, on the issue of penalties, I think elections in this country are very important. Presidential elections determine the direction of leadership in this country. Whoever jokes with that process by way of making a deliberate mistake should face the full force of the law. So, the penalty prescribed in the proposed amendments should apply.

I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyu): Let us have the Member for Turkana County.

**Hon. (Ms.) Emanikor:** Thank you, Hon. Temporary Deputy Speaker for giving me this chance. I would like to start by congratulating you for being appointed to the Speaker's panel. We are proud of that.

I am going to be very brief. I do not want to go into the nitty-gritty because most of my colleagues have already done that. I want to start by thanking the *ad hoc* committee, ably co-chaired by Hon. Cheptumo and Sen. Dullo, for diligently executing its mandate. They selflessly did their work. They sacrificed and worked late into the night to ensure that these amendments are deliberated upon by the public.

The Committee accommodated a lot of views. It was the most inclusive in terms of public participation. So many people participated by bringing forth memoranda. This committee elicited a lot of interest and we had millions of Kenyans watching what was going on in the Committee. For that reason, we would like to congratulate them. I also want to thank Parliament for deciding to do the amendments. Something had to be done and someone had to do it, and that is Parliament. In its wisdom and at its own time, Parliament had to do this. I want to support these amendments and the passage of the same thereafter because they are going to salvage the situation in the country now. We represent so many people who are anxious and are not happy with the uncertainty of things, unpredictability of the situation, disruption of day-to-day life and the socio-economic state of this country.

Kenyans do not deserve what they have been put through during this period, just because there is need to satisfy the ego and the whims of one person whose pot of requirement is kind of a bottomless pit because of conditions after conditions. So we want to put Kenyans at rest through these amendments.

Clause 3, for instance, gives a provision that ensures continuity of the Commission's business even in the absence of the chair. I am even surprised that this lapse in the IEBC Act, 2011, could not have been discovered earlier. It was a blunder. It needs to be rectified very fast.

Whether we have the elections on 26 or not, these laws must pass because we have said it is for posterity. It is good practice world over, be it in the public or private sector, to have vice-chairs in organizations to ensure continuity and succession. The issue of quorum, for instance, needs just common sense. If a quorum of nine is five, why should a quorum of seven or below remain the same? It should obviously go below five. So is the issue of physical delivery of Forms 34A. What is the essence of having these forms if it is a mistake to ensure that they are delivered physically?

I think the reason why the NASA flag bearer is finally withdrawing is that we got them off-guard through these amendments. Finally, we know that the selfish end is not going to be met. These are ill-minded people. Look at the comments that were given when we were talking of the time for examinations for our children, when somebody says children will not die if they do not do exams at the appropriate time. Is he the one who will die if he does not do the elections at that time? These are the kinds of questions that Kenyans out there are asking. The message and the mood of the electorate out there is this: "We are tired!" This is coming from across the divide.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): The Member for North Imenti.

**Hon. Dawood:** Thank you, Hon. Temporary Deputy Speaker. At the outset, I want to support this Bill. I want to put it on record that my friend and elder brother Senator for Meru was on one of the television stations talking about this Bill being untimely and we should have involved NASA. I believe that we, as the National Assembly, are here to make laws and we have not gagged anybody from coming here to make laws. We do not need invitation to come to Parliament to make laws.

Hon. Cheptumo's Committee has done a good job. Where they have said that the vice-chair or any commissioner can stand in for the chairperson, I think it is a good thing because man is fallible. He can today be okay; tomorrow he might not be okay. Something or the other might happen to the chairperson and then we would have an election which nobody can announce its results. So, I think that is a good amendment.

When we talk about technology and identification of voters by technology, in the last elections on 8<sup>th</sup> of August, there were many people who could not be identified by their biometrics. Unfortunately, they could not vote at all. It was not a matter of them not having their fingerprints or fingers. They had everything. But because their biometrics did not identify them, they could not vote. Those were missed votes for me and for the President. I think this complementary system of identification of voters is very important. That is one thing which I think is good.

For the quorum of the commission to become three, I think it is very important because there are times commissioners may be away on work and the commission has to operate. We are not saying that they will always be three. We are saying the minimum should be three. I think that is a good thing because the commission needs to work even in the absence of one or two commissioners, who may be indisposed or who may be out of the country. We cannot stop the commission because it cannot achieve quorum.

We need to make sure that, if at any time, like what has happened today, the NASA principal has withdrawn, whether he will write to the IEBC or not, the Chairperson should have the authority to declare that if he does not participate in the election, whether he writes officially or not, and if it is only one person who is going to be in the race, then he should declare President Uhuru Kenyatta as validly elected so that we can go to Kasarani and install him and we

do not waste all the money which we are going to be wasting in the elections. There is no point. The billions of shillings, more than Kshs14 billion, could go a long way to do this country good given the way the economy is. We do not need uncertainty.

These elections have to be held or the President needs to be declared the president-elect and we swear him in. The uncertainty which has been in this country for the last three to four months has seen the stock market lose, on the announcement by the Supreme Court, Kshs140 billion. We need certainty for this country. We need certainty for our businesses. We cannot afford this kind of brinkmanship. If they are not ready for the elections, let them withdraw so that we can go ahead. My friends in NASA, we are telling them: Come back to Parliament, do your job and then we can move forward as a country.

With those few remarks, I wish to support this Bill. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyu): The Deputy Whip of the Majority Party, Hon. Mbarire.

**Hon. (Ms.) Mbarire:** Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute to this Bill and to also add my voice to that of my colleagues who have spoken before me and thank them for their support and contributions. Let me also begin by congratulating the Committee that did an excellent work, led by the Chairpersons, Hon. Cheptumo and Sen. Fatuma Dullo.

We have had a lot of concerns raised and I think the same have been raised by the Leader of the Opposition, Hon. Raila Amolo Odinga, about the timing at which we are changing these laws. I would like to take them back to early this year when we did pass the IEBC (Amendment) Act, where due to what was happening and the reduced trust in IEBC at the time, which was mainly driven by the Opposition, we sat down and formed a Joint Committee that later came up with the laws. At that time, nobody complained about the timing. It was just a few months to the elections. And here we are. We had to change the IEBC, bring in a new commission, and they did not complain. We also made far-reaching changes to the architecture and infrastructure of the IEBC at the time.

That is what gave birth to the Electronic Voter Management System. Again, nobody complained about the timing. However, in this particular case, even when we know we are doing this law, informed by the decision of the Supreme Court during the presidential petition, we are still hypocritical enough to talk about timing because it is only a concern when it does not work for us. This Parliament is fully legally constituted and has a right to come up with laws and amend them as and when the need arises. I think it is well in order that we pass this law and ensure that we have peaceful and transparent elections on 26<sup>th</sup> of this month.

Hon Temporary Deputy Speaker, one of the major issues that has been well interrogated by this particular Bill is to ensure that in the absence of the Chair, the Vice-Chair can take over, and run the business of the Chair just like any other member when the two are absent. This is because we do not want to have a vacuum in the Commission especially during this time when critical decisions must be made. I do not know why this is a problem. If you go to the Parliamentary Service Commission Act, it says that the Chair of the Commission can either be the substantive Chair, Vice-Chair or any other member of the Commission in the absence of either the Chair or the Vice-Chair. That is precisely what this Act aims at doing. It is what this law aims to cure by ensuring there will be no vacuum.

Article 134 of the Constitution also says that in the absence of the President, the Deputy President acts as the President of this country. When the President went to International Criminal

Court (ICC), the Deputy President acted as the President in his absence. I, therefore, see no reason why anyone would have a problem with such an important amendment.

There is also the whole issue of quorum. When we were passing the IEBC (Amendment) Act, remember the former IEBC had nine members and the quorum was five, about half of that number. However, when we reduced the number of Commissioners to seven, we still kept our quorum to five, which was wrong. We should have revised that quorum downwards. I am completely in support of us moving the quorum to four and at any one time, the members present who can vote and agree on critical issues of the meeting can be three so that the work of the Commission does not get impeded by either the absence of certain members of the Commission.

The other crucial issue that has been at the mouth of every Kenyan since the Supreme Court ruling was that Kenyans went and voted and all was done manually until the transmission of results became electronic. This is when they were told results transmitted could not be verified hence nullification of the results. In order to listen to that voice of Sheila Githaiga from Tetu, we must then ensure there is a complementary mechanism of ensuring that electoral results are relayed to the National Tallying Centre without delay and with certainty. Therefore, I support the amendment that will allow that even when technology fails, and even when it does not, we must ensure that the forms from the polling stations are actually verified at the constituency tallying centre. Also, those from the constituency tallying centre are physically delivered to the National Tallying Centre at the Bomas of Kenya so that in future, we have no questions about technology failing or not failing or the right form getting there or not. We have a fall-back position because, at the end of the day, whatever mechanism we use, we must make sure it protects the voters' voice at the polling station.

I am in support of the amendment that stipulates that any returning officer or presiding officer who knowingly changes what is on the forms, refuses to sign, to stamp or use the form that has a watermark *vis-à-vis* one that does not have, surely, if they do so knowingly, they must be held accountable. I agree with the recommendation that they must get not less than five years imprisonment for that because they have brought Kenya to where it is today.

As I end, there is no doubt that the Opposition is not keen on going into elections. However, I hope that reason would prevail as far as IEBC is concerned. Earlier this year - in April to be specific - we passed the Elections Regulations in this same House. Regulations 52 and 53 state that if one candidate withdraws, the IEBC will declare the candidate who is left as the winner of that election. Today, we have Hon. Kimani Ichung'wah who was elected unopposed. By the time of nominations by IEBC, he was the only candidate for Kikuyu Constituency. He is here with us today. In the year 2014, Hon. Moses Kuria prepared for election but 11 days to the polling day, his only opponent withdrew and he was declared the winner. I hope IEBC will not be cowed by the Opposition and that it will do the right thing. I hope they will stay true to what it is that we passed in this House earlier this year. We are looking forward to having no elections. We hope we will be going to Kasarani Stadium to swear the single and the only presidential candidate who is Uhuru Muigai Kenyatta and who we know had won anyway.

With those many remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): The Hon. Member for Isiolo County, Ms. Jaldesa Dida. The Floor is yours.

**Hon. (Ms.) Jaldesa:** Thank you, Hon. Temporary Deputy Speaker. I also wish to support this Bill. As I start, I take this opportunity to congratulate the Committee which compiled this wonderful Report co-chaired by my able Senator of Isiolo County, Sen. Fatuma Dullo.



I also wish to congratulate the citizens of this country who turned up in large numbers and from different sectors to air their views.

Thirdly, as I contribute to this Bill, I want to state that when the Supreme Court invalidated the results of the presidential election, I was shocked. However, after I recovered from my shock, I really looked forward to understand the causes of that invalidation. As I eagerly waited for the judgment, and I took a whole day listening to the Supreme Court Judges reading the ruling, I was so disappointed when I got to know that the entire invalidation of the victory that we fought so hard for was specifically based on the process. Therefore, when this House that I am so proud to be a Member came up with this amendment, I decided I will stay through to ensure that I have added my voice into supporting this Bill.

The Bill is very critical. We are not just looking at the short-term objectives. We are focusing ahead to generations to come in order for them to enjoy prosperity and conduct elections that are free and fair, based on the due process of law. This Bill does not introduce any strange amendment. What we are amending is the loopholes and the grey areas that were in the Constitution. Therefore, I am specifically looking at three clauses while supporting this Bill.

First, the amendment that seeks to amend Section 2 of IEBC Act, 2011. The amendment is very critical because it removes the possibilities of any vacuum. We are human beings. Natural calamities can happen, God forbid. It is therefore critical that this clause is amended.

Secondly, Clause 5 of the Bill seeks to delete Section 29 of the Elections Act to remove the requirement that the Chairperson of IEBC must specifically be a lawyer. In my view, that is discriminative much as it was captured in the Constitution. Going forward, I hope the Committee will remove that requirement. The fact that Mr. Chebukati is a lawyer did not stop the election from being revoked by the Supreme Court. Any Kenyan with a first degree and a Master's degree can Chair the IEBC.

Clause 6 seeks to amend Section 39 of the Elections Act to provide for electronic transmission and physical delivery of results. This amendment is very key, especially given the fact that technology can fail in some circumstances. We do not have technology in most remote parts of this country. Isiolo County, where I come from, is one of the areas affected.

Finally, Clause 8 of the Bill seeks to amend Section 44A of the Elections Act to obligate the IEBC to put in place a complementary mechanism for identification of voters in case the Electronic Voter Identification (EVI) kit fails. Just to share my experience, on 8<sup>th</sup> August when we were voting, most of my voters, especially ladies, could not be electronically identified because of the *henna* on their fingers. I lost close to 500 votes. When I saw this amendment, I felt very happy.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyaa): Let us hear Hon. Muhinga, the Member for Kipipiri.

**Hon. Kimunya:** Thank you, Hon. Temporary Deputy Speaker. I congratulate the Chairman of the Parliamentary Ad Hoc Committee on Election Laws and the team for a job well done in terms of capturing the spirit and the mood of the country, leading this House to take up its proper role in saving the country now and in the future.

I want to be very brief. I start by recognising the fact that the Committee has deliberated on the qualifications of the Chair. I would have preferred a situation where we opened up those qualifications as it is becoming very clear that elections are beyond legal matters.

In fact, I would have preferred to have an accountant or a computer system specialist looking at that because as we move forward, technology and systems are becoming part of the

electoral system. For now, I will agree with the Committee. I believe they received enough representations but we need to look at it in future, in terms of opening up the qualifications.

I want to propose, for consideration by the Chair of the Committee, a small amendment to Clause 4. You will notice that we are amending by reducing the quorum from at least five Members to a half of the existing Members. We realise that Kenyans have become very litigious. There are especially those people who want to keep going to court for small interpretations. In order to avoid a lot of our time being taken by people trying to say half of seven is 3.5 and there is no 0.5 human being, much as we know it is captured within a general interpretation legislation I suggest, now that we are changing this clause, that we add the words “at least” before “a half” on clause 4 so that it will read that the quorum shall be at least half of the existing Members, just to avoid mischief from people who want to keep on going to court for small interpretations.

I am also very encouraged with the changes that we are making today. We have been accused of doing this for a specific purpose. However, going by what we are now getting in the media – that, one of the presidential candidates has withdrawn from the race – we take it that the amendment we are making on Clause 10 pertains to future elections. As of now, lawyers will advise us accordingly but I believe we still have an election. More importantly, going forward, the amendment we are making will avoid the mischief that we have witnessed; where somebody who knows very clearly that they are not prepared to go for an election, goes ahead and collects money from some gullible Kenyans through some pay bill number. When the money is enough, he decides to organise some international trip to go for shopping instead of participating in the election.

That mischief is what we will cure so that people know that once you are a candidate, you must go on. Let us have that certainty to avoid people misusing poor Kenyans. When they ask questions, they are told to go to the streets and demonstrate. I believe that with the passage of this Bill, future elections will be more certain. We will not be worried about what happens when somebody masquerades as a candidate and then withdraws, knowing that they were not intending to participate in the elections in the first place.

With those remarks, I beg to support and ask the Chair of the Committee to consider my proposed amendment to Clause 4 to include the words “at least” for avoidance of doubt in future.

Thank you.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): What is it, Hon. Gikaria?

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Speaker. I rise under Standing Order No.95. This is a very important Bill whose passage by this House needs to be fast-tracked, so that it can be passed over to the Senate.

*(Loud consultations)*

Hon. Temporary Deputy Speaker, protect me, please. I think we have deliberated.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Order, Hon. Members.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Speaker. I rise under Standing Order No.95. This is something we need to agree on in future so that instead of every person going clause by clause, we agree that Hon. Gikaria should deal with Clause 1 and my dear sister, Hon. Jane, should deal with Clause 2. This will avoid a lot of repetition. Would I be in order to ask that the Mover be called upon to reply, so that we can proceed?

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Order, Hon. Members! I hereby put the Question.

**Hon. Members:** Yes! No!

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Order, Hon. Members!

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

Let us have the Mover, Hon. Cheptumo.

**Hon. Cheptumo:** Thank you, Hon. Temporary Deputy Speaker. Let me start by thanking my colleagues. I would have wished to donate time to my colleagues, but I am told procedurally, I am not supposed to.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Yes. You are not allowed, Hon. Cheptumo.

**Hon. Cheptumo:** First and foremost, allow me to thank my colleagues for their very valuable contributions during the Second Reading of this Bill. I am happy that the Members who have had a chance to speak have supported the Bill, save for only one Member who did not agree with the amendments. That is still his right.

I wish to say that the purpose of the amendments, as I said when I was moving the Bill, is to clean up our electoral laws. The support given by the Members has confirmed that we have been able to prosecute this Bill in a manner that Members have understood. Hon. Kimunya has made certain proposals which I think as we move to the Third Reading, we will also consider. I also assure the Members that we are going to take into account all the proposals that have been made as we move to the Third Reading.

As I finalise, allow me to say that Clause 86(a) of the Bill deals with a very serious situation prevailing in the country. As I said when I was moving the Bill, under Articles 138 and 139 of the Constitution, the law is clear as to the procedure to be followed when the president dies and when there is a run-off. However, where a candidate withdraws from an election, there are no provisions in law to deal with that situation. That is the essence of Clause 86(a). Let me read it:

“An eligible candidate for an election pursuant to Article 140(3) of the Constitution (like the one for 26<sup>th</sup> October) may withdraw from the election by notice in writing to the commission, and –

“Where only one candidate remains after the withdrawal, the remaining candidate shall be declared elected forthwith as the president-elect without any election being held.”

This is the vacuum that this Bill was trying to deal with so that if, as we prepare for elections on 26<sup>th</sup> October this year, one of the candidates withdraws, the remaining candidate can be declared president-elect without elections being held. I thank the Members for the support they have given to the Bill. Let us be together again tomorrow when we do the Third Reading, so that we can input further and have a law that will save this country in any situation like the one I have just mentioned.

I appreciate the Members of my Committee for doing a very wonderful job. I appreciate that we have done it for Kenya. History will count us that during our time as a House, we passed laws for the posterity of this country. It is not for a section of the political divide, but for posterity and wellbeing of the Kenyan people.

With those remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Hon. Members, since we have the requisite number, I will put the Question.

*(Question put and agreed to)*

Next Order!

*Second Reading*

THE ELECTION OFFENCES (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Let us have the Deputy Majority Whip.

**Hon. (Ms.) Mbarire:** Hon. Temporary Deputy Speaker, I beg that this particular Order be deferred to allow for leadership consultation.

*(Bill deferred)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Next Order!

**MOTION**

APPROVAL OF RATIFICATION OF THE EAST AFRICAN COMMUNITY  
PROTOCOL ON PRIVILEGES AND IMMUNITIES

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Let us have the Deputy Whip of the Majority Party.

**Hon. (Ms.) Mbarire:** Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, cognizant of the Report of the Select Committee on Regional Integration of the 11<sup>th</sup> Parliament on the Ratification of the East African Community Protocol on Privileges and Immunities, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, this House approves the Ratification of the Protocol to operationalise the East African Community Protocol on Privileges and Immunities.

Hon. Temporary Deputy Speaker, through a memorandum to the Speaker of the National Assembly, dated 3<sup>rd</sup> May 2016 and pursuant to Article 27(2) of the Treaty, the Cabinet Secretary (CS) for the Ministry of Foreign Affairs and International Trade requested the National Assembly to approve the ratification of the East African Community (EAC) Protocol on Privileges and Immunities. The development of the EAC Protocol on Privileges and Immunities was necessitated by the need to standardise the treatment of assets, properties and people employed in the service of the EAC across all partner states. The development of the Protocol commenced in 2007 pursuant to Article 73 of the treaty establishing the EAC which relates to immunities of persons employed in the service of the Community, consultants and experts of the Community and delegates of partner states as well as Article 138 thereof on the status, privileges and immunities of the Community. The Protocol was subsequently approved by the 16<sup>th</sup> Summit

of the EAC Heads of State in February 2015 and thereafter signed by the partner states' respective Ministers during the 31<sup>st</sup> meeting of the Council of Ministries held in April 2015.

The Protocol was subsequently approved by the 16<sup>th</sup> Summit of the East African Community (EAC) Heads of State in February 2015 and thereafter signed by the partner states respective ministries during the 31<sup>st</sup> Meeting of the Council of Ministries held in April 2015. The Council then directed the partner states to finalise ratification of the Protocol and deposit their respective instruments of ratification with the EAC Secretary-General. The application of the Protocol does not anticipate any amendment to the Constitution and Members should take note of that.

What are the objects of the Protocol and what does it provide for?

1. Immunities of the property and assets of the Community by partner states from legal processes, except where the Community has expressly waived this immunity, provided that the waiver does not extend to attachment of property and assets.
2. Protection of the funds of the Community against attachment, theft, exploitation and any other form of interference whereby executive, administrative, judicial or legislative action can be taken.
3. Tax exemptions for the Community properties except charges for public utility services, funds and property availed to the Community for its functions and customs duty on imports and exports in respect to articles imported or exported to the Community for official use.
4. Facilities in respect of official communication where partner states are to ensure that the Community enjoys in the territory of each partner states for its official communication, treatment not less favourable than that accorded to similar international organisations.
5. Privileges and immunities of persons employed in the service of the Community in respect to immunity from civil processes in the performance of their official duties.
6. Exemptions from taxation on salaries and emoluments, and
7. Exemptions from customs duties and other taxes as well as immunities from immigration restrictions.

Allow me to briefly further give a scrutiny of the provisions of the Protocol.

In the preamble, it provides for the aspirations of the Community in providing for the Community and persons employed in the service of the Community with immunities and privileges as are necessary for proper discharge of the functions under the treaty.

Under Article 1, it provides for the definition of various terms as used in the Protocol such as "persons employed in the service of the Community" which means persons engaged in rendering service to the Community including staff of the Community, members of the East African Legislative Assembly (EALA) and judges of the East African Court of Justice. It also provides for definition of the premises of the Community which means the buildings and the land thereto, irrespective of ownership, used for the purposes of Community in the partner states.

Article 2 provides for the objective of the Protocol which in this case is to standardise the status, privileges and immunities given to partner states to the property and persons in the service of Community.

Article 3 provides for the scope of the Protocol where it is to apply to all properties, funds, tax exemptions, facilities for official communication of the Community and privileges and immunities of persons employed in the service of the Community.

Article 4 provides for the immunity of property and assets of the Community. This immunity is from legal process or trespass of any kind such as search, requisition, confiscation, expropriation and from any other form of interference from the executive, administrative, judicial or legislative action, except where such immunity has been expressly waived.

Article 5 provides for the funds of the Community. The funds are to be protected by the Community from attachment, theft, expropriation or any other form of interference from the executive, administrative, judicial or legislative action.

Article 6 provides for tax exemptions for the Community with regard to its income, assets and other property. A tax exemption shall be for all property except for charges for public utility. All custom duties on imports and exports in respect of articles imported for official duty and those customs and duties in respect to publications by the Community for official purposes except payment for services rendered.

Article 7 provides for facilities in respect of official communication by the Community. The partner states are to ensure that the Community enjoys in the territory of each state, treatment not less favourable than that accorded to the international organisations.

Article 8 provides for privileges and immunities for persons employed in the service of the Community with respect to immunity from civil process, matters of taxation on salaries and emoluments, immunity from immigration restriction, repatriation facilities and privileges in respect to exchange control facilities.

In Kenya, the Protocol will be implemented in accordance with the Privileges and Immunities Act Cap 179 of the Laws of Kenya. Since the implementation of the Protocol will be through the existing institutional framework, there are no financial commitments and research upon ratification. However, as a host country, Kenya will be required to accord privileges and immunities including tax exemptions to the EAC in relation to its operations, assets, property and staff engaged and located within the country.

I, therefore, move that the National Assembly approves the ratification of the Protocol to operationalise the EAC Protocol on Privileges and Immunities pursuant to Section 8 of the Treaty-Making and Ratification Act of 2012.

I now wish call upon Hon. Cheptumo to second this Motion.

**Hon. Cheptumo:** Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyu): I want to assume that the requests I have are for this particular Motion. Let us have Hon. Wachira Kabinga of Mwea. He is not here. Let us have Hon. Tonui Kiprotich of Bomet Central. Let us have Hon. Sophia Noor of Ijara. You have the Floor.

**Hon. (Ms.) Noor:** Thank you, Hon. Temporary Deputy Speaker for giving me this chance to contribute on the ratification of the EAC Protocol on Privileges and Immunity. It is important that we look at the EAC and discuss this very important Protocol which will look into the immunities and privileges that are given to our people. Meanwhile, I just want to also touch on issues that are happening in our country. We have a country that also needs to be protected and the law must be followed to the letter.

Hon. Temporary Deputy Speaker, our country is very important. We do not have any other country that we call home. The scenario that is taking place now require us, as leaders of this country, to come together and talk about it strongly and condemn it in the strongest possible

terms. This country has invested a lot in elections and reforms. We are far much ahead than many countries in Africa in terms of reforms, democracy and freedom. All that freedom did not come on a silver platter, but through hard work, sweat and a lot of struggles. We cannot let those struggles go like that.

This final hour when we have only 15 days or so remaining before we go for the repeat elections, we will not accept people to short change us and do things based on selfish interests at the cost of this nation. The law is very clear. We will follow it to the letter. This is what we are saying. This is a country that has a Constitution. It has laws. We must abide by the laws of the country. It is very clear. If a candidate withdraws from an election, then it is very clear what happens next. We are asking our independent institutions to respect the law of this country and do the needful. The ball is on the court of the IEBC. The ball is on the court of the courts of this country. The Supreme Court of this country gave a ruling and told us to go back to elections within 60 days, as required by the Constitution of this country. As the ruling party of this country, the Jubilee Party, we have accepted and abided by the law. We have agreed with the decision of the Supreme Court. That is why we are going all round this country campaigning and asking for votes because we are ready for the elections. After three days of gazettelement of the people contesting the presidential elections, if one withdraws, then the other one is declared the winner. That is very clear in the law. So, we do not need to waste all this money that we have approved in this House. We have approved Ksh15 billion for the election. We need to declare President Uhuru Kenyatta as the legal president of this nation.

Having said that, I now want to go to our neighbours, the EAC, and the protocol on privileges and immunities. The development of the EAC Protocol on Privileges and Immunities was necessitated by the need to harmonise the treatment of assets, property and the people employed by the service of the EAC across all partner states. The Protocol aims at standardising the status, privileges and the immunity to be accorded by the partner states to the Community in its assets and properties, and to the persons employed by the Community. Every country has its own laws and regulations, but when it comes to the EAC, it must have one standard protocol that covers all the partner states in terms of issues of assets, properties and the personnel working for the EAC. Before, people who work for the EAC do not get the right privileges and immunity that is required for them. Because of that, it is important for us, as a country that has always been leading in democracy and putting system and structures in place, to rectify this Protocol. It is important for us, as a country, to protect and look after the people who are working on our behalf at the EAC. They will be protected. They will be given privileges that will look into their welfare and affairs while they are working in our partner states.

The process leading to the development of the protocol and the decision was reached by the EAC Council of Ministers in 2007. The protocol which was developed then related to the immunity of persons employed in service of the Community. These are consultants, experts of the Community and delegates of partner states. The status, privilege and immunity of the Community were negotiated by experts from all the East African partner states. This protocol has gone through many stages and has been negotiated properly by experts from our country in the best interests of this country. Therefore, I stand here to support the ratification of the EAC Protocol on Privileges and Immunities of persons, property and assets.

Thank you, Hon. Temporary Deputy Speaker, for giving me this chance.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Member for Naivasha. She has left the House. Member for Nakuru Town East, Hon. Gikaria.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Speaker. I rise to support the ratification of the EAC Protocol on Privileges and Immunities.

We are talking about this protocol and how it will impact on us as a country because we are signatories. However, we did not have an opportunity to air our view regarding the election law. I wish Hon. Cheptumo was here. Some of the things that we want his Committee to look into as we go into the Third Reading is an explanation on what would happen if the IEBC has availed itself in a polling station and the officials are all there ready for the process and for one reason or the other, nobody turns up. What are the returns of that polling station and thereafter the constituency? What happens if there were only two people and they do not turn up to vote? Does voting entail somebody who wants to vote or does not want to vote? It is important for us to understand what happens when a polling station is opened, nobody turns up and the returns are zero. Should that be treated as if elections took place in that constituency? The law is very clear that the election will take place in all the 291 constituencies. It is important for us to look into that.

Secondly, I was watching television today when the IEBC had gone back to the Supreme Court to get some interpretation on what the court pronounced on that material day. It was so sad. The Deputy Chief Justice said that as judges, they do not see anything of a contradiction or ambiguous in whatever they had given. Here is a situation where the Supreme Court had directed that the Chair must check all the 40,831,000 forms 34A, so that he can relay that to forms 34B to generate forms 34C. The question the IEBC is asking is that if there are discrepancies between forms 34A and form 34B, what is the chairman of the commission supposed to do?

We do not see anything wrong and we are scared. As we approach the elections on 26<sup>th</sup> October 2017 elections and whether these people will be going back .... It is very unfortunate that we are headed to such a point.

I looked at the Act with regard to when it should come to effect. I found out that it will be immediately after... Should we now wait a little bit in terms of hastening the process? These people will pick this and we do not have very friendly judges in the judicial system. So, these are some of the issues we want addressed. At the same time, as Jubilee, we really want to look at some of the issues which have been raised so that we do not allow people to go the courts.

That notwithstanding, I support the Protocol. It is important for us as a signatory to... It has taken too long. In the February 2015 Heads of State meeting, it was agreed that each partner state must have done what we are doing now and deposited their respective instruments of ratification of this Protocol with the East African Community Secretary General.

As a country, we also need to move fast. We hope that in this 12<sup>th</sup> Parliament we will be able to fast-track and deposit it. We have a concern and we said as much the other day when we looked at another protocol of the East African Community (EAC). As it is now, we do not have Members of the East African Legislative Assembly (EALA) from Kenya. We would want the House Business Committee to take this seriously. I know our friends are not here. They were supposed to bring the names of their Members to EALA. As much as we are going to approve this Protocol, we also need to have our Members seated at EALA to articulate issues on the things we are passing. It is important that we have Kenyans working in the East African Community. Of course, we have other members in the East African Community working in all the countries. We would want all the objectives of this Protocol to be implemented and where we have an issue, we have a place where our representatives can take up the matters. It would be pointless for us to just approve protocols when we do not have any person representing us. I am saying this because of what happened in Tanzania. The way they handle and treat Kenyans when



they are trading or going on in their normal business is not proper. At some point some Kenyan workers in our neighbouring countries were sent back to the country yet they had all the required papers or work permits. These are some of the issues we would want to see being implemented.

You can imagine of a situation where Narok County did not have a representative in Parliament to articulate issues affecting people in that county. My point is that we cannot have any fairness if we are not represented at EALA. I can see my dear sister, Hon. Cecily Mbarire. She is here to hasten the process of having Kenya get its representatives to EALA. It is important for us to think about the issue of properties as was said by Hon. Cecily Mbarire. Kenyans have properties and assets in other countries much as those citizens of those countries have the same here. They also want those issues addressed.

Another aspect is on tax waivers. These days when Kenyan athletes compete abroad and get some small price money, we tax them. Kenyans should not be taxed in the country where they are working. For example, Kenyans working in Tanzania must also contribute towards the development of this country. We ensure that by taxing what they earn from the other side. So, when we talk about tax waivers on salaries and other exemptions, like from custom duties and taxes... We have thousands and thousands of people working out there. Again, if you give them an exemption, how do we as a country move on in terms development? If they are going to get tax waivers, it should be in the country where they are working, but back here in Kenya, they must pay. If you are paying an individual, for example, upwards of Kshs1 million and yet Sarah Serem has reduced our salaries, what should be done? This is something that we need to look at.

The protection of funds belonging to the Community is very important. At the same time, the East African Community must protect... The way sometimes we treat attaches from the western world and other places...

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyu): Hon. Member for Tana River, Hon. Rehema Hassan.

**Hon. (Ms) Rehema Hassan:** Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion. In fact, when I saw this Protocol, I was very happy because laws protect and control people and their assets. Some of us have fallen victims of some situations in countries within the EAC. We have our boys who are drivers and they work in the transport sector in this region. We have had some of our children beaten, cut with *pangas* and mistreated. In fact, I was asking myself sometime back, how come Kenyans, when people come to our country, we really love and stay with them well? When people fight in other countries and they come to Kenya, we welcome and live with them well. When they go back to their country, they forget to appreciate us. When our people go there, they start mistreating them.

Our children have really suffered. I even have a relative whose hand was cut. It really made me bitter. So, when I saw this, I was very happy.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyu): Hon. Member for Bureti, Hon. Mutai Kiplangat. Is he here? Hon. Member for Mosop, Tuwei. Hon. Mutunga Kanyuithia.

**Hon. Kanyuithia:** Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to speak. I will take just two minutes for the purpose of addressing one issue that I thought was not quite articulated in the debate that ended - the issue of timeliness of the coming repeat presidential election and the fact that it has been discussed a lot out there. If you remember, there have been amendments to the electoral law just before elections. I have in mind the amendments of 2007 and 2013 among many other times. Prior to elections, everybody participates in amending the electoral laws. People have been seeking amendments because of

personal interests or interest in winning the presidential seat. This time round we are speaking as Kenyans. We are not amending the electoral laws because of our own interests but because of the interests of the country. We want to correct the mess that is in the electoral laws, which led to the nullification of the presidential election of 8<sup>th</sup> August 2017.

This time round, the Members of this House are very clear and articulate. The levels of anxiety are very low. They have taken time to look through these amendments and what they are saying is that it is time for us to correct these laws. One of the things that may also need to be dealt with is the issue of election agents, who are supposed to be appointed by political parties. In the last election, there was a problem. The problem was communicated just a few days before the election. If this was captured in the amendment as well, it will help a great deal. The election was nullified out of allegations. The allegations were never proven at the end of the day. That is why they remain allegations to date. That is why there has been a lot of hullabaloo trying to convince Kenyans that it was otherwise. However, it is important for us, even as we go to the elections, to be very clear on some of the principles that will enable us to have confidence in the electioneering process in future and avoid some of the issues that led to the nullification of the August 8<sup>th</sup> presidential election.

Speaking to the East African Community Protocol on Privileges and Immunities, it would be good for us as a country, in supporting what is happening within the East African region in terms of building the East African Community (EAC), to recognise the need to have these people effectively privileged. This is because they need to be confident that they are traversing the different countries of East Africa as a people who are recognised as intergovernmental organisation workers. As such, we need to give them due recognition. Even if it means getting them passports, there should be no reason for them not to be facilitated. I know we are supposed to have an East African passport. Theirs should be different.

I also support this Motion in the sense that we should have their properties exempted from taxes. The more we keep these properties, the better for them and the better for the EAC. What I would like to request this House to do is to align the taxation laws of this country. Soon after we pass this particular Motion, we should have the process of aligning the laws with our taxation laws to exempt the EAC from the various taxes that have been announced. In other words, we should be able to domesticate this particular provision within the Kenyan laws. Sometimes it takes a bit of time for us to domesticate or adopt the laws that we pass, or the conventions or protocols that we sign outside this country. Therefore, that is one of the things that we should be very careful about.

With those few remarks, I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyu): Let us have Hon. Jeremiah Kioni of Ndaragwa.

**Hon. Kioni:** Thank you, Hon. Temporary Deputy Speaker. I just want to make one or two comments. One is that for us to be useful to the East African Community, we must be able to have a process that is clear and certain, and one that can be relied upon when we have issues like the one we have right now where after quite some agonising time of preparing for a presidential election, one of the candidates has decided to withdraw with the sole intention of throwing the country into a crisis. One wonders how he intends to benefit from that kind of a crisis but we can all guess. Even as we think through and discuss this Protocol, it is important that we continue with the tidying up process of the pieces of legislations that we have, especially those that relate to the electoral process so that going forward we do not have individuals who would not want the country to move forward and in the process, embarrass us even within the EAC and the nations

of this world. He is hell-bent on making sure that the legitimacy of the next President, whom I think is likely to be declared the only candidate left on the ballot, is challenged just like it happened during the 10<sup>th</sup> Parliament.

Even as we go through this Protocol, it is important that we go through it with a toothcomb so that the gaps that are being exploited by people who do not mean well for this nation are sealed. It is also important to draw some consolation from the legislation that the regulations that were done in this country sometime at the beginning seem to answer to the difficulty that we are now in as a country even as we look through this Protocol of the EAC where a person withdraws from the presidential race at the eleventh hour. Our law seems to point to the fact that we are either going to declare the only candidate as the President of the Republic of Kenya or in the worst-case scenario proceed to elections on 26<sup>th</sup> October and elect the person who will be on the ballot paper. There was also the intention of making sure that elections are not held in some constituencies so that again the legitimacy of the election can be challenged but it seems to have been addressed at the beginning of the year where there was a joint Committee that was chaired by Hon. Kiraitu and Sen. Orengo. They seem to have passed amendments to the Elections Act to the effect that if we are not able to hold elections in all the constituencies for reasons that are beyond the control of IEBC, then those elections can be held at an appropriate date to be determined by IEBC. Still, if in the opinion of IEBC the elections in those constituencies are not likely to affect the outcome that is already there, then we should proceed to conclude that position.

Even as we address ourselves to the Protocol that is before us, it is important to point out the reason as to why the Constitution made it necessary for us to debate these protocols on the Floor of this House. It is so that we are made aware of what we are getting into as a nation or what we are committing this nation to going into the future. It is also important to clarify to other partners within the EAC that we have a clear path to concluding the stalemate that we have been in for the last 50 days.

As I support this Motion, it is important that we make sure that we are not the ones dragging behind the EAC. We have been accused in the past that every time we are required to do something, we are always the last country to fulfil our mandate. It is the case now that we are not even able to nominate our candidates to the East African Legislative Assembly (EALA).

I think it is important for us to address ourselves to this issue, so that other countries within the Community do not accuse us of dragging the Community behind. For that reason, I support this Protocol, so that we can allow the integration of the EAC or whatever it is that we desire to do as a Community to proceed on time.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Hon. Members, seeing that I do not have any more requests for contributions, I now call upon the Mover of the Motion to reply.

**Hon. (Ms.) Mbarire:** Thank you, Hon. Temporary Deputy Speaker for giving me this chance. Let me thank all the Members that have contributed to this important Motion. Although I know it is coming at a time when matters national are taking centre stage, there is no doubt in my mind that this Protocol is long overdue. It is about time we ratified it as Parliament according to the Constitution and more importantly, so that we can give Kenya a good chance to participate meaningfully and effectively in the EAC and ensure that Kenyans enjoy the privileges that go with being members of this great Community.

I look forward to the entire membership ratifying the Protocol at the appropriate time, so that we can move forward. As was mentioned earlier by one of our colleagues, we are also aware

that we do not yet have our representation in the EALA, which means that our engagement at that level maybe wanting. I hope we will deal with what is ahead of us, so that we can send our representation to EALA.

With those few remarks, I beg to reply.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Hon. Members, time being 6.37 p.m., this House stands adjourned until Wednesday, 11<sup>th</sup> October 2017 at 9.30 a.m.

The House rose at 6.37 p.m.