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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Thursday, 5th October, 2023

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

The Temporary Speaker (Hon. Martha Wangari): Serjeants-at-Arms, I order that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order, Hon. Members. We now have the requisite numbers to transact business.

COMMUNICATION FROM THE CHAIR

Order, Hon. Members.

*(Hon. Gabriel Tongoyo and Hon. Onesmus Ngogoyo
stood up in their places)*

Hon. Tongoyo and Hon. Ngogoyo, you are both out of order!

APPOINTMENT OF MEMBERS TO THE MEDIATION COMMITTEE ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

Hon. Temporary Speaker (Hon. Martha Wangari): Hon. Members, you may recall that during the Morning Sitting of Thursday, 14th September 2023, the House rejected Senate Amendments to the Public Finance Management (Amendment) Bill (National Assembly Bill No.16 of 2023). This decision essentially remitted the Bill to a Mediation Committee in accordance with Article 112 of the Constitution and Standing Order No.149.

Hon. Members, you may further recall that during the afternoon sitting of the same day, I notified the House that I have nominated seven Members of this House to represent the National Assembly in the Mediation Committee on the Bill. I also designated the Deputy Leader of the Majority Party, Hon. Owen Baya, to Co-Chair the Committee.

Hon. Members, having conveyed the decision to the Senate, I wish to inform the House that the Senate has now nominated the following Senators to the Mediation Committee:

1. Sen. (Dr) Steve Ltumbesi Lelegwe, MP;
2. Sen. Johnes Mwashushe Mwaruma, MP;
3. Sen. (Dr) Oburu Oginga, MP;
4. Sen. Peris Pesi Tobiko, MP;
5. Sen. Beth Kalunda Syengo, MP; and,
6. Sen. Wahome Wamatinga, MP.

Hon. Members, now that the Mediation Committee is fully constituted, I urge Hon. Owen Baya, the Co-Chairperson of the Mediation Committee, to reach out to the Senate counterpart to commence the mediation process as per Article 113 of the Constitution. The Clerk of the National Assembly is hereby directed to facilitate the Committee. The House is accordingly guided.

I thank you.

(Several Members walked into the Chamber)

PETITIONS

Hon. Temporary Speaker (Hon. Martha Wangari): Hon. Members, take the nearest seats.

Hon. Members, I have two Petitions that I will present today. We will combine them and deal with them according to the Standing Orders.

UNLAWFUL DEDUCTIONS BY TSC IN FAVOUR OF KUSNET

Hon. Temporary Speaker (Hon. Martha Wangari): Hon. Members, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any petition other than those presented by a Member.

In this regard, Hon. Members, I wish to report to the House that my Office has received a Petition from Mr. Roberts Njunukha Wekesa on behalf of teachers teaching in special learning institutions across the country. The Petitioners are calling for the termination of unlawful deductions by the Teachers Service Commission in favour of the Kenya Union of Special Needs Education Teachers (KUSNET).

Hon. Members, the Petitioners aver that the Teachers Service Commission has been deducting union dues in the form of agency fees in favour of the Kenya Union of the Special Needs Education Teachers without their approval or consent.

The Petitioners further aver that the Commission had unlawfully made them subscribe to the union through remittance of monthly union dues, which were later stopped by the court, and later realized that the Teachers Service Commission (TSC) was deducting union fees in the form of agency fees without their consent.

Hon. Members, the Petitioners claim that they approached the Commission requesting to be allowed to join other unions of their choice but were dismissed on the grounds that the Collective Bargaining Agreement between the Teachers Service Commission, Kenya Union of Post Primary Education Teachers (KUPPET), Kenya National Union of Teachers (KNUT) and Kenya Union of the Special Needs Education Teachers (KUSNET) placed all special needs teachers under KUSNET, which was a binding agreement which the teachers who fall under that category were to abide by.

The Petitioner further claims that there has never been any participation to sensitise members on the activities of the union and other related matters, and their efforts to have their concerns addressed by the relevant bodies/agencies, specifically the TSC and KUSNET, have not borne any fruit.

Hon. Members, the Petitioners therefore pray that the National Assembly, through the Public Petitions Committee, intervenes to compel the TSC to:

1. Stop the unlawful deductions in favour of KUSNET, especially for teachers who have never signed up for membership to KUSNET;
2. Refund the money to the affected teachers; and,
3. Allow Members to join unions of their choice.

Hon. Members, having determined that the matters raised by the Petitioners are well within the authority of this House and, further that the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to the provisions of Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and the Petitioners in accordance with Standing Order 227(2).

I thank you.

(Several Members walked into the Chamber)

I will give the Members at the back a minute to take the nearest seats.

(Loud consultations)

Order, Hon. Members. I have a second Petition.

ENACTMENT OF LEGISLATION TO
REGULATE CREDIT PROFESSIONALS

Hon. Temporary Speaker (Hon. Martha Wangari): Hon. Members, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation. Additionally, according to Standing Order 225(2)(b), the Speaker must report to the House any petition other than those that a Member has presented.

In this regard, Hon. Members, I wish to report to the House that my Office has received a Petition from Mr. Benard Mokaya Magembe, the Chairperson of the Council of the Institute of Credit Management Kenya, calling for the enactment of legislation to regulate the credit profession.

The Petitioner avers that, according to the 2022 Kenya Financial Sector Deepening Report on Inclusive Finance, levels of financial inclusion, as measured by the access dimensions, stood at 83.7 per cent, attributed to various developments in the financial services sector and general expansion of the economy.

The Petitioner further notes that according to the World Bank, the domestic credit to the private sector of Gross Domestic Product (GDP) stood at 32 per cent in 2020, while gross loans listed as per the Credit Officer Survey Report by the Central Bank of Kenya (CBK) totaled Ksh3.677 trillion as at December 2022, among other reports. These, according to the Petitioner, are indicators of a robust credit market in the country.

The Petitioner is concerned that despite the growth of the sector, consumer lending raises significant consumer protection risks and concerns, which can be mitigated by having certified credit professionals. The Petitioner alleges that other professions in Kenya, including accountants, lawyers, fiscal analysts, engineers and doctors, among others, are regulated through a statute for the effective discharge of their mandate and yet, the credit profession is not regulated.

The Petitioner is convinced that the enactment of the proposed legislation, which has numerous benefits, would be instrumental in sensitising and cushioning consumers from a

number of risks, including breach of transparency, unconscionable conduct and loss of assets, among others.

The Petitioner, therefore, prays that the National Assembly enacts legislation to regulate the credit profession to provide a qualified and well-regulated credit profession that, in the long term, will ensure stability and sustainability of lending institutions, among other attendant provisions.

Hon. Members, having determined that the matters raised by the Petitioner are well within the authority of this House and further that the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration, pursuant to the provisions of Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

I thank you.

Hon. Members, those who wish to comment on the petitions should kindly press the intervention button. I will start with Hon. Gitonga Murugara. Let us limit our comments to a maximum of three minutes.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. The Petition by Mr. Roberts Wekesa raises very serious issues against TSC on unlawful deductions of their money to fund a Union which they claim they are not members.

This is very important because deductions by TSC can only be through a check-off system that individual members have signed for. It cannot be because of a Collective Bargaining Agreement (CBA) among TSC, Kenya National Union of Teachers (KNUT), Kenya Union of Post-Primary Education Teachers (KUPPET) and the third Union. The TSC is authorising teachers who are not union members to join it by force. Joining trade unions is an individual choice. Therefore, if there is any element of coercion or forceful entry into unions, that should be frowned upon. This is a Petition that should be looked into very seriously because our teachers are complaining.

Mr. Benard Mokaya's Petition is on domestic credit. We have always had a problem with domestic money lenders. As we say, those are unscrupulous money lenders who deceive impecunious borrowers. They have to go to those shylocks to get money for their immediate needs. We may require a law to regulate this. Whether credit professionals exist, this must be studied. It is also a Petition that must be looked into quickly because shylocks continue to get money from impecunious borrowers at exorbitant interest rates. Thank you, Hon. Temporary Speaker. The petitions are timely.

The Temporary Speaker (Hon. Martha Wangari): Member for Nyando.

Hon. Jared Okello (Nyando, ODM): Thank you very much, Hon. Temporary Speaker. This Petition on the mistreatment of teachers by the TSC needs to be looked into quickly and addressed urgently.

The TSC is known for its notoriety. It has perpetuated certain ills to teachers. Hon. Mbai, my friend and the Chair of the Public Petitions Committee, needs to delve into it in depth, and find a permanent solution. Article 36 (2) of the Constitution says that a person shall not be compelled to join an association of any kind. Whereas Article 36 (1) of the Constitution pays credence to get into any association of your choice, one cannot be compelled to join any. Therefore, it is a matter of right. It is a fundamental freedom that we enjoy. Therefore, the TSC is rearing its ugly head on teachers' affairs without their approval. It is giving a seal of approval on any kind of association and that must be nabbed. The sooner we do this, the better so that our teachers can have unfettered freedom that is being enjoyed by anybody else.

Lastly, those are teachers who are handling special cases. We all understand how difficult handling children or students in general is. This is a special unit that is being handled

by those teachers who are subjected to mistreatment by TSC. It is time that we wake up and realise the important or critical role that our teachers play in shepherding and shaping up our children for the betterment of this country.

I thank you, Hon. Temporary Speaker, for allowing me to contribute.

Hon. Temporary Speaker (Hon. Martha Wangari): Thank you. Before I give a chance to the next speaker, allow me to recognise students in the Speaker's Gallery today. We have Chereta Secondary School, Laikipia West Constituency, Laikipia County; Mwioko Secondary School, Ruiru Constituency, Kiambu County and the best three students from Kapsabet Girls, Emgwen Constituency, Nandi County.

I also recognise, in the Public Gallery today, Jamhuri Primary School in Kibra Constituency, Nairobi City County and Nyahururu Munyaka Day Secondary School from Laikipia West Constituency, Laikipia County. On my behalf and that of the House, I welcome you to observe the proceedings of the House.

The next person to speak will be the Member for Runyenjes, Hon. Eric Muchangi. He is not willing to speak to this. I will give the next Member, Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Speaker. I stand to support the Petition by Mr. Roberts Wekesa on what the TSC is doing to the members of the teaching profession.

The TSC played a very major role in the destruction of the biggest trade union for teachers called KNUT. It was a giant ten years ago. If you go all over the country right now, you will find that KNUT offices have been shut. They had maybe 20 employees, but they have been left with one employee. Some are closed and gathering dust. Some are unable to pay even rent because of what the TSC did.

My understanding of a tripartite agreement is that there has to be the employer, that is TSC, the employee who is a teacher and then their union. How is it possible that TSC can purport to decide on behalf of the employees, where their money is taken? I think the TSC is trying to make it compulsory for teachers to be in certain unions, which is totally against the law. I support those employees of special needs education. The TSC should stop the deductions immediately and refund all the money that it has taken.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. The next chance will go to the Member for Endebess.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Temporary Speaker, thank you for allowing me to contribute to these petitions.

This issue concerns the KUSNET getting subscriptions from TSC Members without their consent. Hon. Temporary Speaker, this is height of impunity by TSC. As the Committee looks into it, this is something urgent. I know the Committee on Petitions has a lot of petitions before it, but the Chair and the Committee are up to the task. I want them to expeditiously look into this Petition to ensure injustices that have been committed against those teachers are corrected. If possible, the person responsible for those deductions should be surcharged for the suffering of those people.

Secondly, that person should be dismissed from the service because that is unprofessional. It borders on impunity because you are occupying an office where you are supposed to take responsibility and yet, you are abusing those powers. This is an abuse of the office. We will be following keenly to see what the Committee recommends on this, and if possible, Hon. Chair, you can submit a report to this House. We can debate it and ensure the House resolves some of those issues.

With those few remarks, I support this Petition.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Let us have the Hon. Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugenya, ODM): I want to comment on the Petition concerning the credit professionals or credit service providers.

It is a timely Petition, and if at all it is true that there is no law governing credit providers, then it is high time such a law was enacted because that lacuna can be very dangerous. As we know, Kenyans are going through tough times financially and economically, and everybody is struggling to make ends meet. Therefore, many times, people resort to those credit providers, many of whom are people you do not understand where they are coming from or going. Due to desperation, Kenyans are subjected to very stringent conditions via those shylocks, if I may call them so.

So, we need a law to govern the shylocks for lack of proper terminology and the credit providers generally. This is so that credit facilities can be managed in an environment with certainty and predictability. As we know, credit is a critical factor in economic growth generally.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Let us have Hon. KJ.

Hon. John Kiarie (Dagoretti South, UDA): Thank you, Hon. Temporary Speaker. The Petition on credit people who, in a real sense, are shylocks, is timely.

As the Petitions Committee looks at this, I hope they will come up with proposals that might lead to legislation. Predatory lending is very rampant in this country that, if you look around, you will see that there are people who are preying on the desperation of Kenyans. People who lend money to people knowing that the people who are borrowing are extremely desperate. They then put a very high interest to make sure that the person borrowing cannot pay and, after that, they come back and claim a property or auction the borrower.

We need a law that will rein in those predatory lenders. That might have informed some of the moves that the Government is making, for example, the Hustler Fund that seeks to plug into that space where predatory lending had gone digital that even reputable institutions are lending to Kenyans in a predatory manner. As we look at those informal ones, let us also go into the banks and see what they do to Kenyans. If you look at the newspaper, you will find eleven pages, acres and acres of properties of Kenyans who cannot repay their loans taken by auctioneers.

Finally, Hon. Temporary Speaker, allow me this one minute to say to the Committee of Petitions that, as they look at this petition, they should also consider the matters of infringement of existing laws; laws such as the Kenya Privacy Data Protection Bill. Those predatory lenders are offending the privacy of data owners in Kenya. The law on computer misuse and cybercrimes, the way they infringe on people's privacy when claiming the money they had lent to Kenyans, is an infringement of the existing laws. As we look at the new laws, let us call them out for the laws they are offending. I appreciate this opportunity.

The Temporary Speaker (Hon. Martha Wangari): Hon. Member for Malava.

Hon. Malulu Injendi (Malava, ANC): Thank you, Hon. Temporary Speaker. This issue of illegal deductions has appeared before our Committee severally. In the last Parliament, we had a number of complaints about the KNUT deductions for members who were not willing to be members. The TSC opened an online platform asking teachers who are not willing to be members of KNUT to deregister. Many teachers deregistered from KNUT. What happened is that we have some unscrupulous teachers who go around forming pressure groups. They collect signatures illegally from teachers, not knowing they are signing in for those kinds of deductions. So, I would ask that when we have those kinds of persons who carry those lists of teachers who they purport to have joined their organisations pressure groups, TSC should proceed to first open a platform where they can ask those teachers if they are willing to be members to those particular pressure groups before they begin making those deductions.

In the meantime, I urge TSC, just as it did with KNUT, to open a platform today. I know they are following these proceedings. They can ask those teachers to deregister as the Committee on Petitions continues with investigations.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Hon. Member for Navakholo.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Temporary Speaker. I wish to comment on this Petition of TSC. This issue of the TSC deducting from teachers who are not members is key. It is not just an issue of deducting non-members; rather, it is an issue of being responsible regarding the functions they are given. The issue of the deduction on teachers' salaries should be checked in terms of the holistic way in which TSC is handling teachers generally. There is an issue to do with the payment of teachers upon retirement. We need to look at it in totality so that this is not just a concern with making deductions for the union.

The issue of credit professionals is timely. When we look at the issues the Petitioner has raised, what is the function of our credit manager in any organisation? It is a midwife between the spending of funds and how the business aspires to grow in terms of risk. Therefore, the people you rely on must be people who are controlled, checked and trusted in terms of mid-wiving the functions of an organisation and the Government at large.

I support the two petitions.

The Temporary Speaker (Hon. Martha Wangari): Hon. Member for Runyenjes, this is your second shot.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Temporary Speaker. I want to react to the issue of unscrupulous money lenders. In our country, there are many young people who those predatory money lenders are terrorising. You go to the market, a motorbike is costing Ksh120,000, but the youth are forced to pay for the same motorbike up to a total of Ksh250,000 or even Ksh300,000. By the time they finish paying the loan, the motorbike is already malfunctioning. Those lenders are taking young people through that cycle of poverty. So, I agree with the Petitioner that those people are terrorising our people. It is time that we rein them in through the law. Those problems informed the idea behind the Hustler Fund, which provides cheap loans from which the young people can benefit. I support that Petition. Let that Petitioner be listened to and action taken against those predatory money lenders.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. I now call upon the Chairman of the Public Petitions Committee. I give you two minutes to assure the House that follow-up will be done.

Hon. Nimrod Mbai (Kitui East, UDA): Thank you, Hon. Temporary Speaker. I stand to support the two petitions. Additionally, I want to assure this House that, although the petitions are many and are flowing through the Speaker, the Committee is up to the task. We have introduced one very important aspect where we have developed an online monitoring tool for Members to track the Petitions of their interest at the Table Office. So, any Member who has a Petition before the Committee is in a position to track its status.

Some Members have always come forward with petitions of their interest. I also encourage Members to write to us specifically if they want to be a friend of the Committee during the interview of certain witnesses so that we allow them to join the Committee. That way, Members can get first-hand information on what is happening.

We also know that these petitions are not just for activism. They are real issues touching on the lives of Kenyans, and we take them seriously. Our reports to the House are meant to correct the anomalies and issues affecting the people.

Lastly, the Committee does not tire of visiting constituencies where Members have brought petitions which touch on certain areas within their constituencies. The Committee always purposes to visit those areas to assure the public within the constituencies that their Members have Petitions in the House. We listen to the public and assure them that the whole issue will be solved.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): We are almost closing this debate. Member for Thika Town.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Temporary Speaker. I want to speak briefly on the two petitions. On the first one, on unlawful deductions by TSC to KUSNET, I will say that the era of exploitation and intimidation is over. There is no way you can force someone to give out money and yet, they do not want to belong to you. I do not want to be very fair to TSC. They need to return that money and be surcharged for deducting that money against the will of the teachers. The teachers were supposed to be given an opportunity to give their views. If I do not want to do something, why do you force associating with me? That is what the union is doing right now - forcing teachers to contribute money and intimidating them. If you do not comply, you are transferred far from your home. That should stop immediately. It is bad and extremely awkward. It is unacceptable. They cannot do that at all in this era: that you force somebody to join your union. If those teachers have not seen why they should be in that union, why force them?

As for the lenders, we have seen many people suffer. For those people who know about shylocks, they do not give you that money for you to refund but to impose interest until you are not in a position to refund. Then they come after you immediately and take twice what they gave you. So, without laws to govern those lenders, there is a lacuna in that area. That is why they take advantage because they know no one can question them. They also know that when people go to a shylock, no one forces them to go there. People go there because of the problems they have. Therefore, because they know that, shylocks take advantage of such situations. When they give you money, they encourage you to borrow as much as you can and yet, they know very well that you will not be in a position to pay the interest earned.

I also want to add that it is not just those shylocks; even our banks use the same formula. They give you a 10 per cent loan and then, at the end of the documentation, they insert an illegible clause that tells you that they can increase the interest as they wish. Our people have suffered because they took loans at very low interest rates, which have since been hiked. We should cushion them so that we protect our people.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. This chance goes to the Chairman of the Departmental Committee on Education.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Petition on unlawful deductions by TSC to KUSNET. This Petition is the tip of the iceberg. Workers across this country in all sectors have had problems with unions or institutions that collude with employers to deduct money from them. This is a pointer to what is affecting a number of employees, both in the public and private sectors. This union, known as KUSNET, which has deducted money from teachers, needs to not only refund that money, but also with interest. This is because the teachers did not append their signatures that they be deducted the money. Through the Departmental Committee on Labour, this House should look into all Government agencies and private sector players to ensure that organisations that illegally deduct money from individuals are surcharged and brought to book. I have seen the Chairman of the Committee around and I hope he will pick up the matter. This will serve as a lesson to others who have not been pointed out. I support and ask the Public Petitions Committee to take action.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Hon. Members, to close this matter is the Member for Lamu County, Hon. Muthoni Marubu. She is doing her maiden speech. Therefore, she will be heard uninterrupted and in silence for a maximum of ten minutes.

Hon. Muthoni Marubu (Lamu County, Independent): Thank you, Hon. Temporary Speaker.

(Hon. Catherine Omanyo spoke off the record)

Order, Hon. Omanyo! Be silent.

(Hon. Junet Mohamed and Hon. Jared Okello consulted along the gangways)

Order, Members. Hon. Junet and Hon. Okello, you are out of order. Take your seats. You are totally out of order.

(Hon. Jared Okello spoke off the record)

If you are leaving, leave using your feet, not your mouth. Hon. Members, you will hear Hon. Muthoni in silence and uninterrupted.

MAIDEN SPEECH BY HON. MUTHONI MARUBU –
LAMU COUNTY WOMEN REPRESENTATIVE

Hon. Muthoni Marubu (Lamu County, Independent): Thank you, Hon. Temporary Speaker. My name is Hon. Muthoni Monicah Marubu. I was born in the village of Kiongwe in Mpeketoni. I went to Ndeu Primary School, Hindi Ward. I then proceeded to Lamu Girls High School. Later, I pursued a Degree in International Relations, Diplomacy and Foreign Affairs at the United States International University-Africa (USIU). I have been on the list of shame of Members who have never spoken on the Floor of this House. I take this opportunity to apologise to the people of Lamu for putting them in the media for the wrong reasons. But I happen to be one of those students who are very average. I start from humble beginnings as I rise over time. I scored 258 out of 500 in the Kenya Certificate of Primary Education (KCPE), which was quite average. I went to Lamu Girls High School and made that mark a B (plain) in the Kenya Certificate of Secondary Education (KCSE). At the university, I graduated with First Class Honours.

(Applause)

Even with my humble beginnings, I will do the people of Lamu right. Lamu County is blessed with a huge economic potential. It is home to the Lamu Port and the Lamu Port, South Sudan, Ethiopia Transport Corridor (LAPSSET) Programme which, if implemented, would be very good for this country and East and Central Africa.

Hon. Temporary Speaker, Lamu County has a landmass of approximately 6,797 km² of arable land and an industrious and resilient population. Our capacity to grow food when the country is battling food insecurity is untapped. Our blue economy potential is also untapped. We have very high potential.

Two very serious issues have jeopardised this very promising future of our county. One is ineffective land management, and two is the recurrent cases of insecurity. I would like to delve a little into the history of Lamu to put perspective into my argument.

Traditionally, before the invasion of the Arabs, Lamu was managed under the African traditional customary land tenure system. There was no need for land adjudication, mapping, or titles. The community engaged in rotational subsistence farming and lived in Swahili villages. In the pre-colonial era, Lamu was colonised by the Arabs under the Sultanate of Zanzibar. When the Sultan came with his people, the rights of the people of Lamu ceased to exist. They did not have the right to own land and they were subjects of the Sultan. After the post-colonial era, the land went under the Crown. Again, the rights of the people of Lamu were neglected and they were made to be squatters on their land.

After colonisation, the Jomo Kenyatta Government negotiated terms with the Sultan and the colonial masters and again, the Lamu people remained squatters on their land. In a Gazette Notice of 21st October 1983, under Kenya Gazette No.4058, all inhabited land was declared Government land. In Lamu East Islands, Kyunga, Kiwayu and Boni forest, among other areas, the Government has continued to disfavour our people by displacing them from their ancestral land in favour of environmental conservation without relocating them or giving them any alternative land.

After the promulgation of the new Constitution, the responsibility to help the indigenous people of Lamu acquire land was given to the county council. During this time, all land, particularly in Lamu East, was sub-divided into private ranches. All this while, nobody has ever cared about the indigenous people of Lamu. Only those in power and the elites have continued to take all the land and neglect the people of Lamu.

Whenever I introduce myself as a Member of Parliament for Lamu, people say: “Muthoni, why and what are you doing in Lamu?” It is deemed that Muthonis are not supposed to be in Lamu. I was elected alongside 11 other Members of Parliament on an independent ticket, like Hon. Rahim of North Imenti, in a predominantly Meru community and Christian constituency, and Hon. Shakeel Shabbir of Kisumu East. This constituency is predominantly of the Luo community and Christian. My Colleagues are Kenyans of Indian origin and of Islam faith. Nobody questions what they are doing in Kisumu and Meru, respectively.

I often ask myself: Is it the case of the animal farm where all animals are equal and others are more equal or is the conspiracy perfect for Muthoni? In an ideal country, nobody should question what religion or tribe I come from, but my identity has been questioned. I have sought to understand why I do not have the right to become like you or like Hon. Junet, Hon. Rahim or any other Member that I can represent my county or constituency without being put into question.

The original idea to have the Kikuyus settled in Lamu was born from a report by the then Director for Agriculture, Lord Swynnerton, in 1954, where the colonial government intended to improve agriculture in the country. They had resolved to put up a settlement scheme. I have mentioned that I am a student of history. During this time, the colonial masters decided that they should not return the *Mau* detainees from Lamu and Manda Island to where they came from but put them in Lamu so that they do not disturb the government or the colonial masters and their interests as they got back into the country.

Additionally, Hon. Temporary Speaker, as I have mentioned, I am a history student and understand that, as the injustices were happening in Lamu, they were also happening across the country. The people where my ancestors come from were also dealt with the same fate where their ancestral lands were taken by the colonial master and later by individuals who happen to be in Government. Those people were landless the same way my people of Lamu have continued to be landless.

After the Kenyatta Government came into power, a settlement scheme called the Lake Kenyatta Settlement Scheme, measuring 34,137 acres, was set in place. Naturally, you would expect people from the area to be incorporated into the land, but when the... *Time imeisha?*

This is my Maiden Speech. Should I be worried about the time?

The Temporary Speaker (Hon. Martha Wangari): Hon. Muthoni, that is just a warning. When you see the amber light, you have a minute. But I will give you a few more minutes to finish.

Hon. Muthoni Marubu (Lamu County, Independent): Thank you, Hon. Temporary Speaker. I needed to put a case so that it could be understood why we have a Muthoni in Lamu and also, so that I could speak about the killings in my County. When you talk to anybody, it is understood that they will tell you why we are being killed in Lamu because we have taken all the land, and there is a Muthoni who is a Member of Parliament in Lamu.

Bordering the Lake Kenyatta Settlement Scheme are several private ranches. Nyongoro Ranch measures 76,000 acres, TSS Ranch measures 7,000 acres. Witu Livestock measures 14,000 acres. Kibokoni Ranch measures 6,725 acres, Nairobi Ranch measures 50,000 acres and many others. As I mentioned, traditionally, Lamu was colonised by people who believed in the slave trade. Those people still believe that some people are supposed to be their slaves. They are supposed to farm and give them food, and they are supposed to be serving them in the theme of servitude.

(Hon. Silvanus Osoro spoke off the record)

Hon. Temporary Speaker, please protect me from Hon. Osoro.

In 2014, I woke up to a pool of blood. I was a Member of the County Assembly (MCA) in Mpeketoni Village. Sixty Kikuyu men were butchered, and people have not understood clearly how those people were being killed. They were killed in a form of ethnic cleansing. What is happening in Lamu is not *Al-Shabaab* but pure ethnic cleansing. Ethnic cleansing is the forceful eviction of an ethnic community from a region. We have lost more than 200 men of Kikuyu origin in Lamu. I would speak the same way if any other tribe were being killed in Lamu. We are killed because your hands are held like this, and your feet are held behind, and then you are slaughtered as your children watch.

(Hon. Muthoni Marubu demonstrated how killing is done)

Hon. Temporary Speaker, are we in the same country? Does the same Constitution protect us? Do the Constitution and the Bill of Rights not apply when dealing with Kikuyu in this country? Is it right to behead people? Who will protect the people of Lamu? Why are we dying aimlessly? I can no longer look at widows and orphans. It is getting out of hand, and I fear my people will soon turn against each other. It is tough to watch the widows. When you are out at night in Lamu, you are only afraid that you will run late and be beheaded. I call upon the Government to protect the people of Lamu.

We recently lost the wife of a Member of the County Assembly (MCA). The MCA was the target. He is currently disabled. The people of Poromoko, Hindi and Pandanguo are afraid for their lives. People should not die just because they come from a certain community. We do not suspend the Constitution because people are from a certain community.

Senior Government officials sometimes tell me that my people are dying because I am in power. They tell me I am very ambitious and so, my people are dying. Do I not have the right to become anything in this country just because I am a Kikuyu? Is it fair? Should it be like this? Who will protect me? My life is in danger.

I spoke at a presidential function and now receive death threats on my phone daily. I have been told to return to my home. Where is my home? Where do I run to? Where will I call home? Where will my children and grandchildren call home if I am killed? I call upon the Government to seriously look into these issues. I know that we elected a President under the “hustler ticket”.

(Loud consultations)

The Temporary Speaker (Hon. Martha Wangari): Order, Members. Thank you, Hon. Muthoni Marubu.

(Hon. Muthoni Marubu withdrew from the Chamber)

(Applause)

Before we go to the next Order, allow me to recognise guests in the Speakers Gallery. We have teachers and students from Kapranga Primary School in Kesses Constituency, Uasin Gishu County; Gachema High School in Lari, Kiambu County and Sachangwan Secondary School in Molo Constituency, Nakuru County.
Next Order.

PAPERS

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

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Speaker. I am holding brief for the Leader of the Majority Party.

Hon. Temporary Speaker, I beg to lay the following papers on the Table:

1. The Draft Proceeds of Crime and Anti-Money Laundering Regulations, 2023 from the National Treasury and Economic Planning.
2. The Draft Proceeds of Crime and Anti-Money Laundering (Criminal Assets Recovery Fund) Regulations, 2023 from the National Treasury and Economic Planning.
3. Annual Public Debt Management Report for Financial Year 2022/2023 from the National Treasury and Economic Planning.
4. Annual Performance Report for the Micro, Small and Medium Enterprises (MSMEs) Credit Guarantee Scheme for Financial Year 2022/2023 from the National Treasury and Economic Planning.
5. Report of the Auditor-General and Financial Statements on Nakuru Town West Constituency for the year ended 30th June 2023, and the certificates therein.
6. Report of the Auditor-General and Financial Statements of the University of Nairobi Pension Scheme, 2007 for the year ended 30th June 2023, and the certificates therein.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Chairperson of the Departmental Committee on Lands.

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Temporary Speaker, I beg to lay the following papers on the Table:

Reports of the Departmental Committee on Lands on:

1. Inquiry into the Del Monte Kenya Limited Land Tussle; and,

2. Inquiry into the Compensation of Persons Affected by the Mombasa Special Economic Zone – Dongo Kundu Project.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Chairperson of the Departmental Committee on Education.

Hon. Julius Melly (Tinderet, UDA): Hon. Temporary Speaker, I beg to lay the following papers on the Table:

1. Inquiry into Alleged Malpractices in the 2022 Kenya Certificate of Secondary Education (KCSE) Examination;
2. A Study Visit to the World Federation of Colleges and Polytechnics held in Montreal, Canada from 24th April to 4th May 2023;
3. Participation in a Workshop on Designing a Framework for a Blended TVET Teacher held in Windhoek, Namibia from 27th February to 1st March 2023; and,
4. Attendance to the 2022 International Education Conference held in Toronto, Canada from 13th to 16th November 2022.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Chairperson of the Departmental Committee on Social Protection. Hon. Alice, you are being distracted by the Member for Laikipia.

Hon. Alice Ng'ang'a (Thika Town, UDA): I tell you. Sorry, Hon. Temporary Speaker. Hon. Temporary Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Social Protection on its Consideration of the Geriatric Bill, (National Assembly Bill No.50 of 2022).

Thank you.

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

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Anti-Corruption and Economic Crimes (Amendment) Bill, (National Assembly Bill No.30 of 2023).

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Next Order.

NOTICES OF MOTIONS

The Temporary Speaker (Hon. Martha Wangari): Chairperson of the Departmental Committee on Education.

ADOPTION OF REPORT ON INQUIRY INTO ALLEGED MALPRACTICES IN THE 2022 KCSE EXAMINATIONS

Hon. Julius Melly (Tinderet, UDA): Hon. Temporary Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Education on the Inquiry into Alleged Malpractices in the 2022 Kenya Certificate of Secondary Education Examinations, laid on the Table of the House on Thursday, 5th October 2023.

I request Hon. Malulu Injendi to second.

The Temporary Speaker (Hon. Martha Wangari): Hon. Melly, you have been here long enough. This is a notice of a motion and, therefore, you do not need a Seconder. Chairperson of the Departmental Committee on Lands.

ADOPTION OF REPORT ON INQUIRY INTO THE
DEL MONTE KENYA LIMITED LAND TUSSLE

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Temporary Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Lands on the inquiry into the Del Monte Kenya Limited Land Tussle, laid on the Table of the House on Thursday, 5th October 2023.

The Temporary Speaker (Hon. Martha Wangari): Before I give the next person, allow me to recognise the following students in the Public Gallery: Kalisasi Primary School from Mwingi Central Constituency, Kitui County; Kivandini Secondary School from Yatta Constituency, Machakos County; Nairasirasa Primary School from Narok North Constituency, Narok County and Ololaiser Primary School from Narok South Constituency, Narok County. I welcome you to the National Assembly on my behalf and that of the House. I will indulge the Member for Mwingi Central for one minute to welcome them.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I welcome all the schools in the Public Gallery which have visited Parliament, particularly the school I went to, Kalisasi Primary School. They should feel welcome in Parliament, and when they return home, they should greet their parents.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Hon. Member for Mwingi Central, you have just campaigned in this House by sending greetings. Hon. Members, the next Motion is by the Member for Homa Bay Town, Peter Kaluma. If he is not in the House, the Chairperson of the Departmental Committee on Lands, you are supposed to give two notices of Motion. Have you given them?

ADOPTION OF REPORT ON INQUIRY INTO COMPENSATION
OF PERSONS AFFECTED BY THE MOMBASA SPECIAL
ECONOMIC ZONE – DONGO KUNDU PROJECT

Hon. Joash Nyamoko (North Mugirango, UDA): Thank you, Hon. Temporary Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Lands on the inquiry into the compensation of persons affected by the Mombasa Special Economic Zone – Dongo Kundu Project, laid on the Table of the House on Thursday, 5th October 2023.

I thank you.

The Temporary Speaker (Hon. Martha Wangari): Hon. Kaluma are you ready for your Motion?

NOTICE OF ADJOURNMENT ON A MATTER OF
URGENT NATIONAL IMPORTANCE

DEPLOYMENT OF KENYAN POLICE TO HAITI

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Speaker. I move for adjournment of the House on a definite matter of urgent national importance regarding the proposed deployment of Kenyan Police to Haiti.

Pursuant to Standing Order 33(1), I seek leave for the adjournment of the House for purposes of discussing a definite matter of urgent national importance regarding the intended deployment of Kenyan Police to the Republic of Haiti on a security intervention mission.

Hon. Temporary Speaker, it has been recently reported in print and electronic media that the Government of the Republic of Kenya is to contribute approximately 1,000 police officers to a multi-national force to assist in Haiti, as the country contends with widespread gang violence following the approval by the United Nations Security Council.

However, as a country, it is important to approach this issue with utmost consideration, for it raises questions that resonate with the primary duty of our National Police Service, which is to maintain internal security, law and order. Our police services primary duty is to protect its citizens against internal threats.

Hon. Temporary Speaker, it is vital to recognise the context of Haiti, which is plagued by decades of violent internal strife and a history of successful coups against its last four presidents. This backdrop adds a layer of complexity to Kenya's planned foreign intervention mission.

We cannot overlook the unfortunate instances where Kenyan police have encountered grave danger while combating insecurity on home soil. Regrettably, the Government has neither provided clear communication or explanation to Kenyans nor their representatives in the National Assembly concerning the mission, training of the officers, the scope of their involvement in the mission and, most importantly, the measures that have been put in place to ensure their safety and the well-being of their families. Of want is that there is uncertainty as to whether the Republic of Haiti is a reciprocating country within the meaning of Section 107 of the National Police Service Act to qualify for the service of Kenyan Police officers.

Article 238(1) of the Constitution underscores the importance of national security, encompassing the protection of our territory and the protection of our people. Since the country has been witnessing a surge in insecurity in various parts of the country, it is imperative for the Government to conduct an assessment to ensure that our homeland security is not compromised. This matter is of utmost importance to our nation and warrants this House's thorough deliberation and careful consideration.

Hon. Temporary Speaker, it is against this background that I seek leave for adjournment of the House to discuss this matter of grave national concern.

Thank you, Hon. Temporary Speaker.

(Several Members stood up in their places.)

The Temporary Speaker (Hon. Martha Wangari): Are the Members on their feet supporting the Motion of Adjournment?

Hon. Members: Yes.

(Loud consultations)

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Members!

Hon. Gabriel Tongoyo (Narok West, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): What is out of order, Hon. Tongoyo?

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Temporary Speaker. While I appreciate the provisions and rights of the Member who has moved the

Adjournment Motion – he is a high-ranking Member of this House and a Member of my committee, the Departmental Committee on Administration and Internal Affairs. He is quite aware that the matter is active in the Committee. In fact, the Cabinet Secretary and Inspector-General will appear before the Committee in the coming week to shed more light on our police proposed mission to Haiti. So, my prayer is we let the committee conclude and submit a report to this House. The Member has said that the Government has neither provided clear communication or explanation to Kenyans nor their representatives in this National Assembly. My prayer to the Member and the House is that the Adjournment Motion be withdrawn and give the Committee space and time to Table a report before this House.

Thank you, Hon. Temporary Speaker.

Hon. Samuel Chepkong’ a (Ainabkoi, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): What is out of order, Hon. Chepkong’ a?

Hon. Samuel Chepkong’ a (Ainabkoi, UDA): Hon. Temporary Speaker, I want to thank the Chairperson of the Departmental Committee on Administration and Internal Affairs, Hon. Tongoyo. He has said they are discussing the matter and will bring a substantive report.

On a more critical matter, you counted those standing while consulting with the Leader of the Majority Party. This is because he had an important message to pass on to us. So, we stood up, thinking we were supporting him. You counted the wrong people. Hon. Kaluma did not have quorum.

(Laughter)

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Members! Hon. Peter Kaluma, you will move the Motion again.

Hon. Kimani Ichung’ wah (Kikuyu, UDA): On a point of order, Hon. Temporary Speaker.

(Loud consultations)

The Temporary Speaker (Hon. Martha Wangari): What is out of order, Hon. Leader of the Majority Party?

Hon. Kimani Ichung’ wah (Kikuyu, UDA): If you allow me, I request the Deputy Whip of the Minority Party to just hold his horses and relax. I confirm that I was also standing even though not in relation to the Adjournment Motion by Hon. Kaluma and I was counted. He had consultation with a number of us here who were standing. Hon. Ng’elechei also tells me that they were consulting with the Member seated next to her.

(Hon. Catherine Omanyoo spoke off the record)

Hon. Temporary Speaker, please, protect me. It is okay to be interrupted by Hon. Robert Mbui, but not this lady from Busia County. This one has no capacity to interrupt me.

The Temporary Speaker (Hon. Martha Wangari): Hon. Leader of the Majority Party, you have no right whatsoever to say “this lady”.

Hon. Kimani Ichung’ wah (Kikuyu, UDA): I do not want to go there, Hon. Temporary Speaker. I just wanted to confirm.

The Temporary Speaker (Hon. Martha Wangari): No, Hon. Leader of the Majority Party. It is not “this lady”. It is “the Member for Busia County”.

Hon. Kimani Ichung’ wah (Kikuyu, UDA): The Member for Busia County has a penchant for shouting in the House instead of engaging in meaningful debate. When elected as

a honourable Member, you must carry yourself with honour and dignity. You do not come to this chamber to shout. You should use more of the capacity you have to debate.

Hon. Temporary Speaker, I was saying that we were counted in a vote that we were not supposed to be counted in. Therefore, that is absolutely out of order. I want to support what you were saying that Hon. Kaluma can move his Motion again. Those who want to support him like Hon. Opiyo Wandayi and Hon. Robert Mbuyi can support him. Those like myself believe otherwise.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Leader of the Majority Party. You have made your point.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Let me just finish. I have two points.

The Temporary Speaker (Hon. Martha Wangari): I have heard from Hon. Chepkonga.

Hon. Kimani Ichung'wah (Kikuyu, UDA): The honourable Chair of the Committee has also pointed out something very important. That the matter is active before a Committee in which Hon. Kaluma sits.

The Temporary Speaker (Hon. Martha Wangari): Hon. Leader of the Majority Party, your time is up. You have made your point. I have heard Hon. Chepkonga. I have also heard from the Chair of the Committee in which Hon. Kaluma is a ranking Member. I think there is something we need to do because this matter was raised here yesterday.

(Hon. Opiyo Wandayi spoke off the record)

Order, Members. The dispute on numbers is coming from the Majority side, not the Minority side. Hon. Kaluma, I have already ruled that you will have no problem re-taking your Motion if you are confident with it. You will re-take it and we will give the way forward. If not, we will drop it. Yes, we will drop it.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Speaker, I am a student of procedure and process. The Standing Order provisions I rely upon are very clear. It says that when an Adjournment Motion is moved and the number of people who need to stand in support do stand, the matter is allotted time for debate. Hon. Temporary Speaker, you confirmed from your seat that the numbers are there. In fact, you asked whether those people were standing in support and it was confirmed so. You went on to confirm the numbers. It cannot be that you say people were standing not knowing what they were doing, after that determination. I refuse to read or move the Motion again because I have moved and a determination has been made. The only thing the Speaker can direct on is when we are debating.

The Temporary Speaker (Hon. Martha Wangari): Order! Order, Hon. Kaluma

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Speaker, I am not doing what I have already done.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Kaluma. Because I have immense respect for you, I sit with you in the Speaker's Panel, I have read Standing Order 33(2) and (3). If the numbers were not in question, we would have already allotted time. However, I am also bound to listen to Members and I have heard complaints from both sides. I have given a direction and I will not rescind it. You will take the Motion again because you have confidence that you have the numbers. Then, I will rule without allowing further points of order to the Motion.

(Hon. Opiyo Wandayi consulted loudly)

Hon. Member, you are not the one moving the Motion. Leader of the Minority Party, I have made the ruling. I have given the Mover another opportunity. Hon. Wandayi, I am very patient with you. However, you will also watch your language. I have given Hon. Kaluma a

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chance to take the Motion again. If anything, that matter is before a Committee where it will be prosecuted and the report brought to the House.

Re-take the Motion or bring a report to the House through the Departmental Committee on Administration and Internal Affairs.

(Loud consultations)

Order, Members. Allow me to recognise students seated in the Public Gallery. They are Happyland Preparatory Primary School from Makadara Constituency in Nairobi County and the Corner Brook Junior School from Juja Constituency in Kiambu County. Please, join me in welcoming them to the House.

(Applause)

I will take points of order, but not on this Motion. Order, Members. We will proceed.

(Loud consultations)

Hon. Members, the Mover has said that he is not willing to re-take the Motion. I gave him the opportunity, but he has said he is not willing to re-take it. If he is not willing to re-take the Motion, we will move on to the next Order.

Hon. Peter Kaluma (Homa Bay Town, ODM): No. Let me move. Hon. Temporary Speaker, I beg to move again.

The Temporary Speaker (Hon. Martha Wangari): Member of Parliament for Homa Bay Town, kindly do not take us in circles. You either move it or drop it. Do not take us in circles. If you are moving it, move it. We cannot, however, keep on waiting for you. Move the Motion.

(Loud consultations)

Hon. Peter Kaluma (Homa Bay Town, ODM): There is a lot of disorder. I urge Members to sit so that I can move.

The Temporary Speaker (Hon. Martha Wangari): Hon. Members, can you take your seats? Hon. Catherine Omanyoo, Hon Mbui, Hon. Mulyungi, Hon. (Dr) Nyikal, Hon. Mayaka and Hon. Bedzimba, take your seats. Hon. Omanyoo and Hon. Kibagendi, move away from the Mace and take your seats.

Just to be on record, we will go back to Order No.6.

NOTICE OF ADJOURNMENT ON A MATTER OF URGENT NATIONAL IMPORTANCE

The Temporary Speaker (Hon. Martha Wangari): Hon. Kaluma.

DEPLOYMENT OF KENYAN POLICE TO HAITI

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Speaker. Pursuant to Standing Order 33(1), I seek leave for the adjournment of the House for purposes of discussing a definite matter of urgent national importance regarding the intended deployment of Kenyan Police officers to the Republic of Haiti on a security intervention mission.

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It has been recently reported in print and electronic media that the Government of the Republic of Kenya is to contribute approximately 1,000 police officers to a multinational force to assist Haiti as the country as it contends with widespread gang violence following approval by United Nations Security Council (UNSC).

However, as a country, it is important to approach this issue with utmost consideration, for it raises questions that do not resonate with the primary duty of our National Police Service which is to maintain internal security, law and order. Our police service's primary duty is to protect its citizens against any internal and external threats.

It is vital to recognise the context of Haiti, plagued by decades of violent internal strife and a history of successful coups against its last four presidents. This backdrop adds a layer of complexity to Kenya's planned foreign intervention mission. We cannot overlook the unfortunate instances where Kenyan police have encountered grave danger while combating insecurity even on home soil. Regrettably, the Government has neither provided clear communication or explanations to Kenyans, nor their representatives in the National Assembly, concerning the mission, the level of training of the officers, scope of their involvement in the mission, and most importantly, the measures in place to ensure their safety and well-being of their families. Of want, there is uncertainty as to whether the Republic of Haiti is a reciprocating country within the meaning of Section 107 of the National Police Service Act to qualify for service of Kenyan Police officers.

Article 238(1) underscores the importance of national security, encompassing the protection of our territory and protection of our people. Since the country has been witnessing a surge in insecurity in various parts of the country, it is imperative for the Government to conduct an assessment to ensure that our homeland security is not compromised. This is a matter of utmost importance to our nation and warrants thorough deliberation and careful consideration by this House.

It is against this background that I now seek leave for adjournment of the House to discuss this matter of great national concern. Thank you, Hon. Temporary Speaker.

(Several Members stood up in their places)

(Applause)

The Temporary Speaker (Hon. Martha Wangari): You have the requisite numbers. The Motion will be allocated time at 6.30 p.m. today.

Next Order.

(Loud consultations)

Hon. Junet Mohamed (Suna East, ODM): On a point of order.

The Temporary Speaker (Hon. Martha Wangari): What is out of order, Hon. Junet?

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Speaker, with your indulgence, I wanted to give notice of Motion to extend the sitting of the House until the business moved by Hon. Kaluma is concluded. That is a serious business of the House. I give notice of Motion to extend the sitting of the House until midnight tonight.

The Temporary Speaker (Hon. Martha Wangari): Hon. Junet, you know that is a Procedural Motion. It has to be on the Order Paper, and it is not there. Order, Members. We hear you, Hon. Junet. However, at 6.30 p.m., we will have adjourned for Motion of Adjournment on a Matter of Urgent National Importance. When the House is already in adjournment, you are not allowed to extend the time.

Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Speaker, on a slightly unrelated matter, I wish to bring to the attention of the House a matter I would like you to make a determination on. There is a memo or circular that is in wide circulation signed by Mr Felix K. Koskei, Chief of Staff and Head of the Public Service. It is titled, “Suspension of Non-essential Travel.” Without really reading it, its upshot is that the author is giving an advisory. He is purporting to direct various persons and office holders on how to spend money that this House has appropriated, including Parliament, Auditor-General, Controller of Budget, Chief Registrar of the Judiciary, Clerk of the Senate, Clerk of the National Assembly and all governors.

Paragraph (v) is on governors of county governments. The author of the circular purports to direct that delegations headed by governors of county governments shall not exceed three persons, including the governor as the head of the delegation and shall remain guided by the tenets of the circular.

This country is governed by not only the rule of law, but also constitutionalism. The Constitution of Kenya, 2010 is quite unambiguous. Its drafters were very clear in their intentions. Various arms of Government will remain independent. It is not in the province of somebody calling himself the Chief of Staff of the Executive to purport to direct other arms of Government on how to spend the money this House has appropriated. No person under the sun can direct this House, Judiciary or governors on how to spend money that has been appropriated. It is only this House that has the latitude of directing anyone else by way of appropriation.

Hon. Temporary Speaker, I want you to direct that this circular is misguided, contemptuous, unconstitutional, improper, illegal, ridiculous and totally out of place.

The Temporary Speaker (Hon. Martha Wangari): You have made your point.

Hon. Opiyo Wandayi (Ugunja, ODM): If at all this circular is in the records of this House, it should be expunged. More importantly, its author should be directed.

The Temporary Speaker (Hon. Martha Wangari): Do you want to be informed?

Hon. Opiyo Wandayi (Ugunja, ODM): Let me be informed.

The Temporary Speaker (Hon. Martha Wangari): Hon. Junet, why are you not talking?

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Speaker, I want to be on record.

The Temporary Speaker (Hon. Martha Wangari): Give him the microphone.

Hon. Junet Mohamed (Suna East, ODM): Thank you, Hon. Temporary Speaker. I want to inform the Leader of the Minority Party that I also came across this circular in the streets of Nairobi. I have never seen a more defective circular from the Executive than this one. We have three arms of Government. We have two governments in one Government which are interdependent, but distinct. We have the devolved government and the national Government.

You cannot direct a governor elected by the people of the Republic of Kenya on how to travel and who to carry and not to carry. Governors cannot be managed from State House. That is a fact. The Constitution does not allow that. Parliament cannot be managed by the Executive. The only person who can give directives in Parliament on how we shall travel or not, and what to eat and not to eat, is the Speaker.

If we allow...

The Temporary Speaker (Hon. Martha Wangari): Hon. Junet, that is enough information for one day.

(Laughter)

Leader of the Minority Party, you have made your point. You have 30 seconds. I will give the opportunity to the Leader of the Majority Party and then I will make a ruling.

Hon. Opiyo Wandayi (Ugunja, ODM): If this trend is not stopped, this country will turn to the dark jungle days. We have seen in the recent past, State House attempting to manage agencies within ministries and sacking chief executive officers (CEO) of agencies like the Athi Water Works Development Agency. My good friends who were here with us in the last Parliament, Hon. Moses Kuria and Hon. Alice Wahome, were demoted on account of this kind of nonsense.

The Temporary Speaker (Hon. Martha Wangari): Order, Leader of the Minority Party. You have made your point. Kindly restrict yourself to the memo. I will give the Leader of the Majority Party two minutes to comment on it and then we will make a way forward.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, the issue being raised by the Leader of the Minority Party can seemingly be a very legitimate matter, if the purported circular... Hon. Junet said that he saw it in the streets of Nairobi. I did not see it there. I had the privilege of Hon. Opiyo Wandayi sharing with me a bunch of papers which do not have the Government's letterhead. Therefore, I cannot ascertain whether this is a circular from there.

Secondly, he has said that it was signed by Mr. Felix Koskei. Indeed, these bunch of papers have the name of Mr. Felix K. Koskei without a signature. Therefore, I am constrained as to whether, to begin with, these papers are admissible in the House. We should not comment on issues that are not before the House properly. If Mr. Felix wants to effect anything in Parliament, he can do so only through a properly documented process in line with the laws. It is true that the Head of Public Service cannot direct Parliament. When I read through this bunch of papers, because I can peruse them quickly, there is absolutely nothing touching on Parliament. It talks about cabinet secretaries, principal secretaries and delegations accompanying the President, the Deputy President and the Prime Cabinet Secretary.

Paragraph (v) talks about the governors of the county governments. Because it is good to be factual, it says that delegations headed by governors of county government shall not exceed three persons, including the governor as the head of the delegation and shall remain guided by the tenets of Circular No.OP/CAB.1/7A of 26th January 2015. This is eight years ago, when Hon. Opiyo and I were first-time Members of Parliament. We do not have the benefit of sharing that particular circular of 2015 to know whether it came from the summit between the governors and the Executive. Therefore, Hon. Temporary Speaker, I request you to rule that these bunch of papers are inadmissible.

The Leader of the Minority Party animated in moving his...

(Hon. Nimrod Mbui spoke off the record)

Hon. Temporary Speaker, please, protect me from Hon. Nimrod who is persuading me to use the word "hot air." I am trying not to use it.

(Laughter)

My good friend, the Leader of the Minority Party, in animated gestures, is doing exactly what he is accusing Mr. Felix Koskei of doing. Mr. Felix Koskei cannot direct the legislature. Equally, the Leader of the Majority Party cannot direct the President of the Republic of Kenya on how to assign and re-assign cabinet secretaries. What is good for the goose, is good for the gander. If we do not want Mr. Felix to direct Parliament – which he has not...

The Temporary Speaker (Hon. Martha Wangari): Leader of the Majority Party, you have made your point.

Hon. Kimani Ichung'wah (Kikuyu, UDA): In conclusion, Mr. Felix Koskei has not directed Parliament, the Judiciary or governors as alluded to the circular of 2015 which has not been tabled.

Hon. Robert Basil (Yatta, WDM): On a point of order.

The Temporary Speaker (Hon. Martha Wangari): Hon. Basil, what is burning?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, allow me to conclude.

The Temporary Speaker (Hon. Martha Wangari): No. Hon. Basil is on his feet.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Pursuant to which Standing Order?

Hon. Robert Basil (Yatta, WDM): Pursuant to Standing Order No.95. You need to refer to it. What the Leader of the Majority Party is holding was shared on national television.

The Temporary Speaker (Hon. Martha Wangari): Hon. Basil, you are totally out of order. Maybe I need to update you on that. Even if it was shared on television or...

(Hon. Wanami Wamboka consulted loudly)

I heard him. Hon. Wamboka stop shouting. Hon. Basil has said that what the Leader of the Majority Party is holding was aired on television. That is still not admissible in this House.

Leader of the Majority Party, kindly finish up.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. We must make it customary in line with our traditions and procedures that, when a Member seeks to interrupt another on a point of order, they should do what Hon. Chepkonga has always insisted. Thank you for protecting me from Hon. Basil.

We cannot ascertain whether the 2015 circular was pursuant to an agreement in the Summit between the county governors and the Executive.

The Temporary Speaker (Hon. Martha Wangari): Please, wind up.

Hon. Kimani Ichung'wah (Kikuyu, UDA): The Leader of the Minority Party should have been kind enough to table that particular circular of 2015.

The Temporary Speaker (Hon. Martha Wangari): Hon. Members...

(Hon. Junet Mohamed spoke off the record)

Hon. Junet, you have already prosecuted this matter. Order Members. If this circular is to be presented to this House, it is clear that it has to be through the Speaker or the Clerk of the National Assembly. We should hold our horses. If it gets here, it will be dealt with accordingly.

(Applause)

Hon. Wamuchomba, continue with your Statement. We have to make progress.

REQUEST FOR STATEMENT

STANDARDISATION AND PRODUCTION OF SCHOOL UNIFORMS IN THE COUNTRY

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you, Hon. Temporary Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Committee on Implementation regarding the development of a policy on standardisation and production of school uniforms in the country.

On 8th March 2023, the House approved a Motion on the development of a policy on standardisation and production of school uniforms in the country. In the Motion, the House noted that the cost of uniforms has continued to escalate becoming prohibitively expensive for the majority of Kenyans with some schools demanding that parents source uniforms from the schools or specific suppliers. Notably, it is now close to seven months since the House made the resolution. However, there seems to be little or no effort being made by the Government to address this matter.

Hon. Temporary Speaker, it is against this backdrop that I seek a Statement from the Chairperson of the Committee on Implementation on the status of the development of a policy on standardisation and production of school uniforms in the country. Schools are about to go on a long holiday. Students will be going back to school in January 2024. If this issue is not addressed, we are staring at a very serious crisis because the cost of living is very high.

The Temporary Speaker (Hon. Martha Wangari): Hon. Gathoni, do not be tempted to add to your Statement.

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

The Temporary Speaker (Hon. Martha Wangari): Let us have the Chairperson of the Committee on Implementation. Is he in the House? The Vice-Chairperson? Hon. Raphael Wanjala? Leader of the Majority Party? Sorry, the Committee on Implementation is on the Minority side. So, let us have the Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Speaker, I find myself in an unfamiliar territory of undertaking on behalf of people who are not in the House. We have talked about this issue before. Committee chairpersons, their vice-chairpersons and committee Members must be in the House to respond to issues such as what Hon. Wamuchomba has raised. I undertake on behalf of Hon. Raphael Wanjala that the response will come in two weeks. However, this should go to all chairpersons, especially those who belong to the Opposition: You must do your work. You cannot do that by being absent from the House when you are required to be here.

The Temporary Speaker (Hon. Martha Wangari): Thank you, Leader of the Minority Party. I know you have all the power to take the necessary action. We expect that response in two weeks.

Before we go to the next Statement, allow me to recognise students in the Speaker's Gallery.

1. Thaara Secondary School from Maragwa Constituency in Murang'a County;
2. The Corner Brook Secondary School, whom I had called out, but they had not come in, from Juja Constituency, Kiambu County.

On my behalf and that of the House, we welcome you to observe the proceedings of the House. Thank you.

(Applause)

The next Statement is by the Chairperson of the Departmental Committee on Housing, Urban Planning and Public Works. Where is the Vice-Chairperson? Any Member of the Committee present?

This issue cuts across both sides of the House. Majority Whip, can you undertake to transmit this to the Chairperson? You have to be on record.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Temporary Speaker. As the Leader of the Minority Party has said, it is unfortunate that regardless of the meetings we have had with the committee chairpersons and vice-chairpersons

and committing them to make this House a priority, they still do not oblige. I commit and undertake to follow up the matter to its conclusion.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Leader of the Majority Party, give your Statement.

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Speaker, I am holding brief for the Leader of the Majority Party. I have several Statements to make, including the KeRRA statement that Members have been asking about. However, I will start with the usual Statement by the Leader of the Majority Party.

STATEMENTS

BUSINESS FOR THE WEEK OF 9TH TO 13TH OCTOBER 2023

Hon. Temporary Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee which met on Tuesday, 3rd October 2023 to prioritise the business for consideration during the week.

Hon. Speaker, as Members will recall, this week, the House received the Facilities Improvement Financing Bill (Senate Bill No.43 of 2023) and the Primary Health Care Bill (Senate Bill No.44 of 2023) from the Senate for consideration by the House and which were subsequently read a first time. These are parts of the legislative initiatives aimed at overhauling our health sector to ensure better services to the people. I urge the Departmental Committee on Health to expedite the public participation process for onward consideration by the House.

With regards to business scheduled for consideration next week, as Members are aware, Tuesday, 10th October 2023 will be a public holiday marking Huduma day. The House will, therefore, reconvene on Wednesday, 11th October 2023 in the morning. Hon. Jematiah is asking me whether Tuesday is a public holiday and I want to make it known to her that 10th October used to be Moi Day in the yester years, but now it is Huduma Day. The House will not be convening then.

Hon. Temporary Speaker, the House is expected to consider individual Members' business on 11th October 2023 during the Morning Sitting. I urge Members to be present to prosecute the numerous Members' Motions that are scheduled in the Sitting. During the Afternoon Sitting, the House is expected to consider the following Bills at various stages, some of which are listed on today's Order Paper:

1. Committee of the whole House on the National Rating Bill, 2022 if not concluded today;
2. The Statute Law (Miscellaneous Amendments) Bill, 2022;
3. The National Construction Authority (Amendment) Bill, 2022;
4. The Kenya Drugs Authority Bill, 2022;
5. The Cancer Prevention and Control (Amendment) (No.2) Bill, 2022;
6. The National Youth Council ((Amendment) Bill, 2023;
7. The Land (Amendment) Bill, 2022;
8. The Public Service Commission (Amendment) Bill, 2023;
9. The Assisted Reproductive Technology (Amendment) Bill, 2023;
10. The Public Procurement and Asset Disposal (Amendment) Bill, 2022;
11. The Statutory Instruments (Amendment) Bill, 2023;
12. The Conflict of Interest Bill, 2023; and,
13. The Insurance (Amendment) Bill, 2023.

Additionally, debate will also be undertaken on the following Motions, some of which are listed on today's Order Paper, should they not be concluded today:

1. Report on a Public Petition regarding probable loss of investments in Cyttonn High Yield Solutions Platforms;
2. Consideration of the Reports of the Auditor-General on the Financial Statements for the National Government Constituencies Development Fund (NG-CDF) for Twelve Constituencies in Kakamega County;
3. Report on consideration of the East African Community (EAC) Multilateral Agreement on Aircrafts Accidents and Incident Investigations;
4. Report of the Kenya Delegation to the 4th General Assembly of the Eastern Africa Parliamentary Alliance on Food Security and Nutrition, held in Kigali, Rwanda;
5. Report on the inspection of various One-Stop Border Posts in the Northern Corridor in the East African Community Region;
6. Report on the Employment Diversity Audit in public institutions;
7. Report on the loans contracted by the national government between May 2022 and April 2023;
8. Report of the Auditor-General on 23 non-compliant state corporations;
9. Report on the proceedings of the second ordinary session of the 6th Pan-African Parliament (PAP); and,
10. Report of the proceedings of the 2023 United Nations High Level Political Forum on sustainable development.

Hon. Temporary Speaker, in accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the following cabinet secretaries are scheduled to appear before the House on the afternoon of Wednesday, 11th October 2023 to respond to the Questions as follows:

1. The Cabinet Secretary for Foreign and Diaspora Affairs, and I think this will be reviewed owing to the fact that there has been changes since yesterday. The Cabinet Secretary for Foreign and Diaspora Affairs to appear and respond to the following Questions:
 - (a) Question No.241/2023 by the Member for Chuka/Igambang'ombe Constituency, Hon. Patrick Munene, MP, regarding the assistance provided by Kenyan Missions Abroad to distressed Kenyan citizens in foreign countries;
 - (b) Question No.301/2023 by the Member for Saboti Constituency, Hon. Caleb Amisi, MP, regarding the disbursement of salaries to personnel seconded to Kenyan embassies abroad;
 - (c) Question No.302/2023 by the Member for Keiyo South Constituency, Hon. Gideon Kimaiyo, MP, regarding the visa fees charged by the United States Embassy;
 - (d) Question No.303/2023 by the Nominated Member, Hon. Sabina Chege, MP, regarding the compensation for victims of the 1998 US Embassy bombing in Nairobi;
 - (e) Question No.373/2023 by the Member for Aldai Constituency, Hon. Marianne Kitany, MP, regarding the immigration and emigration within the country;
 - (f) Question No.374/2023 by the Member for Nandi County, Hon. Cynthia Muge, MP, regarding the English Proficiency Tests required for Kenyan students pursuing academic opportunities abroad; and,
 - (g) Question No.375/2023 by the Member for Murang'a County, Hon. Betty Njeri Maina, MP, regarding the alleged unlawful confinement and mistreatment of Ms. Mary Wanjiru Wanaina in Toronto, Canada.

2. The Cabinet Secretary for Investments, Trade and Industry to appear and respond to the following Questions. As a matter of knowledge, it is important for Members to take judicial notice that the Cabinet Secretary for Trade Investments and Industry has since been redeployed. The new one will be answering:
- (a) Question No.110/2023 by the Member for Sirisia Constituency, Hon. John Waluke, MP, regarding the impact of Excise Duty on manufacturers in the beverage industry;
 - (b) Question No.140/2023 by the Member for Konoin Constituency, Hon. Brighton Yegon, MP, regarding the importation of fully finished foreign- produced edible oils into the country;
 - (c) Question No.141/2023 by the Member for Mathare Constituency, Hon. Anthony Oluoch, MP, regarding the re-instatement of Mr. Ezekiel Owuor Otieno as the substantive CEO of the Export Processing Zone (EPZ);
 - (d) Question No.142/2023 by the Member for Kabete Constituency, Hon. Githua Wamacukuru, MP, regarding the sale of Gascience/Gaciko liquor which is popularly sold in Kiambu County;
 - (e) Question No.232/2023 by the Member for Manyatta Constituency, Hon. Gitonga Mukunji, MP, regarding the interest rates charged by financial institutions for hire purchase payments to acquire motor vehicles and motorcycles;
 - (f) Question No.330/2023 by the Member for Mumias East Constituency, Hon. Peter Salasya, MP, regarding foreign assignments undertaken by the Cabinet Secretary under the expenditure of the delegations;
 - (g) Question No.331/2023 by the Member for Kesses Constituency, Hon. CPA Julius Rutto, regarding key players in the second-hand clothing (*Mitumba*) and mixed assorted goods business across the country;
 - (h) Question No.428/2023 by the Member for Machakos County, Hon. Joyce Kamene, regarding the promotion of domestic production of essential goods and the timelines for operationalizing industrial parks; and,
 - (i) Question No.429/2023 by the Member for Uasin Gishu County, Hon. Gladys Boss, regarding the inspection process for imported goods conducted by various Government agencies.

Hon. Temporary Speaker, Members will note the notice of Questions scheduled for response by the cabinet secretaries on Wednesday, 11th October 2023 have been published in today's Order Paper. Regardless of the changes that have happened in Cabinet, we hope the Members of the Cabinet are following and they really must appear before this House to answer those Questions in their new regalia.

Finally, the House Business Committee will reconvene on Tuesday, 17th October 2023 to schedule business for the rest of the week. I now wish to lay this Statement on the Table of the House.

Thank you, Hon. Temporary Speaker.

(Hon. Silvanus Osoro laid the Document on the Table)

The Temporary Speaker (Hon. Martha Wangari): Thank you. You have another Statement?

Hon. Silvanus Osoro (South Mugirango, UDA): Yes, Hon. Temporary Speaker. You will recall that there have been concerns regarding the recommendations of the Presidential Working Party on Education Reform. Members raised questions on the reforms that were recommended. With me is the Report by the Cabinet Secretary for Education, Mr Ezekiel Machogu. It is too long for an afternoon read.

The Temporary Speaker (Hon. Martha Wangari): Hon. Osoro, because we know the gist of the questions raised by Members, you can table it, but give highlights in terms of the 22 per cent and 10 per cent.

Hon. Silvanus Osoro (South Mugirango, UDA): That is on education. I will go to the final one on KeRRA.

The Temporary Speaker (Hon. Martha Wangari): Okay.

Hon. Silvanus Osoro (South Mugirango, UDA): Hon Temporary Speaker, I do not really wish to read the recommendation because it is long.

The Temporary Speaker (Hon. Martha Wangari): Give a summary.

Hon. Silvanus Osoro (South Mugirango, UDA): I will say that the Cabinet Secretary and the Ministry have taken note of the concerns raised by Members. Provided in this Report are proposals for possible legislation and amendments that will be brought to this House, of course, through specific committees, for consideration by the whole House. The implementation of the proposed reforms will not take effect up until when the legislation process, through this House, will be complete. I, therefore, beg to table the Report.

Finally, Hon. Temporary Speaker...

Hon. Wanami Wamboka (Bumula, DAP-K): On a point of order.

The Temporary Speaker (Hon. Martha Wangari): What is out of order, Hon. Wamboka?

Hon. Wanami Wamboka (Bumula, DAP-K): There were some strangers here who just left when they saw me rise on a point of order. I do not know who they are.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Wamboka. This place accommodates our Clerks-at-the-Table, especially when we are headed to Committee of the whole House.

Hon. Wanami Wamboka (Bumula, DAP-K): They are supposed to be in uniform.

(Laughter)

The Temporary Speaker (Hon. Martha Wangari): Hon Wamboka, I assure you that we have no strangers in the House. Hon. Osoro, please, proceed.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Speaker. You can indulge Hon. Wamboka. Officers that are supposed to be in uniform are the Sergeant-at-Arms. They are donning their green attire.

Hon. Temporary Speaker, I beg to table that Report on education.

(Hon. Silvanus Osoro laid the Document on the Table)

Allow me to now make a Statement on the KeRRA question that was raised by Members. It is short; I can read it.

PROPOSED REDUCTION OF CEILINGS FOR
KENYA RURAL ROADS AUTHORITY

I rise to give the following Statement pursuant to Standing Order 44(2)(b) regarding the resolution of the House on the proposed reduction of the projected ceilings for the Kenya

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Rural Roads Authority (KeRRA) for Financial Years 2024/2025 and 2025/2026. You may recall that on Thursday, 28th September 2023, the House considered and passed a resolution on projected ceilings for the Kenya Rural Roads Authority for the financial years 2024/2025 and 2025/2026. In the resolution, the House resolved that the ceilings for the Road Maintenance Levy Fund, under KeRRA for the financial years 2024/2025 and 2025/2026, be maintained as per the formula setting out percentages in Section 6 of the Kenya Roads Board Act, 1999 as follows:

1. Kenya Rural Roads Authority: 32 per cent, that is, 22 per cent for constituency roads and 10 per cent for critical link roads.
2. Kenya Urban Roads Authority (KURA): 15 per cent.
3. Kenya National Highways Authority: 40 per cent.
4. Kenya Wildlife Service: 1 per cent.
5. Emergency interventions or the Cabinet Secretary: 10 per cent.
6. Kenya Roads Board (KRB) administration: 2 per cent.

The House further directed that the Director-General of KeRRA vacates, in writing, the Memo Ref. KeRRA/0502/Vol.2(185) dated 16th August 2023 addressed to regional directors of the Authority and report the vacation to the House within seven days from 28th September 2023. The Ministry has since reverted the matter vide a letter dated 2nd October 2023 and the Ministry states that KRB has revised the annual funding ceilings for all road agencies for financial years 2024/2025 and 2025/2026 as per the formula setting out percentages in Section 6 of the Kenya Roads Board Act, 1999. The projected funding ceiling for KeRRA for financial years 2024/2025 and 2025/2026 have been revised upwards in accordance with the law and communicated to the Authority vide a letter Ref/KRB/Vol/XA42 dated 27th September 2023.

The Director General of KeRRA is expected to communicate the revised annual ceilings per constituency for financial years 2024/2025 and 2025/2026, amounting to Ksh69,060,575.40 and Ksh72,060,895.03, respectively, to regional directors of the Authority with immediate effect. The Board has, as at August 2023, disbursed to all road authorities 25 per cent of the annual ceilings of the Road Maintenance Levy Fund for the Financial Year 2023/2024. The Board has also disbursed the sum of Ksh11,627,536,327, amounting to 50 per cent of KeRRA's annual budget.

I wish to reiterate the resolve by the House that all actions by the State agencies must, without fail, be within the law. The onus of this communication is that the concerns that were raised by Members in regard to the purported reduction of 22 per cent has since been revised upwards. This communication also states that part of the amounts to the road agencies have been sent to those very particular agencies, and that is 25 per cent of that amount, which has gone to the annual ceilings of the gross maintenance. The other agencies have also received a further 25 per cent, making a total of 50 per cent to the KeRRA's annual budget. Clearly, Members do not need to worry about KeRRA roads. In any case, Members should celebrate the upward revision. That is the Statement for this Thursday.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. The Chairperson, Transport and Infrastructure Committee, do you want to comment on the Statement?

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support the Statement by the Leader of the Majority Party. I would like to thank Members of this House for supporting the Committee's Report on reduction of KeRRA ceilings and assure Members that the Committee that I head will ensure that resources meant for our roads are safeguarded. I know there are some Members who are asking about allocations for the Financial Year 2023/2024. The proposal to reduce the ceiling has not affected allocations for the Financial Year 2023/2024 and, therefore, the allocations still remain.

In the Statement Hon. Silvanus Osoro has read on behalf of the Leader of the Majority Party, the Principal Secretary for Roads, Transport and Public Works, has indicated that 50 per cent has already been sent to KeRRA. With that, I think it is about Ksh11 billion which will be transmitted to our regions in the coming days. The Leader of the Majority Party has indicated that in the 2025/2026 Financial Year, the allocation will go up to about Ksh69.060 million per constituency, and the following year will go up to Ksh72 million per constituency. I would like to bring to the attention of Members that these particular allocations are projected, they are not actual. They can slightly go up or down. It is important for Members to note that.

Thank you, Hon. Members for supporting that Report. I know we were all anxious. We were assertive enough not to allow the other agencies to interfere with the allocations for our constituencies.

Thank you, Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Martha Wangari): Thank you, Hon. Chairperson. We have put that matter to rest.

MOTION

The Temporary Speaker (Hon. Martha Wangari): The Chairperson of the Select Committee on National Government-Constituencies Development Fund.

APPROVAL OF NOMINEES FOR APPOINTMENT TO NG-CDF COMMITTEES

Hon. Musa Sirma (Eldama Ravine, UDA): Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the National Government Constituency Development Fund on three (3) Constituency Committees laid on the Table of the House on Wednesday, October 4th 2023, and pursuant to the provisions of Sections 43(1) and 43(2) of the National Government Constituency Development Fund Act, 2015, approves the list of nominees for appointment to the following three (3) Constituency Committees of the National Government Constituency Development Fund—

1. BALAMBALA CONSTITUENCY

No.	Name	Category	Statutory Position for Assumption of Position
	Abdi Shale Bulle	Nominee of the Constituency Office (Male)	Appointment, pursuant to Sec. 43(2)(e)

2. GATANGA CONSTITUENCY

No.	Name	Category	Statutory Position for Assumption of Position
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Dominic Nzau Kinyanzwii	Male Adult Representative	Appointment, pursuant to Sec. 43(2)(b)
David Kinyanjui Mwaura	Representatives of Persons with Disabilities	Appointment, pursuant to Sec. 43(2)(d)

3. NYERI TOWN CONSTITUENCY

No.	Name	Category	Statutory Position for Assumption of Position
	Jane Ngunyū Mwangi	Female Adult Representative	Appointment, pursuant to Sec. 43(2)(b)

Hon. Temporary Speaker, these names are as a result of Members who have resigned from the various constituency committees, and their replacements are in order. I would ask the House to approve the names as they are necessary to make the quorum in their various committees.

I beg to move and ask Hon. Chepkonga to second this Motion.

The Temporary Speaker (Hon. Martha Wangari): Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, I stand to second, but some Members here are telling me to cite Standing Order 95. Surely! Can I do that while seconding? This tells you that we have a problem in this House. Members have refused to learn the Standing Orders. Standing Order 83 is very clear. These are our own Standing Orders which we passed. It behoves every Member whenever they stand, to quote the Standing Order in which they are rising on. In fact, I am very surprised with the Leader of the Minority Party who is a third-termer, when he shouts and says, 'Point of order, Madam Speaker' in a very menacing manner thinking that that is a point of order. That is not a point of order. A point of order is that you must quote the Standing Order you are standing on.

There is no point for us Members of Parliament to approve the Standing Orders and then we are in breach. I suggest that when we amend the Standing Orders in future, we must provide for a penalty for misbehaviour. The problem is that these Standing Orders do not provide for a penalty, so that it becomes a deterrent to people from misbehaving.

I second.

The Temporary Speaker (Hon. Martha Wangari): We have Standing Order 107 all the way, for any disorderly conduct. Did you second?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Yes, I already seconded.

The Temporary Speaker (Hon. Martha Wangari): Okay.

(Question proposed)

Hon. Members: Put the Question.

(The Temporary Speaker consulted the Clerks-at-the-Table)

(Question put and agreed to)

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Temporary Speaker (Hon. Martha Wangari) left the Chair]

IN THE COMMITTEE

[The Temporary Chairlady (Hon. (Dr) Rachael Nyamai) in the Chair]

THE NATIONAL RATING BILL
(National Assembly Bill No.55 of 2022)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, please take your seats. We are in the Committee of the whole House to consider the National Rating Bill (National Assembly Bill No.55 of 2022), among others.

Clause 3

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): There is an amendment by Hon. Wilberforce Oundo. Hon. Wilberforce, you may proceed with your amendment.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended in sub-clause (1)—

(a) by deleting subparagraph (a) (i) and substituting therefore the following new subparagraph—

“(i) an adoptive legislation to be domesticated by a County Assembly for the purpose of imposing property taxes as contemplated in Article 209 (1)(a) of the Constitution and the processing of adopting this Act by the County Assembly; and”

(b) by deleting paragraph (c) and substituting therefore the following new paragraph—

“(c) provide for the role of the National Land Commission as provided for under Article 67(2)(g) of the Constitution in respect of standardisation of the details that constitute a valuation roll and a supplementary roll, as the case may be, and as repository of all valuation rolls and supplementary valuation rolls and struck rate and any other necessary information relating to rating in Kenya”

Just for record purposes, after consulting the legal team, allow me to drop my amendment under part (a). I wish to prosecute the amendment in part (b) as indicated on the Order Paper.

*(Proposed amendment to Clause 3(a)(i) by
Hon. (Dr) Ojiambo Oundo dropped)*

The import of the amendment is that the power or authority to assess rates and impose taxes on land and property is vested in the National Land Commission (NLC) as per the provisions of Article 67(2)(g) of the Constitution of Kenya.

(Question of the amendment proposed)

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

(Clauses 3 and 4 agreed to)

Clause 5

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): There is an amendment by Hon. Wilberforce Oundo. There is also another proposed amendment by the Leader of the Majority Party. We will start with the amendment by Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 5 and substituting therefore the following new clause—

Application of the Act

5. (1) This Act shall apply to all rateable properties in Kenya.

(2) A County Government that seeks to use this Act for rating of rateable properties within the county shall cause this Act to be adopted by the County Assembly.

(3) A County Assembly that adopts this Act under subsection (2) shall prepare a certificate of adoption and submit the certificate to the National Land Commission.

(4) A County Government that does not adopt this Act shall enact legislation for rating.

(5) The National Land Commission shall ensure that legislation adopted under subsection (4) contains key provisions of this Act provided that no County Government shall impose any form of property taxes without a rating legislation.

Hon. Temporary Chairlady, allow me to retain Clause 5(1) and drop Clauses 5(2) to 5(5).

(Proposed amendments to Clause 5(2)(3)(4) and (5) by Hon. (Dr) Ojiambo Oundo dropped)

The intention is for the Act to have a national application for all rateable properties. For purposes of guiding debate, the amendments to Clause 27 will elaborate on what constitutes rateable properties. That is the neater way of doing things.

(Question of the amendment proposed)

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): There is another amendment by the Leader of the Majority Party. Proceed, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Chairlady, on behalf of the Leader of the Majority Party, I beg to move:

THAT, Clause 5 of the Bill be amended by inserting the words “except freehold agricultural land” immediately after the word ‘government’.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Could he explain the import of that amendment?

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Chairlady. We are exempting freehold agricultural land.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Chepkonga. I do not see any other interest in this.

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

(Clause 5 as amended agreed to)

(Clauses 6 and 7 agreed to)

Clause 8

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): There are amendments by the Leader of the Majority Party and Hon. Wilberforce Oundo. We will start with the one by the Leader of the Majority Party. Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 8 of the Bill be amended in subclause (1) by deleting the words “whether freehold or” appearing in paragraph (a) immediately after the word ‘holds’.

This is a consequence of the amendment to Clause 5, which we have approved.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Is there interest by Hon. Nyikal?

Hon. (Dr) James Nyikal (Seme, ODM): Yes, Hon. Temporary Chairlady. It is good that we understand these things. What the Mover has explained is not what is on the Order Paper. The Order Paper indicates that the amendment seeks to delete the expression “and there is an intention to confer ownership” appearing in paragraph (a) immediately after the words “twenty-one years”.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Yes, we are at Clause 8, Hon. (Dr) Nyikal.

Hon (Dr) James Nyikal (Seme, ODM): I am at Clause 8, that it be amended by...

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. (Dr) Nyikal, I think you are referring to Hon. Oundo's amendment. At the moment we are dealing with the amendment proposed by Hon. Chepkonga.

Hon (Dr) James Nyikal (Seme, ODM): Correct.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I will now put the Question.

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I would like to give an opportunity to Hon. Oundo. You may proceed with your amendments.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 8 of the Bill be amended —

(a) in sub-clause (1)—

(i) by deleting the words “and there is an intention to confer ownership” appearing in paragraph (a) immediately after the words “twenty-one years”.

(ii) by inserting the words “including the corporation” immediately after the expression “2020” appearing in paragraph (f).

(b) inserting the following paragraph immediately after paragraph (h)

—

No 27
of 2016

(i) community land management committee in respect of land reserved for urban development under section 13 (3)(e) and a member or a group of members granted exclusive use of community land under section 27 of the Community Land Act.

(c) in subclause (2),

(i) by deleting the word “and” appearing in paragraph (b);

(ii) inserting the following new paragraphs immediately after paragraph(c) —

“(d) ensure that the value of the property is not diminished on account of failure to repair and maintain the property to acceptable standards or undertake a land use that impairs the value of the property; and

(e) provide a permanent address for the purpose of submitting any notices and correspondences in respect of the rateable property and rateable owner at the date of the valuation of the property for rating purposes and notify the county government of any change in the address during the currency of the valuation rolls.”

Hon. Temporary Chairlady, I would like to explain to my colleagues so that they can understand. I am sure Hon. Murugara will easily understand because this is purely a matter of law and practise. I want you to listen carefully, the Sectional Properties Act Part I(2) reads:

“(2) In respect of land held on freehold or on a leasehold where the unexpired residue of the term is not less than twenty-one years and there is an intention to confer ownership.”

I am saying we delete “and there is an intention to confer ownership”. So, as to solve the long-term leasehold issues by county governments or municipal authorities. Those who own those properties are rateable owners. So, the county governments do not lose rateable revenue by virtue of the fact that there is no intention to confer ownership.

Generally, if you issue a lease of 21 years, it is like uninterrupted occupation. That is why I am requesting that we consider removing the words “and there is an intention to confer ownership”. It is superfluous and does not add anything.

Hon. Temporary Chairlady, allow me to enlighten my colleagues about the second part of Clause 8(1)(f). Under the Sectional Properties Act passed in 2020, it created three distinct owners of properties under any scheme. One, is the unit owner who is registered in their name. Then, all the common areas, be it areas reserved for schools, churches, shopping centres, playing fields, restaurants, among others are registered in the name of the corporation. So, by excluding the corporation, we are denying the county governments an immense amount of revenue. In many places, if you look at the site coverage you will find that we are talking about 30 or 50 per cent. So, the remaining 50 per cent is under the corporation.

Hon. Members, if you deny this amendment, we are literally hurting income to be generated by these people. The third amendment to clause 8(1)(h) is the issue of the Community Land Management Committee. If you look at the Community Land Act, that is why we should legislate because we are not in a political contest. Let us legislate!

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo, you have made your point. Thank you very much.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, allow me to mention the issue of the community land. Looking at the Community Land Act, it creates three ownership styles. It states that the community land committee will give land to any of the members to develop commercial services. This cannot go without rating being imposed. There is nothing new or complicated here. It is just a very simple matter.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. You have made your point. I will give opportunity to one other Member.

Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Chairlady, I have gone through the amendments by Hon. Oundo. I want to convince him because whatever he has proposed is answered in the...

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Osoro, please, take your seat so that I can propose the Question.

(Question of the amendment proposed)

Hon. Osoro, you may proceed.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Chairlady. Hon. Oundo seeks to include corporation under Section 8(f) of the Sectional Properties Act, 2020. He wants to include the word ‘corporation’ because he believes that space is left hanging or not rateable. That very question is under clause 8(I)(h) on a beneficial owner who is receiving profits and rent from rateable property. The corporation is in-charge of the entire sectional property. So, they are beneficial within that area and receive rent. He should not make a repetition by including the word ‘corporation’.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you for the explanation. Let us have the last Member speaking on this amendment. Please, take one minute, Hon. (Dr) Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): This is an extremely important amendment showing what is happening in the country, which was not happening previously. Previously,

they were referred to as ‘flats’ but nowadays people buy homes in flats but the common areas are left alone. The corporation owns those common areas. Even if Hon. Oundo’s amendment sounds repetitive, it makes sense since the common areas are not owned by individuals. They should be liable to taxation. We are building affordable houses and a majority of them will be flats, which will have common areas...

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you Hon. Nyikal, you have also made your point.

Hon. (Dr) James Nyikal (Seme, ODM): So, we will not lose anything if we incorporate Hon. Oundo’s amendments.

I support.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, I will now put the Question.

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

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

(Clause 8 as amended put and agreed to)

Clauses 9, 10 and 11 agreed to)

Clause 12

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we have some amendments on this clause. The first one is by the Chairperson of the Departmental Committee on Lands.

Hon. Nyamoko, please proceed.

Clause 12

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Chairlady, I beg to move: THAT, clause 12 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) The Cabinet Secretary may, in consultation with the National Land Commission, prescribe guidelines on the royalties to be paid on natural resources, forestry land and products obtained from natural resources and forestry land for purposes of rating.”

Hon. Temporary Chairlady, what we are trying to do here is just to tidy up the main Clause as it appears in the principal Act. We are paraphrasing it to have clarity.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): Thank you, Hon. Nyamoko.

(Question of the amendment proposed)

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

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

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): We have another amendment by Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, clause 12 of the Bill be amended —

(a) by deleting subclause (4) and substituting therefor the following new subclause —

“(4). The Cabinet Secretary shall, in consultation with the National Land Commission and the Council of Governors, make regulations for effective implementation of this section.”

(b) inserting the following new subclause immediately after subclause (4)—

“(5) The County Executive Member may make regulations to supplement the regulations under subsection (4) and any regulation under this subsection shall not conflict with guidelines prescribed under subsection (3).”

Hon. Temporary Chairlady, I recognise the fact that rating is a mandate of the county governments, as provided for in the Constitution. What I am proposing is just to tidy it up. The Bill says, under subclause (4):

“The Cabinet Secretary may make regulations forfeiting the implementation of this section.’ What I am proposing is that the Cabinet Secretary shall, in consultation with the National Land Commission and the Council of Governors, make regulations for effective implementation of this section.”

Following a discussion I have had with the legal team, I drop part (b) of my proposed amendment and request that part (a) be carried because it relates to what the Constitution provides.

Thank you.

*(Proposed amendment to Clause 12(b)(5)
by Dr Ojiambo Oundo dropped)*

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): I understand that you have just dropped a part of your proposed amendments.

(Question of the amendment proposed)

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

(Clause 12 as amended agreed to)

(Clause 13 agreed to)

Clause 14

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I beg to move:

THAT, clause 14 of the Bill be amended —

(a) in subclause (1), by deleting the words “in the Finance Act of the relevant financial year for consideration” and substituting therefore the expression “in the first Finance Act during the currency of the Valuation Roll provided for under Section 29 of this Act”;

(b) in subclause (2), by inserting the words “projected economic performance during the period when the rate struck will apply immediately after the words “prevailing economic situation”;

(c) by inserting the following new sub-clauses immediately after subclause (3)—

“(4). In setting up the rate struck, the County Committee Member shall ensure that there is adequate public participation.

(5) Upon approval by the County Assembly of the rate struck, the County Executive Member responsible for finance shall notify the National Land Commission in the prescribed form.”

Hon. Temporary Chairlady, the import is to avoid this cumbersome process of setting a new rate every year. The rate should only be set once and reviewed within the period of the currency of the Valuation Roll for purposes of planning, order and organisation.

Secondly, in setting the rate, the County Committee shall ensure that there is adequate public participation. That is what the proposed amendments to Clause 14 are talking about.

(Question of the amendment proposed)

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

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

(Clause 14 agreed to)

(Clauses 15 and 16 agreed to)

Clause 17

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): There is an amendment by the Departmental Committee on Lands. Hon. Nyamoko, proceed.

Hon. Joash Nyamoko (North Mugirango UDA): Hon. Chairlady, I beg to move:

THAT, clause 17 of the Bill be amended by deleting sub-clause (8) and substituting therefor the following new sub-clauses—

“(8) A county government shall enact legislation and make regulations prescribing rates payable under this section.

(9) A county government that acts in accordance with subsection (8) shall consider –

(a) the percentages of remission to be offered;

(b) instances where remission of a percentage of the rates payable may be granted; and,

(c) instances where remission of the whole of the rates payable may be granted.”

Hon. Temporary Chairlady, the reason for redrafting this Clause is to fine-tune it for clarity.

(Question of the amendment proposed)

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

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

(Clause 17 as amended agreed to)

Clause 18

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): There is an amendment by the Chairman of the Departmental Committee on Lands.

Hon. Chairman, proceed.

Hon. Joash Nyamoko (North Mugirango UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 18 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) Each county government shall prescribe criteria for grant of discounts and waivers on partial or whole of the payable interest and penalty rates due to it by the rateable owner through legislation.

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

(2) A county government that acts in accordance with subsection (1) shall consider –

(a) rateable owners who make timely payment and are consistent;

(b) the specification on the maximum percentage of rates that may be discounted or waived;

(c) the period in relation to which the discount or waiver is to be considered for;

(d) the circumstances to be considered; and

(e) the procedure to be applicable for one to seek for a discount or waiver.

Hon. Temporary Chairlady, we have redrafted this clause to clean it up.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): Hon. Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Temporary Chairlady, I stand to support this amendment because we have seen county governments giving waivers and discounts. It is clear that each county government can rate. The value of land within the various

counties is not the same. It varies from one area to another. Therefore, counties can legislate and give their discounts based on the value of land in their respective areas. So, this is a good amendment.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai’): Hon. (Dr) Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairlady, I know the proposed amendment will be carried as it is. However, some of us have not stayed in the House to oppose amendments but to understand them. Tomorrow, when each and every one of us will be walking on the streets after passing this Bill, we may be asked whether we understood what it says. Therefore, we have a right to get clarification. In fact, what Hon. Pukose has said makes more sense. However, proposing to make a change by creating a whole list cannot be justified by saying you are redrafting the Clause. It is important for the Chair to tell us that they are proposing an amendment for this or that purpose. That is important. I feel like supporting this proposal but I need to understand it.

Thank you.

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

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

(Clause 18 as amended agreed to)

Clause 19

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment by Hon. Wilberforce Oundo. You may proceed.

Hon (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 19 of the Bill be amended by deleting paragraph (d) and substituting therefor the following new paragraph—

No.6 of 2021

No.5 of 1996

“(d) auction the rateable property at the market value in a manner that complies with Sections 96 and 97(3) of the Land Act, the Auctioneers Act, and prescribed regulations”

Hon. Temporary Chairlady, the amendment to subclause (3)(d) deals with auctioning of properties of a rateable owner who has defaulted to pay the rates. All I am doing is to make it very clear that when you auction the property, you must do it at a certain threshold, which is contained under Sections 96 and Section 97 of the Land Act. However, they only relate to cases where a borrower has defaulted to pay. Since we have set the standard, I want to convince my colleagues that this is a neater way of doing it. If we subject it to auction, let the reserve price be the one contemplated in the Land Act. That is the neater way to do it.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Oundo.

(Question of the amendment proposed)

Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Chairlady, what Hon. Oundo is saying is self-defeating. If you subject a ratepayer like me to Sections 96 and 97 of the Land Act, it means I am equal to a person who has borrowed money from a bank. I have not borrowed money but I have just defaulted to pay the rates. You cannot say that the conditions of a loan defaulter are equivalent to that of a rates defaulter. That is not true. It is inconsistent in law.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Give me one minute, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): I will give you one minute.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I think Hon. Chepkonga has not read the Land Act. Sections 96 and 97 of the Land Act say there is a price which you can sell a property at when auctioned. If you leave it open, people will connive with others and sell it at an auction at a throwaway price. I am just safeguarding the rightful owner of the property.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You have made your point. Proceed, Hon. Atandi.

Hon. Samuel Atandi (Alego Usonga, ODM): Thank you, Hon. Temporary Chairlady. We are not here as Members of the Opposition but to make these laws comfortable for all Kenyans. I want to plead with the leadership of the Government side. The amendment that Hon. Oundo has proposed is very important. Let me give you an example. One of my pieces of land was auctioned in Siaya because I had not paid land rates. It was sold at a throwaway price and somebody bought it. One of my opponents wanted it. If the proposed reserve price was in the law then, I would have saved it.

I want to plead with Members on the Government side. I know that Hon. Osoro is the commander-in-chief here. Please, allow this amendment to pass.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Atandi. Hon. Benjamin Lang'at will be the last Member to contribute to this amendment.

Hon. Benjamin Lang'at (Ainamoi, UDA): Hon. Temporary Chairlady, I wanted to contribute to the previous one.

(Hon. (Dr) James Nyikal spoke off the record)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Nyikal, you have one minute. what is it?

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairlady, two pieces of land are being auctioned. One is because somebody borrowed money and you are now tying it to the loan or whatever was borrowed. Therefore, you are putting a reserve price. What you are really protecting, to a large extent, is the bank. Is it not?

The other side is a citizen who has not borrowed but has just defaulted to pay rates. His or her land is being auctioned. Colleagues, are we really saying that person does not need to be protected by a reserve price, even if that money is going to the government?

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. You have made your point. The last contribution is by Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Chairlady. I do not know what clarity Hon. Oundo wants to get in this particular proposal. The

Bill proposes 60 days demand. I do not even understand how favourable this can be. You have still failed to pay the rates. Then you have been told that the auction of the rateable property will be sold at current market value. In other words, if you feel that somebody has undervalued your property, there are other court procedures that you can follow to recover your amount. However, it is the current market value. You cannot sell my house that is worth Ksh40 million at Ksh20 million because my opponent has told you to do so.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): You have made your point.

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

(Clauses 19 and 20 agreed to)

Clause 21

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, this Clause has some amendments. One is by the Chairman of the Departmental Committee on Lands. Proceed, Hon. Nyamoko.

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 21 of the Bill be amended in sub-clause (3) by deleting paragraph (b) and substituting therefore the following new paragraph—

“(b) have a minimum experience of seven years in valuation from the date the person was registered by the Valuers Registration Board.”

Hon. Temporary Chairlady, this is just to satisfy Dr Nyikal. This Clause talks about qualification of valuers. In the principal Bill, there were some issues which were a bit ambiguous. That is what we cleaned up. It contains the actual substance.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Nyikal, you have one minute.

Hon. (Dr) James Nyikal (Seme, ODM): I support the amendment. When a good amendment is proposed, we support it. What is being done is now clear.

(Laughter)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Nyikal. Hon. Members, in the interest of time, we can now proceed.

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

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

Hon. Members, we have another amendment by Hon. Wilberforce Oundo. Proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): In view of the Committee's amendment that has just been passed, my amendment to Clause 21 is no longer necessary.

*(Proposed amendment to Clause 21 by Hon. (Dr)
Ojiambo Oundo withdrawn)*

(Clause 21 as amended agreed to)

Clause 22

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment by Hon. Oundo.

Please, proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 22 of the Bill be amended in Sub Clause (2) by deleting the words "private valuer" and substituting therefor the words "a valuer who is not a public officer".

Hon. Temporary Chairlady, I need my colleagues and the Chairperson to listen. We have no provision for registration of valuers, either private or public. I am proposing that for neatness, instead of referring to a private valuer, we simply say, "a valuer who is not a public officer."

(Loud consultations)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Oundo.

(Question of the amendment proposed)

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

(Clause 22 agreed to)

Clause 23

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, Clause 23 has an amendment by Hon. Oundo.

Please proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Just as we were doing during the Sugar Bill, can you give us two minutes to consult?

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Yes, I will. First of all...

*(Hon. (Dr) Oundo Ojiambo consulted
several Members at the Table)*

Hon. Samwel Chepkonga (Ainabkoi, UDA): On a point of order, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Chepkonga, what is out of order?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Chairlady, the Committee conducted public participation, pursuant to Article 118 of the Constitution of Kenya.

Although my very good friend, Hon. Oundo, has a right to bring amendments here, for purposes of good record, he should have gone to the Committee to present them. He is a friend of the Committee. If he is able to convince them, we can have a seamless Act. Otherwise, we will have things that are perched here that are not consistent with the Act itself.

It is important that when we have amendments, we consult the Chairpersons of the Committees. For instance, I have an amendment to the Statutory Instruments Act. It will be in bad faith to bring an amendment when the Committee has exhaustively discussed and agreed on them. It is only fair that you consult the Chair of the Committee.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo, we have given you two minutes and they are over. Do I add you one more minute to consult?

(Hon. (Dr) Oundo Ojiambo spoke off the record)

(Hon. (Dr) Oundo Ojiambo consulted several Members at the Table)

Hon. Wilberforce, please make a decision on Clause 23. Proceed.

Hon. (Dr) Oundo Ojiambo (Funyula, ODM): Hon. Temporary Chairlady, the valuation for rating is what we call central valuation and is a professional practice. So, my amendment to Clause 23 seeks to put very clear procedures and how it goes to the end; who sets the practice slots? How is it regulated? That is all I am saying. There is nothing that probably infringes on anybody's rights. I am simply saying that the valuation roll shall be prepared in accordance to the relevant laws, defining the property and the location.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you. Would you like to move your amendments as per the Order Paper?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 23 of the Bill be amended by inserting the following new sub-clauses immediately after subclause (2)—

No 3 of 2012
No 27 of 2016
No 21 of 2020

(3) The valuation roll and supplementary valuation roll shall be prepared and presented in a manner that complies with sections provided for under section 6 of the Land Registration Act, sections 13 (3)(e) and 27 of the Community Land Act, and sections 4(5), 7(1)(a) and (d), and 7(4)(a), (b) and (d), and the Sectional Properties Act.

(4) The County Land Registrar and the County Executive Committee Member responsible for land matters shall facilitate the valuer to prepare the County Integrated Land Information Management System that shall integrate information in the lands registry for each land registration section required

under section 23(3) with the valuation roll and supplementary valuation roll on real time, subject to compliance with the provisions of Data Protection Act.

(5) The County Executive Committee Member shall, in consultation with the County Land Registrar and Director of Survey, ensure that all land dispositions relating to transfer, subdivision and amalgamation are captured real time.

(6) The National Land Commission shall make Regulations for effective setting up of the various Integrated County Land Information Management System and its continuous updating to ensure that it is real time.”

(Question of the amendment proposed)

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

(Clause 23 as amended agreed to)

Clause 24

The Temporary Chairlady (Hon. Rachael Nyamai): We have an amendment by the Chairperson of the Committee on Lands.

Proceed, Hon. Nyamoko.

Hon. Joash Nyamoko (North Mugirango, UDA): Thank you, Hon. Temporary Chairlady, I beg to move:

THAT, Clause 24 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting the following new sub-clause:

“(1) A valuer who is preparing a draft valuation roll or a draft supplementary valuation roll, shall have the power —

(a) to enter into or upon any rateable property at all reasonable time between eight o’clock in the forenoon and five o’clock in the afternoon for purposes of inspecting any land within the area of the county government in respect of which a rate on the value of the land is, or is to be, imposed;

(b) to inspect and make extracts from all land registers and other records or any deeds or instruments belonging to or in the custody or possession of any public officer or any other person in which are contained particulars of any land, whether that person is or is not interested in the land;

(c) to inquire from an occupier of a rateable property questions on matters that may be necessary to enable the valuer to correctly value that property; and,

(d) to require, by notice in writing, the rateable owner or occupier of any land to provide the valuer with information regarding the rateable property which the valuer reasonably requires for purposes of valuing the property.”

(b) by deleting sub-clause (2).

(c) by deleting sub-clause (3).

(d) in sub-clause (4), by deleting the word “particulars” and substituting therefor the word “information”.

The purpose for this amendment is just to reconfigure and paraphrase the actual Act to provide clarity.

(Question of the amendment proposed)

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

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

(Clause 24 as amended agreed to)

Clause 25

The Temporary Chairlady (Hon. Rachael Nyamai): This one has some amendments by the Departmental Committee on Lands and also by Hon. Wilberforce Oundo. I will start with the one by the Chairperson of the Committee on lands.

You may proceed Hon. Nyamoko.

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, clause 25 of the Bill be amended by—

(a) deleting the word “Guidelines” appearing in sub-clause (2), and substituting therefor the word “guidelines”;

(b) deleting sub-clause (5) and substituting therefor the following new subclause—

“(5) The Cabinet Secretary shall, in consultation with the Council of Governors make regulations for —

(a) harmonizing and standardizing valuation rolls and rating on rateable areas across counties;

(b) intergovernmental rating and valuation standards and procedures.”

(c) deleting sub-clause (6).

Hon. Temporary Chairlady, there is just one word which had capital letters instead of small letters. That is what we redrafted and claimed. So, there is nothing. There is no change in the substance of that particular Clause.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you very much.

(Question of the amendment proposed)

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

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

I would like to now give opportunity to Hon. Oundo to move a further amendment.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, my amendment is largely addressed by the Committee's amendments. So, I drop my amendments to Clause 25.

*(Proposed further amendment to Clause 25 by
Hon. (Dr) Ojiambo Oundo withdrawn)*

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

The Temporary Chairlady (Hon. Rachael Nyamai): Hon. Members, this one has an amendment by Hon. Wilberforce Oundo.

Please, proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, it is truly unfortunate looking at it. However, I want this to be very clear as I request the Chair. I know you told me you did not have a chance to look at this but to be honest, I can tell you for sure if you look at Clause 27 in the Bill is very narrow. It basically makes areas within our county governments which shall be rateable areas for the purposes of this Act. My amendment expands the definition and creates a very clear procedure on determining a 'rateable owner' and gives a chance for any way that the county government, through public participation, can change. If you look at it, rating is emotive and needs a very clear procedure. I make reference to Urban Areas and Cities Act, 2019 and all other processes that we have practised in the past. On this amendment, I beseech for your support, colleagues and the Whip of the Majority Party. Even if you ask the Chairman, I am sure that he will not have any problem.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo, move your amendment first.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 27 and substituting therefor the following new clause—

Declaration of

rateable areas. 27(1). The County Executive Member shall designate the following areas within the county as rateable areas for the purposes of imposing property taxes on—

No. 13 of 2011

(a) all properties contained in the specified land registry that falls within areas designated as urban areas under the Urban Areas and Cities Act;

No. 13 of 2019

(b) all properties whose change of user has been granted from agricultural to uses that are not agricultural user in pursuance of the provisions of Physical Planning and Land Use Act;

- (c) all properties under commercial agriculture and ranching as the County Executive Member responsible for agriculture may so advise the County Executive member responsible for lands;
 - (d) all properties under private and community wildlife sanctuary use;
 - (e) any other properties whose rateable owner has converted to any form of developments and occupancy arrangements that generates rental income to the rateable owner;
 - (f) all land registered under the Community Land Act that is reserved for urban development and granted to a member and/or group of members for use that would qualify the referenced property as a rateable property; or any other properties as the County Assembly may approve by a resolution of simple majority.
- (2) Without prejudice to the generality of subsection (1), a County Executive Member responsible for matters relating to land may declare any area or property as a rateable area and rateable property with approval of a County Assembly.
- (3) A County Executive Member responsible for matters relating to land shall submit the declaration of rateable area and rateable property to the National Land Commission before the commencement of the valuation for rating purposes in the prescribed form.”

(Question of the amendment proposed)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): May I proceed to put the Question? Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Chairlady, just a minute. For clarity purposes, it is important for Members to know that Clause 27 says: “All areas within a county government shall be rateable areas for purposes of this Act.” What is debatable on this? Earlier, when Hon. Oundo proposed a certain amendment, I think to Section 3, he raised questions with regard to spaces within sectional properties. Now you have the answer in Clause 27. You do not need to do further amendments again. You have even stated yourself that you have gone through the Urban Areas and Cities Act, 2019 and everything that involves matters to do with urban areas. Please, just drop the amendment.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Osoro. Hon. Members, I would like to put the question.

(Hon. (Dr). Ojiambo Oundo spoke off the record)

Let me hear from Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I want to inform the general public that leaving the clause as it is will mean that the only instances that rating will be excluded are as per those amendments as carried by the majority: freehold agricultural land. So, if in your village you own leasehold titles for a certain number of years, it means that even if it is agricultural land, if we do not carry this amendment, it will be rated. It means even the smallest person in the smallest village will be levied taxes on land. That is

the import of what Hon. Osoro is saying. In essence, that is the import of what we are carrying here.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Oundo. The last Member will be Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Chairlady, I do not know why Hon. Oundo is belabouring this point. First and foremost, his proposed amendment is defective. He says the County Executive Committee Member shall. Which CECM? We have CECMs in charge of finance, lands and many other departments. Which one is this that he is talking about?

The Temporary Chairlady (Hon. (Dr). Rachael Nyamai): You have made your point. Hon. Nyikal, I give you one minute.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Chepkonga knows very well where to get these definitions. He is just pulling your leg. I will just say that I see what Hon. Oundo is saying. This is because recently in my constituency, there was a big issue when the county government started rating land. They went to markets and even to people's villages. Even when you are building in your own land, they ask you about rates. I hear him but what I may say is that if this provision is somewhere in the details, then it can come under regulations. So, Hon. Chepkonga and all the other experts, if this provision comes under regulations it will actually help because Hon. Oundo has a point. That may be a saving grace.

Thank you, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Nyikal. Hon. Members, I now put the question.

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

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

(Clause 27 agreed to)

(Clause 28 agreed to)

Clause 29

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment by Hon. Wilberforce Oundo. Proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady. I beg to move:

THAT, clause 29 of the Bill be amended by —

- (a) deleting the word “five” appearing in sub clause (1) and substituting therefor the word “seven”;
- (b) deleting the word “two” appearing in sub clause (2) and substituting therefor the word “three”

I am just increasing the period of the valuation roll from five years to seven years, considering the cost of preparing a valuation roll and the process involved. I am asking the Committee to agree with me because it is costly, cumbersome and it is also to avoid encumbering the county governments. I know it because I have done it.

The Temporary Chairlady (Hon. (Dr). Rachael Nyamai): Thank you very much, Hon. Oundo. You have given the justification for your amendment.

(Question of the amendment proposed)

Hon. Osoro, you get the first chance.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Chairlady. The fear by Hon. Oundo has already been answered under Clause 29(2) which says that the county government may extend the life of the valuation roll and supplementary roll for a period not exceeding two years. That fear has been answered. The county assembly can extend by two years. You do not need to have it.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Osoro.

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

(Clause 29 agreed to)

Clause 30

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment by Hon. Wilberforce Oundo. Please proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, this is just a follow-up to the amendments I had made in Clause 25. In view that Clause 25 was not carried, there is no need to prosecute amendment on Clause 30 because it was a consequential amendment to Clause 25.

Even though it contains fair and very good proposals, we rejected it. Time will tell. At least, I will go on record that I told the nation the correct thing but we did not carry it.

Thank you.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Let me propose the question.

Hon. Members: It is dropped.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): In view of the loss of the amendment on Clause 25, there is no need of carrying Clause 30.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): That is clear.

*(Proposed amendment by Hon.
(Dr) Ojiambo Oundo withdrawn)*

(Clause 30 agreed to)

Clause 31

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment by the Chairman of the Departmental Committee of Lands. Proceed, Hon. Nyamoko.

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Temporary Chairlady. I beg to move:

THAT, clause 31 of the Bill be amended by deleting sub-clause (1) and substituting therefor following new sub-clause:

Alterations of the valuation roll and supplementary valuation roll.

31. A county government may alter a valuation roll or supplementary roll—

- (a) to correct a clerical error or omission not affecting the rateable value;
- (b) to correct an error as to, or recording a change in the name of an occupier or rateable owner; or
- (c) to correct an error in the description or address of a rateable property.

We have redrafted that clause and cleaned it up without changing the substance of the principal clause.

(Question of the amendment proposed)

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

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

(Clause 31 as amended agreed to)

Clause 32

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Members, we have two amendments. One is by the Chairperson of the Departmental Committee on Lands, and the other one by Hon. Wilberforce Oundo. We will start with the proposed amendment by the Chairperson of the Departmental Committee on Lands. You may proceed, Hon. Nyamoko.

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 32 and substituting therefor the following new clause:

Deposit of draft valuation roll and draft supplementary valuation roll.

32. (1) A valuer who prepares a draft valuation roll or draft supplementary valuation roll shall —

- (a) sign and enter the date on the roll; and
 - (b) transmit the roll accompanied by relevant maps and plans and summarized basis of valuation report depending on the method of appraisal used, to the County Executive Committee Member for tabling before the County Assembly.
- (2) A summarised valuation report shall contain information which may include—
- (a) the valuation methodology used;
 - (b) the basis for the valuation of the rateable property;
 - (c) the date of the valuation of the rateable property;
 - (d) any other relevant information obtained by the valuer during the valuation of the rateable property; and
 - (e) the signature and seal of the valuer.
- (3) The County Executive Committee Member shall forward a copy of the draft valuation roll or draft supplementary valuation roll to the Chief Government Valuer for purposes.

(4) The Chief Government Valuer shall submit a written report to the County Executive Committee Member within thirty days of the receipt of the draft valuation roll or draft supplementary valuation roll.

(5) The County Executive Committee Member shall—

(a) conduct public participation for comments on the draft valuation roll or draft supplementary valuation roll; and

(b) make a draft valuation roll or a supplementary valuation roll available for inspection and copying by any person at a prescribed fee.

(6) The County Executive Committee Member shall submit the written report under subsection (4), the draft valuation roll and draft supplementary valuation roll, and accompanying documents to the County Assembly for tabling.

This is just about re-drafting, fine-tuning, and cleaning up the clause.

(Question of the amendment proposed)

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

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 32 of the Bill be amended in subclause (4) by deleting the expression “Chief Government Valuer” and substituting therefor the expression “National Land Commission”.

Under Article 67(2)(g) of the Constitution of Kenya, the power and mandate to assess taxes on land and premiums on immovable properties in any area designated by law is a constitutional responsibility of the NLC. That matter is not even debatable. Any competent court will overturn that matter if you argue otherwise. I urge the Chairperson to stick to the Constitution. Let us not be the House that broke the Constitution of Kenya.

(Question of the amendment proposed)

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

(Clause 32 as amended agreed to)

(Clauses 33, 34, and 35 agreed to)

Clause 36

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 36 of the Bill be amended in subclause (5) by deleting the expression “Cabinet Secretary” and substituting therefor the expression “National Land Commission”.

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Even though we have not agreed to my proposed amendment to Clause 32, I want to go on record. The Article of the Constitution that I referred to states that that mandate squarely belongs to the NLC and not to the Cabinet Secretary. That is why I propose to delete the words “Cabinet Secretary” and replace them with the words “National Land Commission.”

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Hon. Oundo, have you withdrawn your amendment?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): No! I have moved it. The import of the amendment is to comply with the provisions of Article 67 of the Constitution of Kenya.

(Question of the amendment proposed)

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

(Clause 36 agreed to)

(Clauses 37,38,39,40,41,42,43,44,45,46, 47,48,49,50,51,52,53,54 and 55 agreed to)

Clause 56

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have an amendment by Hon. Wilberforce Oundo. Please proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairlady, I beg to move:

THAT, clause 56 of the Bill be amended in sub-clause (5) by deleting the words “Cabinet Secretary” and substituting therefor the words “National Land Commission”.

This is to put into perspective that the authority which is the subject matter is as per Article 67 of the Constitution, a preserve or mandate of the National Land Commission. That is why we are saying wherever there is reference to the Cabinet Secretary, we replace with the National Land Commission. Thank you.

(Question of the amendment proposed)

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

(Clause 56 agreed to)

(Clause 57 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Fourth Schedule agreed to)

Clause 2

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): We have some amendments on clause 2 by the Chairperson of the Departmental Committee on Lands. Please proceed Hon. Nyamoko.

Hon. Joash Nyamoko (North Mugirango, UDA): Thank you, Hon. Temporary Chair. I beg to move:

THAT, the Bill be amended in Clause 2 by:

- (a) deleting the definition of “improved site value”.
- (b) deleting the definition of “improvement value”
- (c) deleting the definition of “exclusion”

Under (a), the phrase “improved site” is defined but not used in the main Bill. Under (b), we are deleting the definition of “improvement value”. The phrase is defined but not used in the Bill. Under (c), by deleting the definition of “exclusion”. The term is defined but not used in the Bill. Thank you, Hon. Temporary Chair.

The Temporary Chairlady (Hon. Rachael Nyamai): Thank you very much, Hon. Chairperson.

(Question of the amendment proposed)

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

We will now proceed to the amendment by the Hon. Wilberforce Oundo. Please, proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chair, just in the same vein as the Chair of the Committee has indicated, there are a few amendments I proposed. I want to drop most of them, save for two. The one in reference to property and the other under (d). Chair, allow me to refer to property. I beg to move:

THAT, Clause 2 of the Bill be amended—

- (c) by inserting the following new definition in its proper alphabetical sequence:

“property” means the collection of rights that are enjoyed by virtue of owning land.

There is extensive reference to the term property in the Bill yet property is not defined.

The Temporary Speaker (Hon. Rachael Nyamai): Just for clarity, Hon. Oundo, have you dropped everything save for the last sentence?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): No. I have not dropped everything. Let me just give a guide. When we look at my amendment under Clause 2 on page 1355, there is what is labelled (a), (b) and (c). I have dropped all of the amendments on that page. When you go to page 1356, the one referencing county assembly has also been dropped because that was already dropped. When you go to the one referring to ‘property’, what I am saying is that “property” has been extensively mentioned or referred to in the Bill but it is not defined. The definition I am proposing here is the typical definition that we use in the profession. I am also dropping the term “improvements” because they have dropped improvement. So, I am only retaining the definition of property.

Thank you, Hon. Temporary Chair.

The Temporary Chairlady (Hon. Rachael Nyamai): Thank you.

(Question of the further amendment proposed)

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Mover.

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Chairlady, I beg to move that the Committee do report to the House its consideration of the National Rating (National Assembly Bill No.55 of 2022) and its approval thereof with amendments.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Thank you, Hon. Osoro.

(Question proposed)

(Question put and agreed to)

Hon. Members, we will now move to the Statute Law (Miscellaneous Amendments) (National Assembly Bill No.60 of 2022).

Whip of the Majority Party.

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL
(National Assembly Bill No.60 of 2022)

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Chairlady, I seek the indulgence of this House, considering a lot of proposals and interest in this matter, that we defer the Bill to next week when we resume.

The Temporary Chairlady (Hon. (Dr) Rachael Nyamai): Okay. Hon. Members, I agree to the request by the Whip of the Majority Party. We now move to reporting.

(Bill deferred)

(The House resumed)

IN THE HOUSE

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

MOTION

CONSIDERATION OF REPORT ON THE NATIONAL RATING BILL

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

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you very much, Hon. Temporary Speaker. I beg to report that the Committee of the whole House has considered the National Rating (National Assembly Bill No.55 of 2022) and approved the same with amendments.

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

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Speaker, I beg to move that the House do agree with the Committee in the said report. I also request Hon. Teresia Wanjiru to second the Motion for agreement with the Report of the Committee of the whole House.

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

(Hon. Silvanus Osoro spoke off record)

Proceed.

Hon. Wanjiru Mwangi (Nominated, UDA): Hon. Temporary Speaker, I second.

(Question proposed)

(Hon. Silvanus Osoro stood up in his place)

The Temporary Speaker (Hon. Peter Kaluma): Whip of the Majority Party, are you on a point of order?

Hon. Silvanus Osoro (South Mugirango, UDA): Yes, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): I have not given you the microphone.

Hon. Silvanus Osoro (South Mugirango, UDA): Sorry.

(Hon. (Dr) Ojiambo Oundo spoke off record)

The Temporary Speaker (Hon. Peter Kaluma): Are you on a point of order? Give the microphone to the Whip of the Majority Party.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Speaker. Pursuant to Standing Order 53(3), I beg that you defer putting of the Question to another sitting.

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you. Indeed, we have concluded the Committee of the whole House. He needs to go on record. I will raise the matter at an appropriate time. Standing Orders say constitutional matters can be raised at any time before the conclusion of a Bill. I do not know exactly where it is but they can assist me. Because of the so-called tyranny of numbers, we have passed an unconstitutional provision in the Bill. At the appropriate time before the Third Reading, we will have to raise that constitutional matter. Luckily enough, we have the weekend to research and present a position on the Floor.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Eric Muchangi, do you want to say something?

Hon. Muchangi Karemba (Runyenjes, UDA): Hon. Temporary Speaker, the matter will be decided by the courts.

(Laughter)

The Temporary Speaker (Hon. Peter Kaluma): Which matter will be decided by the court? Hon. Muchangi, are you done?

Hon. Muchangi Karemba (Runyenjes, UDA): The matter of whether the issues we discussed here are constitutional or not.

The Temporary Speaker (Hon. Peter Kaluma): Okay. Give Hon. Nyikal the microphone. In the meantime, could the Whip of the Majority Party approach the Chair?

(Hon. Silvanus Osoro approached the Chair)

Hon. (Dr) James Nyikal (Seme, ODM): Akin to what Hon. Oundo has said, I also noticed some unconstitutional matters. I appeal to us to note that he also raised some important issues. There is a provision to look at them even over the weekend or later. That is where he brought up matters of details that can go into Regulations. When we come, it would help if those matters were listed to show what a Cabinet Secretary could do regulations over.

That is my point, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Hon. Mbai.

Hon. Nimrod Mbai (Kitui East, UDA): It is in response to what Hon. Oundo has said. I just want to go on record that the Committee of the whole House has not passed anything unconstitutional.

The Temporary Speaker (Hon. Peter Kaluma): Is that Hon. Benjamin Lang'at?

Hon. Benjamin Lang'at (Ainamoi, UDA): Hon. Temporary Speaker, I thank Members for passing this very good Bill. As to whether there is unconstitutionality or not, I think we have agreed that is a subject of another body. That can be decided elsewhere. I thank Members who have spoken. Unfortunately, our friend Hon. Oundo has done great research but may have failed in the process. We would not be having the problem we have now if he had got to the Committee and had these amendments accepted by the Committee.

Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker.

I think this House is now *functus*. There is nothing left apart from taking a decision as to whether this Bill can be read a Third Time. That is the only option left for Hon. Oundo—to have it rejected at the Third Reading. That is the vote to be taken after this. Having gone through all the processes and votes taken, there is nothing much to do. The only other option he has is to approach the Head of State, the President of the Republic of Kenya, and tell him not to assent to the Bill but to return it to us with the observations he has made. That is if we succeed in having the Bill read a Third Time. Once he does that, again, the Bill dies because we may not be able to raise the two-thirds. If the President assents to this, the only other option he has is to move the House for amendments or take it to court for a decision.

For now, I believe we are *functus*.

Temporary Speaker (Hon. Peter Kaluma): Whip of the Majority Party.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Temporary Speaker. This is a House of debate. It is unfortunate that sometimes when we are making laws, some people do not come to the House to make contributions. Hon. (Dr) Oundo has done a good job. He has made his contributions even in the Committee of the whole House. I also thank all the Members. However, the majority had their way and the minority had their say.

Your question was on the subsidiary legislation, but I invite you to acquaint yourself with who has the legal mandate to make subsidiary or delegated legislation. It cannot be the National Land Commission (NLC). We can have that debate outside the Plenary. In case the issue is unconstitutional as you have put it, there are other avenues and other arms of Government that deal with that. From where I sit, you had your say but the majority had their way.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Leader of the Minority Party, you may proceed.

Hon. Opiyo Wandayi (Ugunja, ODM): My friend, I could have been following you from wherever I was. You know I am versatile.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara, the Leader of the Majority Party and the Leader of the Minority Party take precedence whenever they come in and request to speak. You have to wait until they speak.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Temporary Speaker, for your timely protection. Hon. Osoro, the Majority Whip has just said here that whether whatever we have passed is unconstitutional or not, other avenues can be explored to deal with it. This House can never be seen to be acting in vain. It does not matter if he was responding to whoever. What matters is what he has said.

(Loud consultations)

You cannot inform me.

The Temporary Speaker (Hon. Peter Kaluma): Leader of the Minority Party do you want to be informed by the Majority Whip?

Hon. Opiyo Wandayi (Ugunja, ODM): Certainly not.

(Laughter)

This is a serious House. It is an assembly of the people of Kenya. It represents our sovereignty as a people. We cannot be seen to be acting in vain. The issues raised by my friend Hon. (Dr) Oundo and others about the constitutionality of what we have passed are too grave to be trivialised in the manner we are doing. I heard the Member for Runyenjes say that the courts will deal with it. For purposes of record, as Azimio la Umoja One Kenya Coalition, we stand for the rule of law, constitutionalism and decency in all aspects. We can, therefore, not associate ourselves with what has taken place this evening in this House. We totally dissociate ourselves from it.

For the record and prosperity, as I conclude, this House must retrace its steps, otherwise, history might judge us very harshly. I rest my case.

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

The Temporary Speaker (Hon. Peter Kaluma): Hon. Millie, what is out of order? I want to rule on the request by the Majority Whip.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Speaker, is the Majority Whip... Because of corruption, it becomes very difficult to know who is the proper Whip. Is the Majority Whip in order to be de-whipping when his role is to whip Members to come to the House, especially after passing unconstitutional provisions in the Statute Law (Miscellaneous Amendments) Bill? Is he in order to de-whip Members when we know that there are armed forces who are going out of the country? I hope they take the ones who were killing us with teargas. Those should go there and suffer the consequences. You should not de-whip people. You should be whipping people into the House.

The Temporary Speaker (Hon. Peter Kaluma): I did not notice the Majority Whip de-whipping anybody. I will, therefore, assume it did not happen.

The Majority Whip stood in his place and requested that we defer the putting of this question and its further consideration to a future date. That request is acceded to. The Question will be put when this business relating to this particular Order will be scheduled by the House Business Committee (HBC) to be transacted by the House again.

(Putting of the Question deferred)

(Several Members spoke off the record)

You want to defend yourself after I have granted your request? Hon. Osoro say something.

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Speaker, Hon. Millie has accused me of de-whipping my Members and I want to be on record. They are watching me if they are having tea. Please I beg you to come back to the House so that we can debate because Hon. Millie wants you to debate. Hon. Millie wants you in the House and I beg you kindly wherever you are to come to the Floor of the House and debate. Although, Hon. Millie has been absent the entire period as we were in the Committee of the whole House and she has come back to play politics. Please I beg you that you come back from wherever you are and join us so that we can proceed. I beg you. I whip you.

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

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

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Adan Keynan.

(Loud consultations)

Hon. Members, you remember that earlier in the Sitting of this afternoon, the presiding Speaker appointed 6:30 p.m. as the time for Adjournment Motion of the House to discuss a Motion of Adjournment by the Hon. Peter Kaluma. I now order that the House proceeds to the matter of national importance as raised by the Hon. Kaluma.

MOTION OF ADJOURNMENT ON A MATTER OF URGENT NATIONAL IMPORTANCE

DEPLOYMENT OF OFFICERS OF NPS IN HAITI

Hon. Peter Kaluma (Homa Bay Town, ODM): I thank you, Hon. Temporary Speaker. I had earlier on moved for adjournment of the House.

(Hon. Wanami Wamboka consulted loudly)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Order Hon. Wamboka.

Hon. Peter Kaluma (Homa Bay Town, ODM): I had moved for the Adjournment of the House on a definite matter of urgent national importance regarding deployment of officers of the National Police Service (NPS) in Haiti. For the sake of time, it being that we have barely thirty minutes to debate, I would adopt the Motion in the matter I had moved the adjournment before, save to say the following:

The Constitution establishes the National Security organs in Chapter 14. These organs are the Kenya Defence Forces (KDF), the NPS and the National Intelligence Service (NIS).

(Hon. Victor Koech raised his hand)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Victor Koech, Member for Chepalungu, you seem to be on a point of order and also you are lifting up your hand.

(Loud consultations)

Hon. Victor Koech (Chepalungu, CCM): Thank you, Hon. Temporary Speaker. I am rising on a point of order.

(Loud consultations)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): A point of order can be raised at any time. Hon. Victor you may proceed with your point of order. What is out of order?

QUORUM

Hon. Victor Koech (Chepalungu, CCM): Thank you very much, Hon. Temporary Speaker. I rise under Standing Order No.35. Having looked around, I would wish to seek your guidance that this House has no requisite numbers for it to transact business.

(Loud consultations)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Serjeant-at-Arms, I order that you ring the Bell for 10 minutes.

(The Quorum Bell was rung)

(Some Members tried to walk out of the Chamber)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon Members, please do not walk out of the House when the Bell is being rung. Hon. Millie Odhiambo, you know that it is out of order to walk out of the House when the Quorum Bell is being rung.

(Quorum Bell ringing)

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): I order the Serjeant-at-Arms to stop ringing the Bell. Hon. Members, it is clear that the House is unable to quorate. I will proceed to adjourn the House pursuant to Standing Order 35.

ADJOURNMENT

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, the time being 6.45 p.m., the House stands adjourned until Wednesday, 11th October 2023 at 9.30 a.m.

The House rose at 6.45 p.m.

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