



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Thursday, 5th December 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, there is no quorum. Serjeant-at-Arms, ring the Quorum Bell.

(The Quorum Bell was rung)

Hon. Speaker: We now have quorum. Clerk-at-the-Table.

(Several Hon. Members walked into the Chamber)

Members on their feet, take the nearest seats.

COMMUNICATION FROM THE CHAIR

SUSPENSION OF COMMITTEE SITTINGS DURING THE LONG RECESS

Hon. Members, as notified in today's Order Paper, at the rise of this Sitting, the House is scheduled to proceed on its long recess from Friday, 6th December 2024 to Monday, 10th February 2025 in accordance with the approved Calendar of the Third Session. This Sitting, therefore, will mark the conclusion of regular Sittings of the Third Session of the 13th Parliament and the beginning of a well-deserved break.

During this Session, the House transacted various key business including critical Bills, treaties, enquiries and approvals for appointments. The House also undertook its oversight and representation roles through Statements and Questions to Cabinet Secretaries, which continue to elicit great interest not just in the House, but also from the general public. In keeping with the established practice, the Clerk is preparing a more comprehensive report detailing the activities of the House in the Third Session, which will be made available in due course.

In line with the approved Calendar...

(Hon. Kassim Tandaza made a phone call)

Order, Hon. Tandaza. You cannot be on the phone talking loudly when the Hon. Speaker is making a Communication. This Chamber is not for phone taking. It is for you to transact serious business.

(Applause)

Anyone of you who wants to make a call should walk to the Lobby, which we have created for you with good sofa sets and everything.

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(Laughter)

You can sit there and make your calls as you wish. I want to encourage you, Hon. Members, to please observe decorum in the House. This is your House and the rules are ours.

In line with the approved Calendar for regular Sittings of the House, Committees ought to suspend their sittings from 16th December 2024 until 26th January 2025. However, I wish to direct an early suspension of committee sittings effective Friday, 6th December 2024. This variation is intended to allow members to attend the East African Community Inter-parliamentary Games to be held in Mombasa County from 7th to 18th December 2024, and thereafter to attend to their constituency duties. This will also allow time for parliamentary staff to take their annual leave in preparation for the Fourth Session. In this regard, any committee that may need to conduct any committee business during the said period must obtain express permission from the Speaker's Office upon a written request.

In order to safeguard business with stricter timelines from lapsing, the counting of days for such business shall cease effective today and continue when the House sits for the Fourth Session on Tuesday, 11th February 2025. I want to remind members that should the need arise for the House to transact any urgent matter, Members will be recalled for special sittings pursuant to Standing Order 29.

I wish to thank the leadership and Members of the House as well as the staff for the diligence and commitment exhibited during the Session, which enabled the House to transact business both in plenary and in the committees. Specifically, I wish to commend Members for their active participation which has seen the consideration and conclusion of key priority business by the House.

In conclusion, Hon. Members, as you proceed to spend valuable time with your families and constituents during the season, I take this early opportunity to wish you all a happy festive season and a prosperous New Year, 2025.

I thank you.

The next Communication is a legislative proposal to amend the Constitution under Standing Order 114 (7A).

(Several Members walked into the Chamber)

Members at the Bar, please, take the nearest seats.

LEGISLATIVE PROPOSAL TO AMEND THE CONSTITUTION
UNDER STANDING ORDER 114 (7A)

Hon. Members, I wish to bring to the attention of the House that I have received a legislative proposal intending to amend the Constitution to entrench the National Government Constituencies Decentralized Development Fund, the Senate Oversight Fund, and the National Government Affirmative Action Fund in the Constitution. The proposal is co-sponsored by the Member for Ainabkoi, the Hon. Samuel Chepkong'a, and the Member for Rarieda, the Hon. (Dr.) Otiende Amollo.

Hon. Members, the procedure for amending the Constitution through parliamentary initiative is provided for under Article 256 of the Constitution. Standing Order 114 (7A) actualizes that procedure in the National Assembly by providing that, and I quote:

“114(7A) In respect of a proposal to amend the Constitution—

- (a) the proposal shall be accompanied by the signatures of at least 50 other Members in support, unless it is sponsored by the Majority Party or the Minority Party;

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- (b) where the Speaker approves the pre-publication scrutiny of the proposal, the speaker shall notify the House of the approval and may—
- (i) allow the sponsor to make a statement on the objectives of the proposal;
 - (ii) allow comments on the statement made by the Member;
 - (iii) facilitate collation of the views from the comments of Members at an appropriate forum; and,
 - (iv) invite Members with similar or related proposals to make submissions before the committee to which the proposal is referred.
- (c) the forum or the committee to which the legislative proposal is referred under sub-paragraph (b) shall—
- (i) invite and consider submissions from the Attorney General; the commissions and independent offices established under Chapter Fifteen of the Constitution and any constitutional or statutory body with a law reform mandate; and,
 - (ii) in consultation with the sponsor, attempt to develop and recommend a harmonized version of the proposal arising from the submissions received.”

Having obtained signatures of 258 Members of this House, which is quite overwhelming, the proposal submitted by Hon. Chepkong’ a and Hon. Otiende Amollo, complies with the first part of Standing Order 114(7A). Consequently, as your Speaker, my obligation is to facilitate the rest of the processes as provided for in the Standing Orders.

Hon. Members, you will recall that the House has previously been seized of an essentially similar proposal to amend the Constitution co-sponsored by the Member for Matungulu, the Hon. Stephen Mule and the Member for Gichugu, the Hon. Githinji Gichimu. With regard to that earlier proposal, I allowed Hon. Mule and the Hon. Gichimu to make statements on the objectives of the proposal and further allowed comments from Members on the proposal.

Additionally, this House passed a Resolution on 24th November 2022 on the establishment of a Joint Parliamentary *Ad hoc* Committee on a proposal to amend the Constitution to entrench certain specialised funds. Notably, Hon. Chepkong’ a was the Co-Chairperson of the Committee which was expected to collate the views of Members of both Houses and develop or recommend a harmonised version of the proposal.

The Joint Parliamentary *Ad hoc* Committee was, unfortunately, unable to conclude its work and table a report. This was despite Hon. Chepkong’ a seeking a 90-day extension for the Committee, which I acceded to on 23rd March 2023. Presently, it would seem that the work of the Joint Parliamentary *Ad hoc* Committee and the active representation of the House in NGCDF litigation matters by the co-sponsors may have informed their decision to introduce the current proposal.

Hon. Members, as your Speaker, part of my obligation is to facilitate the legislative process as provided for in the Standing Orders. In this regard and in keeping with the requirements of Standing Order 114(7A), I have approved the request by Hon. Chepkong’ a and the Hon. Otiende to make very brief statements on the objects of the proposal during this afternoon’s Sitting.

Noting that Members ventilated at length on the issue of entrenching NG-CDF and other related Funds in the Constitution while considering the earlier proposal by Hon. Mule and Hon. Gichimu, I shall limit the comments on the proposal for the convenience of the House.

This proposal and the earlier proposal that was introduced by Hon. Mule and Hon. Gichimu shall thereafter stand committed to the Departmental Committee on Justice and Legal

Affairs for consideration. As required by Standing Order 114(7A)(c), the Committee shall expeditiously invite and consider submissions from the Attorney-General, the commissions and independent offices established under Chapter 15 of the Constitution, and any other body with a law reform mandate.

Additionally, to avoid further delay, the Committee is directed to submit its recommendations on the proposals on or before Tuesday, 11th February 2025, which is the date that the House is scheduled to resume for the Fourth Session.

The House is accordingly guided.

In furtherance of this, not later than 5.00 p.m. today, the House will allow Hon. Chepkong'a and Hon. Otiende Amollo to move that proposal. Leader of the Majority Party and fellow members, this opportunity will also allow Members to speak on an Adjournment Motion, effectively bidding farewell to one another for the year. Wish each other well. Those who have offended each other should apologise to one another. Those who have offended others, seek forgiveness from those they have offended. I hope everybody goes in one piece and comes back in one piece after the industrious term we have had.

Leader of the Majority Party, you may recall the accolades we received as the Vetting Committee of the approval hearings when we permitted members of the public to submit their questions throughout the proceedings via Members' mobile phones, the Clerk's office, and other channels. All their questions were considered and presented to the nominees, which helped the House reach proper decisions during our vetting process.

That noble innovation was received well by the public. Moving forward, chairpersons may allow some proceedings in committees where members of the public can submit a few questions for individuals, cabinet secretaries and other public servants appearing before you, thus enriching the discussions.

I thank you.

Hon. Dorice Donya (Kisii County, WDM): On a point of order, Hon. Speaker.

Hon. Speaker: Is it on what I have just said?

Hon. Dorice Donya (Kisii County, WDM): Yes, Hon. Speaker. You have wished everyone a Merry Christmas and since you may not be present during the debate, I would also like to extend my Christmas wishes from the people of Kisii. May it be a lovely occasion too.

(Hon. Kimani Ichung'wah consulted with the Hon. Speaker)

Hon. Speaker, this is for you, and I will wait for you to finish your consultations with the Leader of the Majority Party.

(Loud consultations)

I am still on the Floor representing the people of Kisii County. Hon. Speaker, this message is for you. The Leader of the Majority Party was engaging you, and I wanted you to hear this! While you have wished us a Merry Christmas, Kisii County recognises your efforts and wishes you a happy season. May it be filled with love and joy. As we celebrate the New Year, I hope you will consider attending a church service in Kisii so that we can celebrate together. I would also like to wish all Members a Merry Christmas and a Happy New Year.

Nevertheless, our electorate are expecting something from us and so, you should also give us something for Christmas.

(Laughter)

Hon. Speaker: Thank you, Hon. Donya. I will come with you to Nyabururu Church.

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Hon. Githinji Gichimu (Gichugu, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Those of you who want to address this issue should wait until Hon. Chepkong’ a addresses you. Yes, Hon. Gichimu.

Hon. Githinji Gichimu (Gichugu, UDA): Thank you, Hon. Speaker. I humbly request that Hon. Mule and I, as the trailblazers of this proposal, be given priority to comment on it after the current sponsors have had an opportunity to present their views. We have already committed our proposal to the Committee.

Hon. Speaker: We will not only do that... As I said, your industry in this matter will not go in vain. When the Justice and Legal Affairs Committee considers this proposal, you and Hon. Mule will be invited to present your proposals, thus ensuring they become part of the Bill that will ultimately be brought to the Floor.

The entire House acknowledged the good work that you did when you introduced the Motion.

Yes, Hon. Julius.

Hon. Julius Rutto (Kesses, UDA): Thank you. I would like to remind you that, while you have made your remarks regarding this House, an important issue was raised some time ago by the Chairperson of the Departmental Committee on Finance and National Planning to the then presiding officer. That issue was then referred to you. It concerns how the two Houses are handling the cabinet secretaries. We realised that some cabinet secretaries cannot perform their duties well as they are frequently summoned by the Senate, even while they are fulfilling their constitutional responsibilities. I am still waiting for the Speaker’s ruling on this. How long should I wait?

Thank you.

Hon. Speaker: Hon. Julius Rutto, I acknowledge the issue you raised. A matter of that nature is better handled administratively rather than to be subjected to a ruling on the Floor. I share your views, and I will address the issue administratively. I also receive numerous complaints from some members of the Executive about being invited to Parliament too often to the point that it sometimes conflicts with their diaries. This is something we will discuss with the Leader of the Majority Party and harmonise.

According to the Constitution, cabinet secretaries are first accountable to Parliament before anything else. That is why His Excellency the President directed that we amend the Standing Orders to facilitate their presence here to respond to public policy and the work of the Government.

Next Order.

(Hon. Kassait Kamket spoke off the record)

Mhe. Kamket, hiyo hoja imeshughulikwa ipasavyo.

MESSAGES

APPROVAL OF THE NOMINATION OF MR GERALD NYAOMA ARITA FOR APPOINTMENT TO THE POSITION OF DEPUTY GOVERNOR OF THE CENTRAL BANK OF KENYA

(Hon. Julius Sunkuli walked into the Chamber)

Hon. Speaker: Hon. Julius take the nearest seat.

Hon. Members, I have a Message from the Senate on the approval of the nomination of Mr Gerald Nyaoma Arita for appointment to the position of Deputy Governor of the Central Bank of Kenya (CBK).

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Pursuant to the provisions of Standing Order 41(4) relating to Messages from the Senate, I wish to report to the House that I have received a Message from the Senate regarding the approval of the nomination of Mr Gerald Nyaoma Arita for appointment to the position of Deputy Governor of the Central Bank of Kenya.

You will recall that the approval hearings for the nominee for the position of Deputy Governor of the Central Bank of Kenya (CBK) were jointly conducted by the respective committees of the Houses of Parliament. On Wednesday, 27th November 2024, the National Assembly approved the appointment of Mr Gerald Nyaoma Arita as the Deputy Governor of the Central Bank of Kenya.

The approval by the Senate now concludes the bicameral consideration of the matter. I am informed that that decision has already been conveyed to the Office of the Head of the Public Service for appropriate action.

The House is accordingly guided.

Next Order.

PAPERS

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Reports of the Auditor-General and Financial Statements for Rural Electrification and Renewable Energy Corporation Staff Mortgage and Car Loan Scheme for the nine months' period ended 30th June 2024, and certificates therein.
2. Reports of the Auditor-General and Financial Statements for the years ended 30th June 2021, 30th June 2022 and 30th June 2023, and the certificates therein in respect of:
 - (a) Blessed Mugutha Secondary School;
 - (b) Njoro Boys High School; and,
 - (c) Bavuni Secondary School.
3. Reports of the Auditor-General and Financial Statements for the year ended 30th June 2024, and the certificates therein in respect of:
 - (a) Kenya Nairobi Southern Bypass Road Project (Loan Agreement No. China EXIMBANK PBC NO. (2011) 22 Total No. (183) NO. 14203030520115528) – Kenya National Highways Authority;
 - (b) Regional Mombasa Port Access Road Project (Loan No. (KFW):27459, Grant No. (KFW): 202061919) and Credit No. (KFW):84010 – Kenya National Highways Authority;
 - (c) Mombasa – Nairobi – Addis Ababa Road Corridor Project Phase II (Marsabit – Turbi Road) Loan Agreement No.2100150020744;
 - (d) Financing Locally–Led Climate Action Programme Project (Loan No. BWZ-No. 2016 65 108/2018 65 138) – The National Treasury;
 - (e) Support to Technical Vocational Education and Training for Relevant Skills Development Project -TVET Project Phase II (ADF Loan No. 2100150033295) – State Department for Technical, Vocational Education and Training;
 - (f) Increased Enjoyment of Human Rights and Fundamental Freedoms by All in Kenya Project Grant /Credit Number: KEN 19-0011 – Kenya National Commission on Human Rights;
 - (g) USAID Boresha Jamii Project No.720061521CA00004 – Jaramogi Oginga Odinga University of Science and Technology;

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- (h) Africa Centre of Excellence in Sustainable Use of Insects as Food and Feeds Project (IDA Credit No. 5798-KE) – Jaramogi Oginga Odinga University of Science and Technology;
- (i) Kenya Nairobi Western Bypass Project (Loan No. China EXIM Bank GCL No. (2017) 28 Total No. 633) – Kenya National Highways Authority;
- (j) Second Kenya Informal Settlements Improvement Project (IDA Credit No. 6759 – KE) – State Department for Housing and Urban Development;
- (k) Kenya Urban Support Programme IDA Credit No. 61340-KR – State Department for Housing and Urban Development;
- (l) Kenya Youth Employment and Opportunities Project (IDA Project No. 5812 - KE) – State Department for Youth Affairs and Creative Economy;
- (m) East Africa Skills Transformation and Regional Integration Project IDA Credit No. 6334-KE – State Department for Roads;
- (n) Horn of Africa Gateway Development Project (IDA Credit No. 6768KE)- National Transport and Safety Authority;
- (o) Global Fund – Provision of Quality Care and Prevention Services for All People in Kenya with TB, Leprosy and Lung Diseases Programme (Grant Agreement No. KEN-M-TNT-2067)- The National Treasury;
- (p) Global Fund – to Contribute to Achieving Vision 2030 through Universal Access to Comprehensive HIV Prevention, Treatment and Care Programme (Grant Agreement No. KEN-M-TNT -2065) – The National Treasury;
- (q) Global Fund – to Reduce Malaria Incidences and Deaths by at least 75 Percent of the 2016 Levels by 2023, Working Towards a Malaria-Free Kenya Programme (Grant Agreement No. KEN-M-TNT-2064) – The National Treasury;
- (r) Multi-national Horn of Africa Isiolo-Mandera Corridor (Elwak – Rhamu Road) Upgrading Project – Kenya National Highways Authority;
- (s) Port Reitz/Moi Internal Airport Access (C110) Road (Fidic Epc /Turnkey Based) Project - Kenya National Highways Authority;
- (t) Multi-national Arusha – Holili/Taveta - Voi Road Corridor Development Project Phase I Project Loan No. 2100150028894) – Kenya National Highways Authority;
- (u) Eastern Africa Regional Transport, Trade and Development Facilitation Project (IDA Credit No. 5628) – Kenya National Highways Authority;
- (v) Towards Ending Drought Emergencies (Twende): Ecosystem-Based Adaption in Kenya’s Arid and Semi-Arid Rangelands Project (IUCN Grant No. P02886) – State Department for Livestock Development;
- (w) European Widows and Orphans Pension Fund – The National Treasury;
- (x) Kenol – Sagana- Marua Highways Improvement Project (P-KE-DBO-037) Credit No. 5050200000901 and 2000200004504 – Kenya National Highways Authority;

- (y) Improvement of Drinking Water and Sanitation Systems in Mombasa: Mwache Project (Credit No. AFD LOAN No. CKE 1103 01 C) – Coast Water Works Development Agency;
- (z) Upgrading of Kibwezi – Mutomo – Kitui- Migwani Road Project No. BLA2016K001 – Kenya National Highways Authority;
- (aa) National Agricultural and Rural Inclusive Growth Project (IDA Credit 5900-KE) – State Department for Agriculture;
- (bb) Kenya Off-Grid Solar Access Project (KOSAP) Credit Number 6153-KE – State Department for Energy
- (cc) Kenya Cereal Enhancement Programme – Climate Resilient Agricultural Livelihood Window (KCEP-CRAL) EU Grant No. 2000000623, Grant No. 2000001522, Grant No. 2000003493, Grant No. 2000001122 and IFAD Loan 2000001121 – State Department for Agriculture;
- (dd) Kenya Transformation Centres Digital Platform Project;
- (ee) Kenya Climate Smart Agriculture Project (IDA Credit No. 5945-KE) – State Department for Agriculture;
- (ff) East Africa Skills for Transformation and Regional Integration Project (EASTRIP) IDA Loan Credit No. 6334-KE – State Department for Technical, Vocational Education and Training;
- (gg) Kenya Water Security and Climate Resilience Project (Grant No. TFOA0761A and Credit number: 5268/5674/7423- KE) – State Department for Irrigation;
- (hh) Multi-national Drought Resilience and Sustainable Livelihoods Programmes (DRSLP) in the Horn of Africa (ADF Loan No. 2100150028345) – State Department for Agriculture;
- (ii) Programme for Legal Empowerment and Aid Delivery (Project Credit Number KE/FED/2018/397-591) – The Attorney General and Department of Justice;
- (jj) Mombasa – Mariakani Highways Project (A019) Roads Lot I (Mombasa – Kwa ADF Loan No. 2100150032743 – Kenya National Highways Authority;
- (kk) Multi-national to Build Resilience for Food and Nutrition Security in the Horn of Africa (Brefons) – State Department for Agriculture; and,
- (ll) Small Scale Irrigation and Value Addition Project – ADF Loan 200130014530 and Grant No. 5570155000751 – State Department for Agriculture.

Thank you.

Hon. Speaker: Thank you, Leader of the Majority Party. The Vice-Chairperson of the Departmental Committee on Education, Hon. Malulu Injendi.

Hon. Malulu Injendi (Malava, ANC): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Education on its consideration of the Learners with Disabilities Bill, (Senate Bill No.10 of 2023).

Hon. Speaker: Thank you. The Chairperson of the Departmental Committee on Justice and Legal Affairs. Hon. Mutuse.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Hon. Speaker, the Chairperson is not in. We were supposed to table the joint Report on the National Dialogue Committee (NADCO), but the Senate Co-Chairperson has not yet signed it. We request for more time, so that we can table the Report in the course of consideration of business this afternoon.

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Hon. Speaker: Are you sure you will have it this afternoon?

Hon. Mwengi Mutuse (Kibwezi West, MCCC): It is just awaiting a signature from the Senate Co-Chairperson, Sen. Wakili Sigei.

Hon. Speaker: Alert the Chair once it comes.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): I will do so, Hon. Speaker.

Hon. Speaker: Was there a notice of Motion, Hon. Mutuse? There was also a notice of Motion. Do the same reasons apply?

Hon. Mwengi Mutuse (Kibwezi West, MCCC): The same reasons apply, Hon. Speaker.

Hon. Speaker: Next Order.

(Hon. Ruku GK spoke off the record)

Yes, Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Hon. Speaker, I requested for a statement on 18th September regarding the payment of the last...

Hon. Speaker: Hold on. Are you on Statements?

Hon. Ruku GK (Mbeere North, DP): Yes. I requested...

Hon. Speaker: Just hold on. Take your seat. Clerk-at-the-Table, skip Order No.7 for now. Go to Order Nos.8, 9, and 10, so that we can dispose of them before we proceed. Start with Orders Nos.9 and 10, so that I put the Question. After that, we will come back to Statements.

MOTIONS

CONSIDERATION OF REPORT ON THE START-UP BILL

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Start-up Bill, (Senate Bill No.14 of 2022) up to Clause 6, and seeks leave to sit again.

(Moved by Hon. Irene Mayaka on 5.12.2024 – Morning Sitting)

(Resumption of consideration interrupted on 5.12.2024 – Morning Sitting)

(Question put and agreed to)

You will be sitting again shortly to consider that business. Next Order.

APPROVAL OF THE MEDIATED VERSION OF THE CONFLICT OF INTEREST BILL (National Assembly Bill No.12 of 2023)

THAT, pursuant to the provisions of the Article 113(2) of the Constitution and Standing Order 150(3), this House adopts the Report of the Mediation Committee on the Conflict of Interest Bill, (National Assembly Bill No.12 of 2023), laid on the Table of the House on Wednesday, 4th December 2024, and approves the Mediated version of the Conflict of Interest Bill, (National Assembly Bill No.12 of 2023).

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(Moved by Hon. George Murugara on 5.12.2024 – Morning Sitting)

(Debate concluded on 5.12.2024 – Morning Sitting)

(Question put and agreed to)

Let us go back to Order No.8.

PROCEDURAL MOTION

EXTENSION OF PERIOD FOR CONSIDERATION OF A SPECIAL MOTION ON APPROVAL OF NOMINEES FOR APPOINTMENT TO THE SRC

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011 relating to extension of period of consideration of nominees for appointment to a public office, this House resolves to extend the period for consideration of a Special Motion relating to the approval of nominees submitted by His Excellency the President for appointment as the Chairperson and Members of the Salaries and Remuneration Commission by a period of 14 days from 11th December 2024.

Hon. Speaker, this is a Procedural Motion considering that we are breaking for the long recess. There were issues that were yet to be resolved on the approval process of the nominees to the SRC. Therefore, we are just seeking extra time to finalise the few pending issues before we bring that Motion for approval.

Hon. Speaker, I beg to move and request Hon. Mwenje to second.

Hon. Speaker: Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. I agree with the Leader of the Majority Party that there were some sticky issues that need to be resolved. I second the Procedural Motion.

Hon. Speaker: The Leader of the Majority Party has said that there were pending issues, but you are saying that there were sticky issues. Which one is it?

(Hon. Kimani Ichung’wah spoke off the record)

(Laughter)

They are pending because they are sticky.

(Question proposed)

Should I put the Question?

Hon. Members: Put the Question!

(Question put and agreed to)

Hon. Speaker: Let us go back to Order No.7. Leader of the Majority Party, we will start with your Statement.

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QUESTIONS AND STATEMENTS

STATEMENT

BUSINESS FOR THE WEEK OF 10TH TO 14TH FEBRUARY 2025

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. This is the usual Thursday Statement. Today is a special Thursday since it is the last Thursday this year for normal Sittings.

Hon. 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 (HBC), which met on Monday, 2nd December 2024, to prioritise business for consideration during the week.

As Members are aware, the House is scheduled to proceed for the long recess commencing after today's Sitting, going by our Calendar of Regular Sittings. I wish to take this opportunity to thank the Leadership and Members of this House for your dedication and active participation during the Session. The House sat longer on some days and had additional Sittings to conclude various priority business. The HBC appreciates and notes the dedication and commitment of Members of the House.

In retrospect, we have achieved a lot, dared greatly, shown a lot of enthusiasm in our work, and great devotion and dedication to our high calling as Members of the National Assembly of the Republic of Kenya. I want to encourage Members to continue with the same dedication.

I must thank the Leadership of the House, all Members and our staff for the charisma and steadfastness they demonstrated during the tumultuous life-threatening events of 25th June 2024, and the aftermath. Your resilience is nothing short of inspiring, without which the House would not have quickly returned to normalcy, which enabled us to accomplish a lot and close the Session on a high note.

(Applause)

To pick out a few accomplishments, in the course of this Third Session, the House passed key pieces of legislation, including Bills relating to taxes, tax procedures, business laws, and the Budget for both the national and county levels of government, with the conclusion this morning of the County Revenue Allocation Bill as per the Message from the Senate that you have relayed to the House. Additionally, the House considered and approved nominees for appointment to various positions, including reconstitution of the Cabinet. As you noted, there were good innovations of even including questions by members of the public in the vetting process. Indeed, we note your leadership in the Committee on Appointments, which you led to make the innovations. There were also nominations to constitutional commissions and other State and public officers whom we approved, including Mr Nyaoma, to be the Deputy Governor of the Central Bank of Kenya, which we concluded and passed to the Senate.

The House also demonstrated its responsiveness to issues affecting the public and rose to the occasion to address them. Of note, when the public raised concerns regarding the new funding model for university education and the teething challenges that are being faced in the implementation of the universal health care under Taifa Care, this House requested you to convene a *kamukunji* with respective Cabinet Secretaries to iron out the challenges, and you did so. The House Business Committee notes with gratitude your commitment to enabling and shepherding the House to resolve issues of concern to the people we represent. It is also worth noting that the House robustly executed its oversight roles through parliamentary questions and

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statements sought by Members of this House to cabinet secretaries who appeared to answer and respond. The questions and requests for statements are brought to the House on behalf of the people.

I may not be able to list all the achievements, but allow me to sincerely register my thanks to the House for the work well done this year, and especially during this last part of the Session. As we recollect and appreciate what has been achieved, I wish to point out that the mission of the 13th Parliament is not yet over. We still have a significant number of legislative proposals, Bills, statutory instruments and reports that will most certainly need our keen attention when the House resumes on Tuesday, 11th February 2025. As you indicated, should there be need for a special sitting, I am certain that all Members are ready and willing to appear to consider any urgent business. And I thank them for their dedication.

I, therefore, urge Members to rest during this recess, rejuvenate and spend time with their families. Your families are the most important part of your being. Spend good time with them this Christmas season. And also, spend time with your larger families, the constituents that you represent, the people who have given you the great honour to represent them in this House. Spend time and share Christmas with them. Do not fear to share Christmas with your constituents, including churches. Please share with them. We are directed to do so in the Bible, for us Christians. I believe that even our colleagues who are Muslims are directed by the Holy Quran to share. I know that Muslims have a sharing spirit. I always see it during the month of Ramadhan, when Hon. Aden Daudi visits me and my family to share what he has.

I also wish to inform Members that they may be called for a special sitting, pursuant to the provisions of Standing Order 29(1), to consider important pending business and other urgent business that may arise in the interim. It is good to note that we are like doctors on call. And Members are always willing to appear should there be need.

Hon. Speaker: We can call you even on Christmas Day!

Hon. Kimani Ichung'wah (Kikuyu, UDA): That is why we are called to a high calling. I am certain even if you call Members on Christmas Day, they will be here for the service of humanity and the people of Kenya that have given them the high honour to represent them.

On behalf of the House Business Committee, my family and the great people of Kikuyu Constituency, I take this opportunity to wish you all a happy festive season as you interact and spend time with your families, your constituents and all the other Kenyans. I now wish to lay this Statement on the Table of the House.

Hon. Speaker, away from the Statement, this last week has been very torturous for the Whips. This afternoon, I joined Hon. Mwenje and Hon. Naomi in whipping Members to come to the Chamber when you were already seated. At times, it is very embarrassing to leave you seated there and go and whip Members. You find some Members lying on seats in the Members' Lounge and others enjoying their meals. We all know the appointed time when the Speaker sits is 2.30 p.m. I know that towards the end of the year, people get fatigued. In the coming year, I pray that we will not keep the Speaker waiting at 2.30 p.m. or at 9.30 a.m., and that Members will not be sitting in the dining area entertaining guests or having their lunch waiting to be whipped. I plead that in the coming year, we all come back re-energised with renewed energy after Christmas. I believe we will have gained some weight. This year has been torturous, but Members have been very resilient. I thank all of them. In the new year, let us come with new energy so that we treat the business of the House with the dignity that it deserves and on time.

Hon. Speaker, I thank you and wish all Members a merry Christmas, a happy festive season, a prosperous 2025 to you, your families and constituents. May God bless you to continue serving the nation. Thank you.

Hon. Speaker: Member for Suna West, we are on Statements.

REQUEST FOR STATEMENT

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CAPITATION TO SCHOOLS AND
STATUS OF ECDE PROGRAMMES

Hon. Peter Masara (Suna West, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Education regarding the capitation to schools, textbook-to-pupil ratio, and the state of early childhood development and education (ECDE) programmes. The country has made remarkable strides in expanding access to education through initiatives such as free primary and secondary education, significantly boosting enrolment rates and reducing education disparities. However, while access to education is essential, the quality of education must also be prioritised so as to equip learners with the skills and knowledge that is needed to succeed in a competitive and dynamic environment. Unfortunately, the current Government capitation grants for primary and secondary schools are insufficient to address the rising operational cost that is driven by inflation and the high cost of living. Those financial strains leave schools struggling to provide essential resources timeously, thus compromising the quality of education. In addition, there is a need to ensure that the framework for textbook distribution in public schools under the free basic education system is designed to boost the quality of education.

Pre-primary education is crucial for early character development and cognitive preparedness of a child. Article 186 of the Constitution devolves ECDE to county governments, thus leaving each county to regulate its own programmes. Consequently, ECDE programmes in some counties have faced significant challenges, including lack of investment by counties, thus resulting in disparities with regard to poor facilities and underpaid teachers, thus hindering the quality of education and resources available to learners and teachers.

Consequently, ECD programmes in some counties face significant challenges, including lack of investment by counties resulting into disparities with regard to poor facilities and underpaid teachers, hindering quality of education and resources available to learners and teachers.

Hon. Speaker, it is against this background that I request for a statement from the Chairperson of the Departmental Committee on Education on the following:

1. The plans, if any, by the Ministry of Education to increase capitation for both primary and secondary schools to cushion them against the high cost of living and inflation.
2. A report on the ratio of text books to pupils in the country, the criteria used by the Ministry to determine the ratio of textbooks distribution and measures taken to ensure an equitable ratio countrywide.
3. A comprehensive assessment of implementation of ECD programmes under county governments, including steps taken to collaborate to ensure standardisation for smooth and effective transition of children from ECD to primary school.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Masara. Chairman of the Departmental Committee on Education. I thought I saw Hon. Melly here. Hon. Malulu Injendi.

Hon. Malulu Injendi (Malava, ANC): Yes, Hon. Speaker.

Hon. Speaker: You will bring the response during the first week upon resumption.

Hon. Malulu Injendi (Malava, ANC): Thank you, Hon. Speaker.

Hon. Speaker: Hon. Amina Udgoon, Member for Garissa County.

MANAGEMENT OF PENSION FUNDS BY NSSF

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Hon. Amina Siyad (Garissa County, JP): Hon. Speaker, pursuant to the provisions of Standing Order (44)(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the management of pension funds by the National Social Security Fund (NSSF).

The NSSF is a statutory body that is mandated to register members, receive their contributions, manage funds of the scheme, process and ultimately pay out benefits to eligible members or dependants. The enactment of the NSSF Act of 2013, which took full effect in 2023, introduced a new structure for contributions. This has resulted in an increase in the contributions that are managed by NSSF with collections averaging Ksh6 billion per month.

Hon. Speaker, in compliance with the Retirement Benefits Authority Act, the NSSF outsourced fund management to external fund managers namely: Old Mutual Asset Managers, GenAfrica Asset Managers, Africa Alliance Kenya Investment Bank, Sanlam Investments East Africa Limited, Co-op Trust and CIC Asset Management Limited. However, in August 2024, the Central Bank of Kenya (CBK) initiated an investigation through a request to Capital Markets Authority (CMA) into irregular trading activities involving the NSSF, where Treasury Bonds were allegedly bought at inflated prices and sold at losses. The purported trading malpractice raises serious concerns regarding the stewardship in management of pension funds by the NSSF and detrimental impact to the contributors.

Hon. Speaker, it is against this background that I request for a statement from the Chairperson of the Departmental Committee on Finance and National Planning on the following:

1. A comprehensive report on the distribution of funds for management among the six external fund managers for NSSF, from July 2022 to October 2024, including any bond transactions made in the primary and secondary markets.
2. A report on the total value of investment made in buying of Government securities such as Treasury Bonds, and the distributions among the external fund managers.
3. The action taken by the Board of Trustees of NSSF to internally investigate the purported irregular trading activities and ensure that prudential principles such as security, profitability, liquidity and transparency were followed in the investment of the funds.
4. A report on any investigation that has been undertaken by the CMA in collaboration with the CBK on the alleged irregular trading activities and if so, the action taken to sanction those involved.
5. The role, if any, of Pergamon Investment Bank in the alleged irregular trading activities resulting in the bonds being bought at inflated prices and sold at losses.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Udgoon. Chairman of the Departmental Committee on Finance and National Planning. *Mhe. Naomi, Mwenyekiti wa Kamati yako ako wapi?*

Hon. Naomi Waqo (Marsabit County, UDA): He has not yet arrived.

Hon. Speaker: Inform him to respond during the first week upon resumption.

Hon. Naomi Waqo (Marsabit County, UDA): I will. Thank you.

Hon. Speaker: Hon. Joshua Kandie.

RECRUITMENT OF OFFICERS TO THE STATE DEPARTMENT FOR DIASPORA AFFAIRS

Hon. Joshua Kandie (Baringo Central, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2) (c), I rise to request for a statement from the Chairperson

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of the Departmental Committee on Labour, regarding the recruitment of officers to the State Department for Diaspora Affairs.

Hon. Speaker: Hold on, Hon. Kandie. What is your point of order, Hon. Amina?

Hon. Amina Siyad (Garissa County, JP): Hon. Speaker, I do not have a point of order. I want to say something on the request for statement.

Hon. Speaker: We are done with your request for statement.

Hon. Amina Siyad (Garissa County, JP): I know, Hon. Speaker. Give me one minute to say something. The NSSF now collects 12 per cent of the workers' salaries. I would like the Departmental Committee on Finance and National Planning and the Departmental Committee on Social Protection to invite me in that meeting so that I can take part in it.

Hon. Speaker: When the Departmental Committee on Finance and Planning Committee sits, they will invite you. It is given.

Hon. Amina Siyad (Garissa County, JP): Thank you, Hon. Speaker.

Hon. Speaker: Hon. Kandie.

Hon. Joshua Kandie (Baringo Central, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Labour regarding the recruitment of officers in the State Department for Diaspora Affairs.

Article 232(1)(i) of the Constitution enshrines the values and principles of public service, which include the provision of adequate and equal opportunities for appointment, training and advancement in all levels of the public service to men and women, members of all ethnic groups and persons with disabilities. That constitutional provision is necessary for upholding equity, fairness, inclusivity and transparency in public service appointments and advancement.

The State Department for Diaspora Affairs has undertaken a recruitment of individuals to various positions, contrary to Article 232(1)(i) of the Constitution and Section 37 of the Public Service Commission Act, Cap. 185. Notably, the Public Service Commission Act, Cap. 185 mandates the Commission to advertise all vacancies of a public office on its official website and, at least, one newspaper of national circulation. However, there is no evidence that such advertisements were made for the positions recruited. Therefore, many Kenyans were denied an equal opportunity to apply for the positions in the State Department for Diaspora Affairs.

Hon. Speaker, it is against this background that I request for a statement from the Chairperson of the Departmental Committee on Labour on the following:

1. A comprehensive report on the recruitment of officers in the State Department for Diaspora Affairs from January 2023 to October 2024, detailing the dates when the mandatory public advertisements were made in accordance with Section 37 of the Public Service Commission Act, Cap. 185 and the procedures used in the recruitment.
2. A list of individuals recruited to the State Department for Diaspora Affairs during the specified period, including details on the regions from which they were selected.
3. The measures that have been put in place by the Public Service Commission to ensure that all Kenyans are afforded adequate and equal opportunity for appointment to public offices, along with steps taken to uphold transparency in the recruitment process within public offices.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Karemba, that is to you. First week upon resumption?

Hon. Muchangi Karemba (Runyenjes, UDA): Yes. I undertake that we will look into his request for statement, Hon. Speaker.

Hon. Speaker: Thank you. You also have a request for statement.

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HIGH COST OF FARM FEEDS

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Speaker.

Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding the high cost of farm feeds.

Dairy farming is crucial in ensuring food security and economic stability in the country. Sadly, the industry faces several challenges that have crippled the farmers, including the high cost of animal feeds, high veterinary charges, and changes in milk prices. The challenges have, in turn, decreased milk yields, thereby undermining the overall performance and sustainability of dairy farming in the country, specifically in Runyenjes, Embu County.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Agriculture and Livestock regarding the following:

1. Statistics of milk production in Runyenjes Constituency in Embu County;
2. The measures being put in place to lower the cost of animal feeds that are required for dairy farming; and,
3. The initiatives being put in place to ensure high milk production in the country.

Thank you.

Hon. Speaker: Thank you. Chairman, Departmental Committee on Agriculture and Livestock. Where is Hon. (Dr) Mutunga? Hon. Naomi, inform the Chairman.

Hon. Naomi Waqo (Marsabit County): Yes, Hon. Speaker, I will inform him. I am sure once we come back from recess, the Committee will be able to give us a report.

Hon. Speaker: Thank you.

RESPONSES TO REQUESTS FOR STATEMENTS

FIGHT AGAINST DRUG TRAFFICKING IN THE COUNTRY

Hon. Speaker: Hon. Tongoyo, give a response to a request for statement by Hon. Tindi Mwale. Is he in the House?

Hon. Gabriel Tongoyo (Narok West, UDA): Yes. I can see him in the House.

Hon. Speaker: I can see you, Hon. Member. Go ahead.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, in response to the statement being sought by Hon. Nicholas Tindi Mwale, the Member for Butere, regarding the fight against drug trafficking in the country, I want to state as follows.

The Member wanted to know the number of users of hard drugs in the country, as registered by the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA), with a specific focus on heroin and cocaine; the reported involvement of law enforcement officers, that is, the National Police Service; and the status of the war against drug abuse, including an enumeration of the rehabilitation programmes for persons affected by drug abuse.

Hon. Speaker, Kenya faces a number of challenges as far as alcohol and drug abuse is concerned, and the problem transcends through race, income level and economic or social status, and continues to affect the overall productivity of Kenyans. The number of users of the hard drug is obtained from the various surveys that the authority has carried out over the years. It is a voluminous document based on a survey result.

Hon. Speaker: Can it be shared with Hon. Tindi?

Hon. Gabriel Tongoyo (Narok West, UDA): Yes. I would rather do that because it gives a whole survey report and includes the...

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Hon. Speaker: Share it with the Member and table it.

Hon. Gabriel Tongoyo (Narok West, UDA): That is much better, Hon. Speaker, because it is a voluminous document.

Hon. Speaker: Hon. Mwale, have you seen it?

Hon. Nicholas Mwale (Butere, ODM): Yes, Hon. Speaker. I have seen the document.

Hon. Speaker: Okay, table it. I will allow the Member to ask a supplementary question on the document.

(Hon. Tongoyo laid the document on the Table)

Hon. Nicholas Mwale (Butere, ODM): Thank you very much. The data has been provided, but the years they are quoting are not recent. They are using data from three years ago. I do not know if we can get the exact data as of 2024.

Hon. Speaker: Hon. Gabriel, are you giving data that is out of date?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, it is hard to do because surveys are expensive. So, they are carried out periodically, maybe after two or three years. I will try to see if we have the latest data. The latest I see here is for 2021 by NACADA.

Hon. Speaker: Hon. Tindi.

Hon. Nicholas Mwale (Butere, ODM): Hon. Speaker, that is why I wanted to ask the Committee if they can ask the relevant Ministry for the recent data because we might be dealing with the data of 2021. However, data keeps changing because drug abuse is a common disease in Kenya these days.

Hon. Speaker: Hon. Nabii.

Hon. Nabii Nabwera (Lugari, ODM): Hon. Speaker, I agree with Hon. Tindi. The problem of drug trafficking and the use of hard drugs has permeated our society, especially our secondary schools, universities and colleges. Now, if we rely on data that is four years old, we cannot develop a strategy to manage the issue. Therefore, it behoves the Ministry to give us up-to-date data to enable us to create a strategy to manage the situation.

Thank you.

Hon. Speaker: Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Speaker. At least, we have some data, whether redundant or not. At least, we have got a starting point. The Chairman could listen to Members so that he transmits this information to the relevant authorities. The issue of drug trafficking is becoming a dangerous menace in this country. For us who represent border constituencies, we are reeling from the effects of peddling of hard drugs like bhang and other forms of narcotics. It is now starting to affect our children and, surprisingly, even the girls are now resorting to smoking bhang, which is starting to worry every member of the society. I remember when the Deputy Inspector-General came to my constituency about two weeks ago, he talked about this matter. Still, most of that drug trafficking is normally done by the support and convenience of the security officers. However, one of the issues that the Committee needs to deal with is how to sensitise security officers on the dangers of supporting drug trafficking.

With those few remarks, I wish that the Chairman, when we return next year, will come up with a more updated and comprehensive report or a template we can use to talk about drug trafficking in our various constituencies.

Thank you.

Hon. Speaker: What I would direct Hon. Tongoyo to do is, during the period we are on recess, try to obtain up-to-date data, at least up to 2022/2023, so that you can share it with Hon. Mwale and any other Member who can pick it up from the Table Office. I will direct that this Statement be listed when we resume so that it can be interrogated a little more.

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Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, the latest national survey was in 2022, but we will try to see whether there is a very recent one.

Hon. Speaker, there is also a question on the number of accredited facilities that are undertaking rehabilitation. Miritini is one of the models we have in this country. Through the Committee, they are continuously being allocated money and some good work is being done there. I want to report that the Anti-Narcotics Unit within the Directorate of Criminal Investigations (DCI) is really vibrant. We are trying to give them a little bit of autonomy and enhancing resource allocation. Currently, they are a bit deprived. They have around 50 vehicles and are a bit understaffed. They have about 76 staff members. Last week, they were given an approval to add more staff members and so, they are almost 100. That way, they will be more efficient and access every part of this country. On the issue of the data, I will do as guided.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Tindi Mwale you will be given a response when we resume. Next, is the response for statement requested by Hon. Rael Kasiwai. Chairman of the Departmental Committee on Blue Economy and Irrigation.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. On Tuesday, you made a ruling that I give a response to a statement requested by Hon. Gonzi Rai.

Hon. Speaker: He is not in the House.

Hon. Kangogo Bowen (Marakwet East, UDA): Yes. I want to inform you that I gave a response this morning. So, this is a response to Hon. Kasiwai and it is my last one.

Hon. Speaker: Go ahead.

STATUS OF SIYOI-MURUNY DAM PROJECT IN WEST POKOT COUNTY

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. The first question by Hon. Kasiwai was about the current status of Siyoi-Muruny Dam Project and the reasons behind the delay in its completion. I want to state that the project has two components; Lot 1 and Lot 2. Lot 1 being the dam component of the project is 72 per cent complete. Lot 2 being the water supply component is 97 per cent complete.

The second question was the steps the Government has undertaken to address the challenges that has led to the delay in the completion of the project. The Government is ensuring there is no further delay in completion of the project through the provision of funds in a timely manner. The third question was the measures being taken by the Ministry of Water, Sanitation and Irrigation to complete the project, including budgetary allocation. In the Financial Year 2024/2025 through my Committee, we allocated about Ksh900 million for the completion of that project, though they had requested for Ksh600 million for the last mile connectivity. Those are the three questions that were asked by the Hon. Member and the response is clearly provided. Thank you.

Hon. Speaker: Hon. Rael, are you satisfied?

Hon. Rael Kasiwai (West Pokot, KUP): Thank you, Hon. Speaker. I also want to thank the Chairman for answering my questions. I have some reservations about the figures he has provided. The Ministry has claimed that Lot 1 of the project is 72 per cent complete. According to my research on the ground, it is only 50 per cent complete. The Chairman claims that Lot 2 of the project is 97 per cent complete. According to my research, it is about 80 per cent complete. So, I am concerned about those discrepancies. I propose that the Committee should conduct a site visit so as to ascertain the actual status of the project.

Secondly, that project affected the community land in Muruny, South Pokot Constituency. So, the community is claiming compensation. The Ministry should compensate the landowners so that they can better their lives. Finally, I appreciate the allocation of Ksh900

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million. I ask the Committee to ensure that Ksh600 million is given in the next Supplementary Budget so that the project is completed on time. I know that project is very important to the people of West Pokot.

Hon. Speaker: Thank you. Hon. Bowen.

Hon. Kangogo Bowen (Marakwet East, UDA): I know Hon. Kasiwai is a teacher by profession. She is now a Member of Parliament and I do not know when she became an engineer and statistician.

Hon. Speaker: Just respond to her question.

Hon. Kangogo Bowen (Marakwet East, UDA): This is the correct information as given by the engineers in the Ministry of Water, Sanitation and Irrigation. Lot 1, which is the dam component, is 72 per cent complete. Lot 2, which is the water supply component, is 72 per cent complete. Regarding the funds, as the Chairman of the Committee...

Hon. Dorothy Muthoni (Nominated, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. Muthoni. Give her the microphone.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Speaker. Is the Chairman in order to insinuate that teachers know nothing else apart from teaching? They are very knowledgeable. I want to confirm that Hon. Rael is in order to quote those figures because she was a mathematics teacher. Thank you.

Hon. Speaker: The Chairman is out of order.

(Laughter)

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. So, through my Committee, they were allocated Ksh900 million, but they have not fully absorbed that money. I want to inform the Hon. Member that they have requested for an additional Ksh600 million for the last mile connectivity, which will be provided. On compensation, I want to report that before the contractor took over the site, compensation had already been done. Only a few individuals were not compensated. The Ministry is in the process of paying them through the National Lands Commission (NLC). Thank you.

Hon. Ruku GK (Mbeere North, DP): On a point of order, Hon. Speaker.

Hon. Speaker: Thank you. We end there. Yes, Hon. Ruku? Before I give him, allow me to acknowledge in the Public Gallery, *Bodaboda* operators from Suna West Constituency, Migori County. On my behalf and on behalf of the House, we welcome these great Kenyans to the House of Parliament. I encourage them to feel at home. This Parliament fully acknowledges and appreciates the wonderful work of *Bodaboda* operators in revolutionising rural transport. They go where no car can reach and give services to *wananchi*. Hon. Masara, I give you one minute to welcome your voters.

Hon. Peter Masara (Suna West, ODM): Thank you, Hon. Speaker. I welcome the officials of Suna West *Bodaboda* Sacco who were elected sometimes back. I want to congratulate them for having a very peaceful election. In Kenya, elections are a problem but theirs was very peaceful. They will go far. I invited them to Nairobi because tomorrow there is a big meeting at the Kenya International Conventional Centre (KICC) organised by Kenya Motorcycle Owners and Riders Association. They will be talking about safety on the road during this festive period. They will be training them on financial literacy and entrepreneurship. As you have acknowledged, *bodaboda* riders have done a lot for this country. Majority of our jobless youths can get an opportunity to earn their own money through the *bodaboda* business.

Therefore, the Government and every leader need to support *bodaboda* riders in their respective regions. In my constituency, for example, I have managed to take 1,400 riders to driving schools. We have taken back those who were riding *bodabodas*, but they had to get certificates. Some are at university and colleges. We need to invest money and time in the

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bodaboda industry in Kenya, since they are contributing to the economy of this country through paying taxes and giving jobs opportunities to our people. Congratulations to the team.

Hon. Speaker: Hon. Masara, thank you. Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Speaker. As we break for recess, I requested for a statement on 18th of September pursuant to Standing Order 44(2)(c) to the Departmental Committee on Health on the status of payment of the last expense and death gratuity to survivors of the beneficiaries of the National Health Insurance Fund (NHIF) and Public Services Scheme. From 18th till up to now, I have not received any statement or clarification as far as that matter is concerned.

Hon. Speaker: I remember! This is the second time you are raising that issue.

Hon. Ruku GK (Mbeere North, DP): Yes, Hon. Speaker. It is, therefore, important that you give us direction. There are many Kenyans who are suffering. In the request for statement, I had indicated that there are over 800 Kenyans who are waiting to be in terms with the loss of their loved ones. Families are out there suffering and yet, the Government has not done anything so far.

Hon. Speaker: Hon. Naomi, where is the Chairman of the Departmental Committee on Health? Dr. Pukose is one of the most consistent attendants though he is not here.

Hon. Naomi Waqo (Marsabit County, UDA): I have not seen him since morning, but he is a very committed Member. I am sure I will...

Hon. Speaker: Is there any member of the Committee?

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): I am here, Hon. Speaker. I am the Vice-Chairperson of the Departmental Committee on Health. I have worn a mask because I have a flu, just to be a good example.

An Hon. Member: Are we safe?

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): You are. That is why I have worn it.

Hon. Speaker: Thank you for being a responsible citizen.

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): What Hon. Ruku has raised is a very important matter. I remember it came to the Committee's attention, and we have been pushing the Ministry to get a comprehensive answer, and they are working on it. We have really pushed them. It is a very comprehensive question, and I am sure a very comprehensive answer will be given to Hon. Ruku.

Hon. Speaker: Vice-Chairperson, a very comprehensive answer from September to now?

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): We have been pushing the Ministry to respond, Hon. Speaker.

Hon. Speaker: We will give you time to respond on the first week upon resumption.

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): Much obliged, Hon. Speaker.

Hon. Speaker: Hon. John Paul.

Hon. John Paul Mwirigi (Igembe South, UDA): Thank you, Hon. Speaker.

I also rose here, in the month of October, and sought for a statement from the Departmental Committee on Health on the cancer prevalence. Up to date, it has not been responded to. I want to seek your advice on whether that request would lapse today or if it will be answered in the next Session.

Hon. Speaker: I direct that it be responded to upon resumption. Hon. Irene Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Speaker.

I also have a similar issue. I have two responses from the Ministry of Interior and National Administration on the status of the gender desks in the police stations which I got through WhatsApp. I actually expected a response on the Floor of the House.

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The other one was to the Departmental Committee on Social Protection. This was almost five months ago, on the extension of the declaration of the anti-FGM which has not been responded to, also. I would really like your direction on the two issues.

Hon. Speaker: I do not see Hon. Alice Ng'ang'a here. Hon. Tongoyo is in. Let them respond upon resumption of the House. Anybody else with statements that have not been responded to, I will save them for the first week of the next Session so that we can save time. Is that Hon. Mule? Is it on the same issue?

Hon. Stephen Mule (Matungulu, WDM): Yes.

Hon. Speaker: I have just said...

Hon. Stephen Mule (Matungulu, WDM): Hon. Speaker, I respect what you have said. I just want to urge the chairpersons and committees that when Members request for statements, we also push the ministries to give us answers, which somehow take a bit of time.

Last year, I requested for a statement in the month of February 2023, and a shallow response came in, two weeks ago. The Chairman of the Departmental Committee on Finance and National Planning had to send it back to the Cabinet Secretary for National Treasury and Economic Planning to give us another statement in January. We need to find a tracking model on how to ensure that the ministries respond to Members requests and statements in this House on time.

If a response is being given one year down the line, what purpose would it serve? It is high time we tell the ministries that we must get our responses within a certain time frame, and not until the time whereby it would not even serve the purpose that it was intended to.

Hon. Speaker: You have made your point. Thank you. Member for Bumula.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, I appreciate your ruling on statements. A few days ago, you ruled in regard to my statement to the Chairperson of the Departmental Committee on Labour on matters Kenya Revenue Authority (KRA), when he tried to dilly-dally and cheekily bring the needed answers. You ordered that he must bring the answers today.

Hon. Speaker: Hon. Naomi, Hon. Karemba has been here. Where has he disappeared to?

Hon. Wanami Wamboka (Bumula, DAP-K): I think that is why he ran away. I am sure that should attract your wrath.

Hon. Speaker: I even gave him an opportunity to request for a non-scheduled statement. Who is his Vice-chairperson? Hon. Naomi, early this week, I directed that the response to his statement be brought today.

Hon. Naomi Waqo (Marsabit County, UDA): Yes, Hon. Speaker. If I can get a minute, to trace him, I will do it. He is outside. I will bring him back.

Hon. Speaker: Yes, hunt for him and bring him here. Unfortunately, we are moving to the next Order.

(Hon. Muchangi Karemba walked into the Chamber)

There he comes! Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Hon. Speaker, while you have guided on the issue of statements, when the Cabinet Secretary for Education was here, I had a Question that went to him, but it did not make it to the Order Paper.

My Question was important because of the Report of about 200,000 students not joining Form One. Next year, we will have Form Ones. I have followed the same with the Departmental Committee on Education and the Cabinet Secretary, who had said he would give a response. It is time barred. My proposal had been that in high schools next year, we can provide for, at least, one school per constituency to mop up the over 200,000 Form One's. In my constituency,

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for example, I know a certain number who would like to join Form One. We do not know what to do with them, unless the Ministry guides us. The Cabinet Secretary had said that it was a good idea, but he wanted to make a formal statement.

I would request that, perhaps, you can direct a Member of the Departmental Committee on Education to get us the response because it is something that affects 200,000 pupils. If they do not get a chance to go to Form One next year, then they would have lost, of course, and they will never have a chance to go to school.

Hon. Speaker: Thank you, Hon. Mwenje. That is a very important issue. We will do that and, on the direction to close boarding schools, there is a possibility that we will have some Special Sitting before Christmas. When the request is matured, I will gazette your request for statement as well to be responded to, being that it is an important issue in education and it is concerning our children. That issue and the issue of closure of the 348 boarding schools, like I said, even if it is policy, Members of this House would be keen to hear the mitigating factors around it. Some of the children go to schools far away from home.

Hon. Malulu, do you have the answer on that issue? Okay, fine, let us finish with Hon. Karemba first.

Hon. Karemba, do you have the response to the Member for Bumula's request for statement which I directed you give today?

Hon. Muchangi Karemba (Runyenjes, UDA): Yes, Hon. Speaker. I undertook to find out how far the matter has gone. I am in possession of a letter that was done to the Kenya Revenue Authority (KRA) Commissioner-General, asking him to furnish the Committee with information regarding that recruitment. However, the letter indicated that they were supposed to write to the Committee on or before 9th December this month. So, I believe the KRA will respond to his grievances by 9th December at 5.00 p.m. So, they are still within the timeline, according to the letter that was done by the Committee.

Hon. Speaker: Are they going to write to you, the Committee or to the Member?

Hon. Muchangi Karemba (Runyenjes, UDA): To the Committee. I will communicate to the Member on what KRA will...

Hon. Speaker: We will save the issue to the first week upon resumption. Yes, Hon. Wamboka.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Speaker, those institutions of Government must also respect the rulings that are delivered by the Speaker. You had directed two weeks ago that they bring the statement. Two days ago, you still directed the same. It is high time that we must have a policy where Government institutions respect this House. The issue at KRA is not a small issue. As we speak today, KRA is running like a bandit institution. We have someone in the name of a Chairman who is harassing every other employee of KRA.

Hon. Speaker: Order, Hon. Wamboka. That Chairman is not here to defend himself. I will not allow you to go that route.

Hon. Wanami Wamboka (Bumula, DAP-K): Okay. I will not go that route, Hon. Speaker. However, the KRA needs the attention of this House. Things are not sitting pretty well at the KRA and it is only this House which has powers to deal with the issues at KRA. Much as I am guided, I hope by February when we resume, or if – as you have just indicated – you call us for a special sitting... This is a serious issue. I beseech that you direct Hon. Karemba to be ready so that this House can deal with the issues of KRA and the rogue people there.

Hon. Speaker: Very well. Hon. Karemba, be like the five wise girls in the Bible. Remember the set of ten? Five fools and five wise. So, be like the five wise ones. Come ready.

Hon. Malulu Injendi.

Hon. Malulu Injendi (Malava, ANC): Hon. Speaker, on the issue of closure of boarding schools, the Question was raised by Hon. Osoro and it has three sections. The first part was to have a comprehensive response on one, the cogent reasons for closing those many

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schools at such a short notice and whether any inspection was conducted at the lapse of the notices of closure to confirm compliance, and the measures that have been put in place to mitigate the inconvenience caused to learners, parents and the schools, considering the short period remaining before the reopening of schools for the commencement of the 2025 academic year.

The total number of schools with boarding sections in our public and private primary and junior schools are 3,199. Public schools are 1,436, while the private schools are 1,763 in number. During the period leading to the closure exercise, the schools were inspected against the guidelines of the schools' safety manual 208, and the 348 schools, which translates to 10.9 per cent, were found to have contravened the guidelines, hence putting the safety of learners at risk. The schools were recommended for closure because of the following reasons:

1. Registration status. Majority of the schools were not registered as having boarding sections and, therefore, operating illegally.
2. Compliance to safety standards in the dormitories. Most of the schools had dormitories with grills on the windows, which provided no exit in case of an emergency. Single exit doors with no provision for emergency exits. Doors that opened inwards, hence compromising the safety of the learners if locked inside. Some of the dormitories were repurposed buildings such as dining halls, classrooms and workshops, which had undergone modifications without the approval from the relevant authorities such as public health, public works and the National Environment Management Authority (NEMA). Congestion in the dormitories was common in those schools and the spacing of 1.2 metres between the beds was not adhered to. The learners were sleeping on double and triple decker, while some had wooden beds, which is a catalyst for fires in case of emergency. Majority of the dormitories in those institutions had not adhered to the needs of learners with disabilities.
3. Status of sanitation and water. The sanitation facilities in most of those schools were poorly maintained and inadequate. They had not adhered to the ratio of 1:25 for girls and 1:30 for boys. In some schools, toilets did not have doors and in some cases, the shutters were not age-appropriate. In the closed schools, sanitation units for boys and girls were located in the same direction or area. Most of those schools did not provide treated drinking water for learners.
4. Fire safety and equipment and materials. In most of those schools, fire extinguishers were not serviced regularly. Other firefighting equipment such as sand buckets, hose rails with water and smoke detectors were not available.
5. Status of security systems. Some of those schools' fences were porous without gates. Some gates were not manned by CCTV cameras, which had not been installed in the boarding area as required. Boarding registers were not regularly updated. Most heads of those institutions were not residing in school as required. In most schools, they did not engage female night security guards to take care of the security needs of female learners. Instead, there were male guards for girls. The schools had not engaged wardens to look after the boys in their dormitories at night.
6. Status of safety in the kitchen and dining hall. In most of those schools, kitchens had poor drainage, inappropriate solid wastes, disposal and unstable chopping surfaces. Most dining halls did not have adequate chairs and tables. While in some instances, where furniture was available, it was not age-appropriate. Most cooks and food handlers had no valid medical certificates.
7. Consideration of learners' welfare. Most schools had admitted boarders who were in pre-primary level. In some of those schools, learners were not provided

with balanced diets. There were no sick bays nor qualified nurses employed to take care of sick the learners. Some of the schools with swimming pools did not adhere to safety standards in construction and maintenance.

The second Question is whether re-inspection was conducted.

Hon. Speaker: How long is your Statement, Hon. Malulu?

Hon. Malulu Injendi (Malava, ANC): These two are very short. Inspected schools were given the recommendation that they were expected to implement. They were advised to seek re-inspection through sub-county offices once they complied. The schools' rate of compliance would determine the period of re-inspection.

The third Question concerned measures put in place to mitigate inconvenient cost. The schools that will have complied would be issued with re-registration certificates. Learners would not be affected. Where there is lack of compliance, sub-county directors of education would place learners in other schools or make them day scholars in the schools.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Next Order. Hon. Nabii, do you want to respond? The owner of the Statements is not here. I will allow you to seek a clarification. That will be the only one.

Hon. Nabii Nabwera (Lugari, ODM): Yes. Thank you, Hon. Speaker.

I must tell you that I am very, very disappointed. That is a very poorly crafted Statement. It does not tell us the problems in boarding primary schools. I want to say that, that inspection was done after the Hillside Enderasha Academy fire. The impulsive management by the Ministry of Education cannot be allowed. Despite the owner of the Statement not being here, this being a matter of national interest, I request that you order the Ministry to give us an appropriate answer detailing plans of managing the transition of children in those schools, noting that a child who is registered on the National Education Management Information System (NEMIS) in one school cannot be easily transferred to another school, especially if he is after Grade Four.

Hon. Speaker: Hon. Dawood, is it on the same issue?

Hon. Rahim Dawood (North Imenti, Independent): Yes, Hon. Speaker. It is on the Statement the Vice-Chair has read. This country has many boarding schools. If we go to all boarding schools, there may be even worse things than what we have been given. There are two such schools in my constituency. I wish they did a comprehensive audit of all boarding primary schools in this country. There are times you wonder how a grade four can be in a boarding school. We should have a policy where boarding schools should exclusively be for older children. Not small ones who cannot help themselves.

I am a product of a boarding school. I have stayed in boarding school for six years. However, the boarding schools of today are pathetic. They do not have spaces to allow movement. Children are bundled up onto two or three high-decker beds. There is no space. Exit doors are probably locked or not opening the right way. The windows have bars. It is not those schools only that should be victimised. We should have a comprehensive report on all boarding schools, not just those that have burned.

(Hon. Malulu Injendi and Hon. Beatrice Elachi spoke off the record)

Hon. Speaker: I want to go to the next Order. Mama Dagoretti, *wacha tuwachie hapo*. Call the next Order. Call the next Order. Malulu, which one is that? It is not on my list.

Hon. Malulu Injendi (Malava, ANC): It is a response to a request of statement that Hon. David Kiplagat sought.

Hon. Speaker: He is not here. It is not on my list either. Yes, Whip of the Minority Party.

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Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker. Sorry, because I seek your indulgence. I know we are not yet in that Order. However, could I please know whether the Assisted Reproductive Technology Bill will proceed?

Hon. Speaker: We are going to that Order now. We will go into Committee. The Start-ups Bill is the first on the list followed by the Persons with Disabilities Bill and then the Assisted Reproductive Technology Bill.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): That is why I sought your indulgence. It came up in the morning, but the Chair and the Vice-Chair were not in the House. If it proceeds and they are not here, it means I will be sitting here waiting for something that is not proceeding and yet, I am supposed to be in Nyanza. I will just be sitting. I just need to know. I will cancel my trip to sit here and proceed if they are not here.

Hon. Speaker: Hon. Millie, as a leader in the House, you are obligated to be here whether you have business to transact personally or not. This is a Sitting Day. Your matter is listed. Even if it was not, I expect you to be here regardless. More so, that you are the Whip of the Minority Party. However, it is on the list. You know I appreciate if you have an emergency and those who are responding to issues are not here. You may want me to take it out of the list and save it for the next term. The earliest we resume is on 11th February 2025.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker.

We actually have an event in Migori. We have an event tonight. I am willing to cancel my trip and sit here if the Chair or Vice-Chair are willing to proceed. The only thing that feels bad is that I could cancel my trip and yet nobody is here. I was supposed to have gone in the morning and I cancelled.

Hon. Speaker: From where I sit, Hon. Millie, I have no capacity to know if they will be here. Whip of the Majority Party, is Dr Pukose or his Vice-Chair around? The Vice-Chair is there.

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): Hon. Speaker, we are willing to proceed with the Bill.

Hon. Speaker: Okay. May I call out the next Order? Members, be upstanding.

(Members stood up in their places)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE START-UPS BILL (Senate Bill No. 14 of 2022)

(Resumption of consideration interrupted on 5.12.2024 – Morning Sitting)

The Temporary Chairman (Hon. Peter Kaluma): Hon. John Kiarie.

Clause 7

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Hon. John Kiarie (Dagoretti South, UDA): I beg to move:

THAT, Clause 7 of the Bill be amended by deleting Clause 7.

I intend to delete Clause 7 in its entirety. I seek to do this because the Kenya National Innovation Agency shall already have taken up the registrar's role. The agency is responsible for the registration of start-ups under this Bill. The Kenya National Innovation Agency will be better positioned to track the progress of start-ups, maintain a database of registered entities, and evaluate their impact on the economy. The data will help in shaping future innovations and policies.

We are not here as a House to duplicate duties. If a duty is already allocated to an agency, then we have no business using this piece of legislation to create another entity to do exactly the same work. As it is - and I had said this in the morning - the issues we are prosecuting here sit across very many sectors. Technology, education, youth, innovation and now trade. So, we do not want to have a place where we are duplicating the role of a registrar.

(Question of the amendment proposed)

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

(Clause 7 agreed to)

The Temporary Chairman (Hon. Peter Kaluma): The Vice-Chairlady, Trade, Industry and Co-operatives to move Committee amendment.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, the Bill be amended by deleting Clause 7 and substituting therefor the following new clause—

Registration of
labelled startup.

7. (1) A person may apply to the committee to register a labelled startup under this Act in the prescribed form.

(2) A person who applies under subsection (1) shall submit a statement setting out—

- (a) the name of the entity;
- (b) the general nature of the proposed business of the entity;
- (c) a declaration form stating whether an entity has complied with data protection laws; and
- (d) the proposed registered office of the entity;

(3) The committee shall put in place mechanisms to ensure that the admission process is simple, efficient, accurate and transparent.

(4) The committee shall establish an online platform for the submission of the documents and information specified under subsection (2).

(5) The committee shall register and issues a label to a person who complies with the requirements specified in the regulations made under this Act.

The justification for that is to enhance clarity on the registration of labelled start-ups and this will assist the start-ups to leverage on the benefits of the granted start-ups. Remember, we are moving on from Clause 6 where we already created the start-ups, and we have already

set up the labelled start-ups. So, if we do not carry this amendment, then it will be difficult for the registration of new start-ups as labelled start-ups.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Peter Kaluma): Hon. (Dr) Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I want to support the amendment, and probably, Hon. John Kiarie is busy transacting other businesses. When we sat with the State Department in respect of this matter, they said the innovation and start-ups can emanate from any sector. So, that is why there is the purpose of setting up a multi-agency start-up committee instead of a registrar. The amendment of the committee is a better provision than what you are thinking about. So, this should adequately cover your fears such that we go in a multi-agency way. It is not a one-man show. It can come from anywhere, for instance, innovation, science, or from anything else. Even music can be a start-up. I can decide to become a musician and start my *Aduongo* band and say it is start-up or whichever and then we move on.

The Temporary Chairman (Hon. Peter Kaluma): Hon. Members, I can now put the Question. Yes, Hon. Irene Mayaka.

Hon. Irene Mayaka (Nominated, ODM) Thank you Temporary Chairman. I had pressed the intervention to catch your eye. I just want to support the amendments by the Committee. As I said before, I had opportunity to engage the Committee as a co-sponsor of the Bill and heard their justification of why we need to have this. I concur with them because we need to ensure that we are leveraging in totality on the benefits of start-ups in relation to the specifications that have been given on the registration. I, therefore, support the Committee's amendment.

The Temporary Chairman (Hon. Peter Kaluma): Hon. John Kiarie.

Hon. John Kiarie (Dagoretti South, UDA): With the fate that my amendment has suffered, I would also want to put it on record, for us to note - and even for the Committee to note - that not all start-ups are trade start-ups. The reason why we needed a registrar is because we needed it to be domiciled at the Kenya National Innovation Agency. The Kenya National Innovation Agency is sitting at a proper place to cover all the sectors and it is going to the presidency. When we reduce it to Small and Medium-Size Enterprises (SMSE), we will be moving ahead imagining that all the start-ups are trade and entrepreneurial start-ups. So, we end up losing out while we think we are gaining.

The Temporary Chairman (Hon. Peter Kaluma): Hon. Members, now allow me to put the Question.

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

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

(Clause 7 as amended agreed to)

Clause 8.

The Temporary Chairman (Hon. Peter Kaluma): The Vice-Chairlady, Departmental Committee on Trade, Industries and Co-operatives.

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Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Temporary Chairman. I beg to move:

THAT, Clause 8 of the Bill be deleted and be substituted therefor with the following—

Obligations of
labelled startups.

- 8.** (1) A startup labelled under this Act, shall—
- (a) provide information to the committee annually on its annual turnover;
 - (b) maintain proper books of accounts;
 - (c) provide an annual report on monies received to support their activities;
 - (d) comply with any other obligations set out by the Committee after issuance of the label; and
 - (e) provide any other information that may be required during the period.

As I propose the amendment to Clause 8, I just wanted the Members to note that this Start-up Bill and all the agencies will be seated together at the Kenya National Innovation Agency that is coordinated at the presidency. The only role the State corporation of SMEs will do is to facilitate the financial production and marketing issues. So, on Clause 8, we are proposing to delete the whole clause and amend as proposed in the Order Paper. The justification is that this amendment seeks to provide obligations of the start-ups.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Peter Kaluma): Hon. (Dr) Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I think we need to be very clear. Innovation is not innovation for the sake of it. Whoever is innovating as a start-up intends to commercialise, intends to make a living and economic gain from the innovation and that is why we concurred with the State department's thinking that if we just left it in one office, which only registers innovation, how do you commercialise that innovation? How? Because the purpose of innovating is to make money and to make a livelihood. So, that is why we have expanded the Bill from the way it came from the Senate to look at actualisation of the innovation.

It is just like an architect. An architect designs but, if there is no builder, it is just a basic design.

The Temporary Chairman (Hon. Peter Kaluma): Thank you, Hon. (Dr) Wilberforce Oundo. Hon. Members, it is for you to make a decision.

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

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

(Clause 8 as amended agreed to)

(Hon Rahim Dawood spoke off record)

The Temporary Chairman (Hon. Peter Kaluma): Hon. Rahim Dawood, the Temporary Chairman did not ignore you. The Chair did not recognise and did not hear you. Call the next clause.

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Clause 9

The Temporary Chairman (Hon. Peter Kaluma): Hon. Vice-Chairlady, Departmental Committee for Trade, Industry and Co-operatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 9.

The justification is to seek to accommodate new provisions on incubation that are provided for under Part IV of this Act.

(Question of the amendment proposed)

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

(Clause 9 deleted)

(Hon. Irene Mayaka consulted loudly)

The Temporary Chairman (Hon. Peter Kaluma): Hon. Irene Mayaka, I am putting a Question on your Bill and you are not attentive. The Chairperson in charge of the Departmental Committee on Communication, Information and Innovation, I want to repeat this Question for clarity. I have pronounced myself on Clause 9 as the Temporary Chairman. If anybody has an issue with it, you have the avenue of recommittal.

Next clause.

Clause 10

The Temporary Chairman (Hon. Peter Kaluma): Yes, Hon. Vice-Chairlady, Departmental Committee for Trade, Industry and Co-operatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 10.

The justification is to accommodate the new provisions on labelling and registration by the start-up committee, a clause that has already been passed by this House.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Peter Kaluma): Hon. Nyikal, do you want to speak?

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, I urge the Mover that where we are doing a complete deletion, it is better to read out what is being deleted, even if it takes time. As much the Mover has explained, it makes more sense to know what is being deleted.

The Temporary Chairman (Hon. Peter Kaluma): That is a fair request, Hon. Nyikal. Mover. Hon. Vice-Chairlady, read the provision you are proposing to delete.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, all the clauses are in the Order Paper. Now that you have said that I read, we are deleting Clause 10, which provides that the registrar or the county executive committee member as the case may be, shall within thirty days upon receipt of an application under Section 9, examine the application together with the documents. If the registrar considers it necessary, he or she should call for such further information to carry out such inspections as he or she may consider necessary for

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the determination of the application. Where the registrar or the county executive committee member is satisfied that an applicant meets the requirements for registration under this Act, the registrar or the county executive committee member shall, subject to the provisions of this Act...

The Temporary Chairman (Hon. Peter Kaluma): Hon. Vice-Chairlady, you can stop there. Members already have the Order Paper. Thank you for directing them to the Bill.

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

(Clause 10 deleted)

Next.

Clause 11

The Temporary Chairman (Hon. Peter Kaluma): The Vice-Chairlady, Departmental Committee on Trade, Industry and Co-operatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 11.

The justification is that this new provision is already under the labelling and registration by the start-up committee.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Peter Kaluma): Hon. Dawood.

Hon. Rahim Dawood (North Imenti, Independent): Hon. Temporary Chairman, on this one, I agree with the Vice-Chairlady.

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

(Clause 11 deleted)

Clause 12

The Temporary Chairman (Hon. Peter Kaluma): The Vice-Chairlady, Departmental Committee on Trade, Industry and Co-operatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 12.

The reason for this is to accommodate the new provisions on incubation that are provided under Part IV of this Bill.

(Question of the amendment proposed)

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

(Clause 12 deleted)

Clause 13

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The Temporary Chairman (Hon. Peter Kaluma): The Vice-Chairlady, Departmental Committee on Trade, Industry and Co-operatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 13.

The reason is that this amendment seeks to accommodate new provisions on incubation that are already provided under Part IV.

(Question of the amendment proposed)

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

(Clause 13 deleted)

Clause 14

The Temporary Chairman (Hon. Peter Kaluma): The Vice-Chairlady, Departmental Committee on Trade, Industry and Co-operatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 14 and substituting therefor the following new clause—

Grounds for
cancellation.

14. The Startup Committee may cancel a startup registered under this Act where —

- (a) there is reasonable cause to believe that the startup has among its objects the pursuit of an unlawful cause or purpose prejudicial to public interest;
- (b) the startup fails to comply with any directive issued by the Startup Committee to ensure compliance with the provisions of this Act;
- (c) the members of the startup fail to comply with the provisions of their constitution or rules or the provisions of this Act;
- (d) the startup fails to submit any information required under this Act or requested by the Startup Committee in order to ensure compliance with this Act; or
- (e) the startup submitted false information or statements at the time of labelling of the startup.

The justification is to provide for grounds for cancellation and registration of the start-ups committee.

(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 14 as amended agreed to)

Clause 15

The Temporary Chairman (Hon. Peter Kaluma): The Vice-Chairlady, Departmental Committee on Trade, Industry and Co-operatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 15 and substituting therefor the following new clause—

Notice of non-compliance.

15. (1) The Startup Committee shall, before cancelling a startup under section 14 issue to the entity a compliance notice in the prescribed form.

(2) A compliance notice issued under subsection (1) shall—

- (a) be in writing;
- (b) notify the startup of the noncompliance and the steps it is required to take in order to ensure compliance; and
- (c) inform the entity of the period within which it is required to comply with the notice.

(3) The Startup Committee may, upon request by the startup and where there are sufficient grounds shown by the startup, extend the period of compliance for such period as the Startup Committee may consider necessary to ensure compliance.

The justification for this is to provide for a procedure to be followed prior to the cancellation of registration of any start-ups, including the issuance of notice to the affected start-up.

(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 15 as amended agreed to)

Clause 16

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 16 and substituting therefor the following new clause—

Cancellation.

(1) Where a startup which receives a notice under section 15 fails to comply with such notice, the Startup Committee shall cancel that startup by—

- (a) cancelling its certificate of labelling;
- (b) notifying the startup in writing of—
 - (i) the cancellation and the reasons for it; and
 - (ii) the date on which the certificate of labelling was cancelled; and

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(c) amend the register accordingly.

(2) Where a startup is cancelled under subsection (1), all the rights and benefits that accrue to it by virtue of being registered shall cease to accrue to the startup.

(3) For purposes of this Act, cancellation of a startup under this section takes effect on the date on which the certificate of registration is cancelled by the Startup Committee.

The justification for this is to provide for the manner of cancellation of registration by the start-up committee and the effects of such cancellation, including how the loss of benefits for the start-up needs to be taken care of.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

Clause 17

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 17 and substituting therefor the following new clause—

Application from an order of refusal or de-registration. . (1) A person who is aggrieved by the decision of the Startup Committee under this Part may, within thirty days of being notified of the decision, apply to the Cabinet Secretary for a review of the decision.

(2) An application for review shall be in such form as the Cabinet Secretary shall prescribe.

(3) The Cabinet Secretary shall determine an application under subsection (1) within sixty days of receipt of the application under subsection (1) and may confirm, vary or reverse the decision under review.

The justification for this is to provide for an appellate process for aggrieved persons to seek for a review of a decision to de-register a start-up.

(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)

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Clause 18

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 18 and substituting therefor the following new clause—

- Register of startups.
16. (1) The Startup Committee shall keep and maintain a register of —
- (a) all startups registered under this Act specifying —
 - (i) the name of the startup;
 - (ii) the members of the startup;
 - (iii) the address of the startup; and
 - (iv) such other particulars as the Startup Committee may from time to time determine;
 - (b) all cancelled startups; and
 - (c) all startups which have voluntarily cancelled under this Act.

(2) Any person may inspect the register and obtain a copy of, or an extract from the Startup Committee upon payment of such fee as the Startup Committee shall determine.

The justification for this is that it empowers the start-up committees to keep a register of all registered start-ups, as well as those which have been cancelled or voluntarily withdrawn.

(Question of the amendment proposed)

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

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

(Clause 18 as amended agreed to)

Clause 19

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 19 and substituting therefor the following new clause—

- Alteration of register.
17. (1) The Startup Committee, as the case may be, may, from time to time, make changes or corrections in the register relating to any entry.
- (2) Any change or correction in relation to an entry made pursuant to a notice issued by a startup shall be made to the Startup Committee as soon as it is practicable after receipt of an authenticated notification thereof.

The justification for this is that it seeks to allow the start-up committee to alter the register by making the necessary changes and corrections.

(Question of the amendment proposed)

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Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, this amendment is pretty close to what is contained in the Bill. It may be good for the Chairperson to point out the difference because one cannot quickly see the difference between what is in the Bill and the amendment. In such a situation, it would be good to point out that difference.

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Chairman. I will point out two things. One, we no longer talk about the registrar; we are now talking about a committee. Two, the amendment is a bit more elaborate and concise compared to what is in the Bill. Those are the differences.

The Temporary Chairman (Hon. Peter Kaluma): Hon. Nyikal is satisfied.

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

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

(Clause 19 as amended agreed to)

(Clause 20 agreed to)

Clause 21

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 21 and substituting therefor the following new clause—

Change of particulars. 21.(1) A start-up that makes a change to any of its particulars shall, within thirty days of such change, submit to the start-up committee, information regarding the change.

(2) Upon receipt of the information under sub-section (1) and where the start-up committee is satisfied that the change does not affect its status of registration as a start-up, enter the changes in the register kept by the start-up committee under this Act.

This is to allow the requirement for start-ups to provide the start-up committee with information concerning changes in particulars of their institutions, directorship or registered office.

(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 21 as amended agreed to)

(Clause 22 agreed to)

Hon. Irene Mayaka (Nominated, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. Peter Kaluma): What is out of order, Hon. Irene Mayaka?

Hon. Irene Mayaka (Nominated, ODM): Hon. Temporary Chairman, you had guided that if anyone has interventions, they should press the intervention button. I did that on clause 21, although it has passed, but, please, take note of that in future. I do not want to be the Mover of a Bill who does not get an opportunity to speak to it.

The Temporary Chairman (Hon. Peter Kaluma): That is duly noted. Press the intervention button in good time so that we do not by-pass you. You are very critical to this parliamentary process as the Mover of the Bill.

Hon. Irene Mayaka (Nominated, ODM): Hon. Temporary Chairman, I do. I am very alert.

Part IV

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the title to PART IV of the Bill be amended by inserting the words “AND ACCELERATORS” immediately after the word “INCUBATORS”.

This is to ensure that Part IV includes provisions for accelerators.

(Question of the amendment proposed)

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

(Part IV as amended agreed to)

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

The Temporary Chairman (Hon. Peter Kaluma): Hon. Basil, you cannot intervene once the horse has bolted. Once a Question is put, the time to contribute is up.

(Hon. Robert Basil spoke off the record)

I get you, but you get my direction. After proposing the Question, I wait for interventions. You came after I had put the Question. I am sorry for that, but let us be in tandem in the next clauses.

(Clause 23 agreed to)

Clause 24

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 24 of the Bill be amended —

(a) in sub clause (1):

(a) by deleting the word “registrar” appearing in paragraph (a) and substituting therefor the word “start-up ecosystem players” and,

(b) by deleting paragraph (b).

This is to recognise the various start-up ecosystem players.

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(Question of the amendment proposed)

The Temporary Chairman (Hon. Peter Kaluma): Hon. Nyikal, you want to contribute to this amendment?

Hon. (Dr) James Nyikal (Seme, ODM): I just want to get an explanation. I can follow paragraph (a) because it only changes the wording. Paragraph (b) excludes the member of the county executive committee. Could I know the explanation for that?

The Temporary Chairman (Hon. Peter Kaluma): Hon. Vice-Chairlady, could you justify the amendment briefly.

Hon. Marianne Kitany (Aldai, UDA): Thank you. The Start-up Bill is about a national Government function at the presidency. We are excluding the committee member because this is a function that will be at the national level. The only time county executives will participate is when start-ups are being incubated in their respective counties. We will cover that much later under clauses 30 and 31.

*(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 Chairman (Hon. Peter Kaluma): Vice-Chairlady.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 25 of the Bill be amended-

- (a) in subclause (1) by deleting the words “in consultation with the county executive committee members,”
- (b) in subclause (2) by deleting the words “or a county executive committee member may”.

The justification is that this amendment is in line with the previous amendments, cognisance of the fact that the law will be implemented by the national Government in collaboration with other start-up ecosystems including county governments.

(Question of the amendment proposed)

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

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Part V

The Temporary Chairman (Hon. Peter Kaluma): Vice-Chairlady.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

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THAT, the title to PART V of the Bill be amended by inserting the words “INCUBATORS AND ACCELARATORS” immediately after the word “START-UPS”

This is to accommodate accelerators as they play a critical role in scaling up start-ups.

(Question of the amendment proposed)

The Temporary Chairman (Hon. Peter Kaluma): Hon. Basil.

Hon. Robert Basil (Yatta, WDM): Thank you, Hon. Temporary Chairman. I request the Mover to explain to us what she means by the word ‘accelerators.’ Do you mean that it is equivalent to stimulus?

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): As the Vice-Chairlady prepares to answer, let me assist my colleague. The ecosystem includes start-ups, incubators and accelerators. I want to give you an analogy. You start a start-up and then you need someone to incubate and then an accelerator. I would have given another analogy, but I can see there are many young people here. It might look out of place for my age. I hope you have understood. Even Dr Pukose can tell you. You can talk to him, being a medic and a gynaecologist, he will draw for you the chain. He has understood.

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

(Part V as amended agreed to)

Clause 27

The Temporary Chairman (Hon. Peter Kaluma): Vice-Chairlady.

Hon. Marianne Kitany (Aldai, UDA): Hon. Temporary Chairman, I beg to move:

THAT, Clause 27 of the Bill be amended-

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

(1) The cabinet secretary shall, in consultation with the cabinet secretary responsible for finance, put in place measures for the granting of fiscal and non-fiscal incentives, including tax incentives as shall be considered necessary for the development of start-ups.

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

This amendment seeks to enhance clarity in sub-clauses (1) and (2) through the redrafted provision.

(Question of the amendment proposed)

(Hon. John Kiarie spoke off the record)

The Temporary Chairman (Hon. Peter Kaluma): Yes.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Temporary Chairman, I am seeking your guidance to know the hierarchy of the amendments. I would like to know whether if we carry the amendments by the Vice-Chairlady, then my amendments fall automatically. This is a procedural question.

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The Temporary Chairman (Hon. Peter Kaluma): Before I proposed the Question, I was already advised that the two amendments are independent and the passage or fall of the first amendment has no effect on the amendments you will subsequently propose.

*(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. John Kiarie. You can move your amendment.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Temporary Chairman, I beg to move: THAT, Clause 27 of the Bill be amended in subclause (1) by inserting the following new paragraphs immediately after paragraph (f)—

(g) tax breaks in key industries as may be determined by the Cabinet;

(h) employees of start-ups may be entitled to Personal Income Tax relief;

(i) competitive interest rates on start-up loan products from the Government;

(j) zero-rated Pay-as-you Earn up to an amount as may be determined by the Cabinet;

(k) ease work permit requirements for foreign talent with the requisite skills;

(l) Value Added Tax exemption for a period as shall be determined by the Cabinet;

(m) access to matching funds by the Government; and,

(n) grants to support research and market validation and development.

The justification is about the tax breaks that we need for key industries, so that we can promote investment in sectors that are essential for economic growth and development. By offering targeted benefits, the Government can drive innovation and enhance competitiveness in high-priority areas. The Mover of this Bill would agree with me that this amendment is necessary.

(Question of the amendment proposed)

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, this is a very well thought-out and well-intentioned amendment. But remember Article 114 of the Constitution. These amendments more or less read like a Finance Bill. A cabinet secretary has no powers at all to issue those kinds of tax breaks without making reference to the provisions in the Constitution. I would really...

The Temporary Chairman (Hon. Peter Kaluma): Hon. Oundo, your point is made. Hon. (Dr) James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, mine is about procedure. When I look at Clause 27 in the Bill, I do not see the sub-clause (1) that was amended previously and even now. I do not know where the error is. In the Bill, there is no sub-clause (1) under Clause 27. It may be an error. If it is according to the correct one, then I am satisfied.

The Temporary Chairman (Hon. Peter Kaluma): Thank you very much, Hon. James Nyikal, for being very studious. Hon. John Kiarie, your amendments are proposed under clause 27(1) of the Bill. The amendment proposed by the Departmental Committee on Trade, Industry

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and Co-operatives has deleted the entire sub-clause (1). The consequence is that your amendment has nothing to stand on. Therefore, it stands dropped.

(The proposed amendment by Hon. John Kiarie dropped)

(Clause 27 as amended agreed to)

Hon. Members, there was a previous Communication by Hon. Speaker that we would stop proceedings at 5.00 p.m. to allow the matter concerning the proposed amendments to the Constitution to be moved and deliberated upon by the House. That being a Communication, I do not have the power to review it. Let us be upstanding.

(The Temporary Chairman consulted the Clerk-at-the-Table)

In fact, sit down. We shall just stop. This is a House of procedures and rules. Once a Communication is made, even if it is an adjournment of the House, my hands get tied. Sit down so that we can move reporting. I am very sorry. Take your seats, Hon. Members.

Mover to move reporting. Hon. Irene Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Hon. Temporary Chairman, I beg to move that the House do report to the House its consideration of the Start-up Bill, (Senate Bill No. 14 of 2022) up to Clause 27, and its approval thereof with amendments, and seeks leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

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

MOTION

CONSIDERATION OF REPORT ON THE START-UP BILL

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, I now call upon the Chairperson to report to the House.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Speaker, I beg to report that the Committee of the whole House has considered the Start-up Bill, (Senate Bill No. 14 of 2022) up to Clause 27, and approved the same with amendments, and seeks leave to sit again.

The Temporary Speaker (Hon. Farah Maalim): Mover of the Bill to move the agreement with the Report.

Hon. Irene Mayaka (Nominated, ODM): Hon. Temporary Chairman, I beg to move that the House do agree with the Committee in the said Report. I also request Hon. Marianne Kitany to second the Motion for agreement with the report of the Committee of the whole House.

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

Hon. Marianne Kitany (Aldai, UDA): I second. Hon. Temporary Speaker, I beg to move that the Motion for the agreement with the report of the Committee of the whole House be amended by inserting the words “subject to recommittal of Clause 9”. I also request Hon. Oundo to second.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I second.

(Question proposed)

The Temporary Speaker (Hon. Farah Maalim): Hon. Members, I cannot put the Question because there is a recommittal. I direct that the Question will be put at an appropriate date in future.

(Putting of the Question deferred)

GENERAL COMMENTS

LEGISLATIVE PROPOSAL TO AMEND THE CONSTITUTION UNDER STANDING ORDER 114 (7A)

The Temporary Speaker (Hon. Farah Maalim): Hon. Chepkong’ a has a legislative proposal.

Hon. Samuel Chepkong’ a (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. I rise pursuant to Standing Order 114(7A) to make comments with respect to a legislative proposal that is contained in the Supplementary Order Paper of the Afternoon Sitting. Its import is that we are seeking to entrench a number of funds in the Constitution.

First, this legislative proposal seeks to entrench the National Government Constituencies Decentralised Fund (NG-CDF) in the Constitution. We have had a lot of problems with the courts. We have renamed the National Government Constituencies Development Fund (NG-CDF). I stand to make these comments arising from the proposal we forwarded to the Hon. Speaker, which emanated from his legislative caucus. Hon. Otiende Amollo and I are co-sponsoring this legislative proposal. Unfortunately, he is not in the House this afternoon because he is involved in the East African Legislative Assembly (EALA) games. As we speak, he is in Mombasa. As I make these comments, I am making them on his behalf.

When we met as the legislative caucus and reviewed three Funds, we felt it necessary to entrench certain funds in the Constitution. The membership of that caucus involves, among others, Hon. Otiende Amollo, Hon. Wakili Muriu, Hon. Makali, Hon. Kaluma and Hon. Millie Odhiambo. All lawyers in the House are *ex-officio* members of this caucus. As we sit there, we do it on behalf of all Members. The caucus prepared this legislative proposal as a consequence of a number of challenges that we, as lawyers, face when we are representing the NG-CDF Board and the other funds against members of the public who consider NG-CDF, National Government Affirmative Action Fund (NGAAF) and the Senate Oversight Fund as funds that must not be disbursed to Members of Parliament.

Let me give an overview of what we are seeking to do. One, we are seeking the entrenchment of the National-Government Constituencies Development Fund (NG-CDF) in the Constitution, which will ensure that the critical role that the Fund currently plays in promoting the participation of the people in identification and implementation of priority national Government programmes is safeguarded, as well as ensuring reasonable access to such services in all parts of the Republic of Kenya, as envisaged in Article 6(3) of the Constitution.

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Two, the entrenchment of the Senate Oversight Fund in the Constitution will ensure that the Senate is adequately empowered and resourced to perform its oversight functions, as stipulated in Article 96 of the Constitution.

The third Fund that we are seeking for entrenchment in the Constitution is the National Government Affirmative Action Fund (NGAAF), which seeks to ensure that affirmative action groups, including women, youth, persons with disabilities, vulnerable children and elderly persons, have access to minimum financial facilities required for the promotion of enterprise development and provision of social development services at the constituency and county levels.

It is important for me to set out the general history of this Fund. The Constituencies Development Fund (CDF) was first established under the Constituencies Development Fund Act of 2003 and later replaced by the Constituencies Development Fund Act of 2013. Over the years, the CDF has evolved into a critical mechanism for addressing the development needs of the constituencies.

On the legal challenges that the Fund has faced over time, the framework has faced a number of constitutional challenges in our courts. In *Petition No. 71 of 2013, Institute of Social Accountability & Another v. National Assembly & 4 Others*, the High Court, in its judgement delivered on 20th February 2015, declared the Constituencies Development Fund Act of 2013 unconstitutional.

The Court held that the CDF Act 2013 violated key constitutional principles, including the separation of powers, division of functions and public finance principles. Despite the judgement, the Court suspended the declaration of invalidity for 12 months to allow Parliament to enact remedial legislation or wind up the ongoing projects under that particular legislation.

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

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

Following those developments, the National Assembly and the NG-CDF Board appealed against the judgement in the Court of Appeal.

The Court of Appeal in the Civil Appeal No. 92 of 2015 partially allowed the appeal. However, in *Petition No.1 of 2018*, the Supreme Court upheld the High Court decision in its judgement delivered on 8th August 2022, affirming that the CDF Act 2013 was unconstitutional. The Supreme Court held that a constituency union of representation is not a service delivery unit but an electoral unit. It is set for the purpose of voting for Members of Parliament and other elected offices.

Pursuant to the High Court's judgement in *Petition No. 71 of 2013*, the National Assembly enacted the NG-CDF Act of 2015 to address the issues raised by the High Court and align the Fund with the constitutional framework.

Despite those efforts to align the Act with the Constitution, the NG-CDF Act of 2015 faced a fresh legal challenge in the High Court in *Constitutional Petition No. 178 of 2016, Wanjiru Gikonyo v. National Assembly & Others*. The High Court delivered its judgement on 20th September 2024, declaring the NG-CDF Act of 2015 unconstitutional, together with the amendments made in 2022 and 2023. All of them were declared unconstitutional. The High Court, in its judgement, stated clearly that the constituency is not a service delivery unit but an electoral unit, affirming the decision delivered by the Supreme Court.

The second thing that the High Court stated in its judgement is that NG-CDF violates the principle of separation of powers by assigning executive functions to Members of Parliament whose primary constitutional role is legislation. Again, this was a total misunderstanding by the High Court. We made every effort to explain to them how a

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constituency is a delivery unit. Under the National Government Coordination Act, section 14, a constituency has been made a service delivery unit. This particular section has not been nullified, nor has it been declared unconstitutional. So, we, as Members of Parliament, wondered how the High Court could declare that the constituency is just merely an electoral unit and yet, we know that there is an Act of Parliament which clearly states that a constituency is a service delivery unit. It is not meant to be for voting purposes only.

(Applause)

The second thing is a misunderstanding by the High Court that the Members of Parliament are the managers of the NG-CDF. We laboured on this point and tried to explain it to them, but it looked like they put wool in their ears. We all know that the Members of Parliament do not sit in the constituency committees. We never sit there. Two, we do not play any role. In fact, the only role we play is to participate with all our voters in identifying the projects. We all sit during public participation.

(Hon. Alice Ng'ang'a spoke off the record)

I am being assisted by Hon. Alice, who knows very well what she does in her Constituency, Thika Town. When I go for public participation, I do not sit with the NG-CDF officials but with the voters as a participant. I also identify projects that I think the NG-CDF must fund.

Hon. Temporary Speaker, since you were involved in the matter and you presented it, we were asked at that time: "Are you sure that if I come to your constituency, I will not find schools named after Hon. Kaluma, funded by the NG-CDF?". We told them to come, and that they would not find. However, they refused to come and yet, they still went ahead and stated that the Members of Parliament are active participants in the implementation of NG-CDF projects. I have never participated in them. I have not opened them. When they are being opened by the NG-CDF Committee, I go to hear what they are saying. I am very happy that they have done a good job.

The only thing I do when I am around in the constituency is to play my oversight role under Section 95. As you know, the work of a Member of Parliament under Section 95 of the Constitution is oversight, representation, legislation and budgeting. We allocate resources but do not go and spend. No Member of Parliament here walks around with a cheque book or is a signatory of NG-CDF funds in any bank. We do not sit in the Board, neither do we appoint the fund managers. In fact, in its ruling, the High Court said that the term of the fund manager is tied to that of Members of Parliament. I do not know where they got that story from because it is not true. The fund manager is a permanent employee of the NG-CDF Board. He does not hold office for five years. Even if they hold office, they do so at the pleasure of the NG-CDF Board, and not at the pleasure of the Member of Parliament. There is a general misunderstanding by the Judiciary.

Hon. Temporary Speaker, we have made various attempts as a House, and every time, the courts find a reason. This is the House which appropriates money. This House will pass constitutional amendments. What is lacking in the current Constitution? We have identified it as the NG-CDF, Senate Oversight Fund and NGAAF. We want the courts to stop interfering with those Funds by saying they are unconstitutional.

When we appeared before a three-judge bench, we told them that NG-CDF bursaries have benefited many students. I did not know the young lawyers in the court were beneficiaries of the NG-CDF bursaries. Afterwards, they asked us why we did not call them to appear as

exhibits. They are beneficiaries of the NG-CDF, and were it not for the bursaries, they would not be lawyers.

People are seeking to disenfranchise the indigent in our society. We should not accept. We must entrench those Funds in the Constitution to secure the future of our children and communities. The evolving jurisprudence underscores the need for a firm constitutional foundation for NG-CDF to ensure its sustainability. This entrenchment will provide legal certainty to the Fund's framework, offering stability for long-term planning and implementation of constituency-based projects.

Secondly, it will promote equitable development by guaranteeing that all constituencies, including marginalised ones, continue to benefit from the necessary infrastructure and services they deserve. As you know, Article 95 of the Constitution is extremely clear. I do not know why the courts have a problem with it. It states, for the avoidance of doubt, that Members of Parliament resolve issues that are of concern to the people by enacting NG-CDF, NGAAF and Senate Oversight Fund, and entrenching them in the Constitution.

In my constituency, many dilapidated schools were built using *Harambees* many years ago and have mud walls. I have seen pictures from Hon. Marianne Kitany of schools in her constituency, which also have mud walls. You will wonder whether they are cow sheds. NG-CDF has assisted in converting some classrooms to become habitable.

Thirdly, this will enhance service delivery by ensuring that critical community development initiatives are implemented efficiently and effectively at the constituency level. This is the only Fund Kenyans know that has served them well and provided value for money. This is because the management fees or salaries are only a mere 5 per cent, and 95 per cent goes to projects. In other institutions, which I do not want to mention, 49 per cent is used for other purposes, and 51 per cent goes to projects. Hon. Lelmengit is telling me that his constituency is suffering. By entrenching those Funds in the Constitution, we will get value for money.

I want to mention three things why those Funds must be entrenched in the Constitution. Firstly, this will strengthen accountability and oversight mechanisms for the management of the Fund. Without a proper constitutional framework, oversight is very difficult. So, with a proper constitutional framework, we will be able to oversight and be accountable.

Secondly, this Legislative Proposal seeks to support the National Government mandate to facilitate development at the constituency level. This is the only Fund that helps the Government with concurrent functions like sports, climate change and the building of ICT hubs, and this was declared unconstitutional. We have seen how the Information and Communication Technology (ICT) hubs have transformed the local community, particularly the youth. They are now earning money. Last month, the Principal Secretary for ICT visited our constituency, and we went to a hub where we heard very interesting stories. Some students are making \$100 per week, which is Ksh13,000. Since they come from very poor families, that is benefiting them.

Thirdly, it will foster inclusive growth and empower constituencies to effectively address their unique development challenges. So, I want to thank Hon. Members for supporting this legislative proposal. It has been endorsed by over 258 Members.

(Applause)

The reason why the others have not signed it is because they are involved in the arrangement and organisation of the East African Legislative Assembly (EALA) Games and are in Mombasa. If all the Members were here, I can assure you that all 344 would have signed. This excludes the constituencies without Members because we have four vacant seats.

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Otherwise, all 349 Members would have signed. I want to assure you that no Member refused to sign; they all supported it. This Legislative Proposal will go a long way in resolving the marginalisation of people in our constituencies.

I have made very important comments. I hope the Departmental Committee on Justice and Legal Affairs will move fairly quickly to obtain views from constitutional offices and the Attorney-General so that this legislative proposal can be published soon after we come back from recess. Hon. Salasya is in the House because his constituency will suffer without NG-CDF. So, he is here to support and rally Hon. Members to also support.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): The Chairman of the Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I want to thank Hon. Chepkong'a for bringing this legislative proposal to amend the Constitution. This House must be ready to effect the proposed constitutional changes of entrenching the three Funds. Other constitutional amendment proposals will be brought, some as Bills and others as recommendations for a referendum. This House must consider them.

Hon. Chepkong'a has explained why we must entrench those funds, with a special emphasis on NG-CDF. This is due to the fact that courts constantly pronounce themselves in a manner we never agree with. This is what we are trying to rectify. Just the other day, the Court was bold enough to pronounce itself, declaring NG-CDF unconstitutional. There is a pending appeal and a proposal on this to amend the Act to comply with whatever they are saying. At the end of the day, there must be an end to everything that has an issue.

We have been told that the National Government Constituencies Development Fund (NG-CDF) is unconstitutional, but we will make it constitutional. Nobody will ever again say that NG-CDF is unconstitutional. I know that Hon. Gichimu, Hon. Chepkong'a and the whole team have come up with a draft proposal for those funds. We also know that His Excellency, the President of Kenya, who supports the NG-CDF to the oath, sent us a memorandum saying that he needs to have those Funds entrenched in the Constitution. Therefore, we are not engaged in an exercise in futility. It is high time we realised this dream, which is at the core of Kenyans' hearts.'

We have previously said that when you go to our rural constituencies, the only visible development you will see must have been financed with NG-CDF. Most of the governors we think have always had a hand in those court decisions are busybodies. They have not even done much with all the billions that they get. When they are asked about this, they say that the money is not sufficient, and that they have many expenses to pay and so on. The NG-CDF is the only way the national Government can show the country that the Government is developing the rural areas. That argument about MPs being involved has been tackled through statutory amendments. And as we speak today, I have gone through the NG-CDF, and I cannot point out any place where a Member of Parliament is involved.

Therefore, what is next after what Hon. Chepkong'a has done? It is a proposal that is being mooted. We will commit it to some of the stakeholders, including the Office of the Attorney-General and the constitutional offices, who are supposed to look at this so that we receive and collate views. After this is done and everything is put in place, the Bill would now be published as a constitutional amendment Bill. We have looked at the provisions of the Constitution, and we are satisfied that this Bill does not require a referendum.

Provided that this House can raise the two-thirds majority, we will be able to entrench those Funds in the Constitution. We will be doing this as soon as possible. I can assure Hon. Chepkong'a and the Honourable House that we will not sit on our laurels as soon as this is done. We will move out there and ensure that the views are collected and collated, and the Bill is back in the House for publication, reading, public participation and debate.

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We are entrenching the Senate Oversight Fund so that Senators are also well-equipped to take care of their roles in the counties. We always remind Senators that their role is to oversight what happens in the counties, and not to spend all the time summoning cabinet secretaries and bringing everybody here to ask questions, which is not their reserve. It is a reserve of the National Assembly.

The ladies have the National Government Affirmative Action Fund (NGAAF). When we finish with this, we will legislate under the Constitutional provision and have clear principles on how much money will be allocated to NGAAF from the national Government share. We will also establish how much would go to the Senate Oversight Fund, where that money will come from, and how much of the national Government Fund would go to NGAAF. This is so that no argument would arise regarding what one is entitled to. There is no pushing back and forth regarding the money. It is high time we brace ourselves for this. As soon as we come back in February, we should move with speed and entrench the National Government Constituencies Development Fund into the Constitution. Thank you very much.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, you have a maximum of ten minutes to contribute, but because of time and interest, we could reduce it a bit. If you can finish early, do so.

Chairman, Select Committee on the National Government Constituencies Development Fund.

(Hon. Raphael Wanjala stood up in his place)

Hon. Wanjala, sit down.

Hon. Musa Sirma (Eldama Ravine, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to give my views on this issue of the entrenchment in the Constitution of the NG-CDF, Senate Oversight Fund and National Government Affirmative Action Fund, which develop this country.

The NG-CDF has been instrumental in the construction of schools and the payment of fees for our children. All those who are against it are people who have retired and do not have children in school. We ask them to continue taking care of their grandchildren so that they can appreciate the NG-CDF. It goes across the whole spectrum of the country, including all the stages in life. What has happened in Kenya is monumental and will make it highly developed. As we go around, even when amending the 2023 Act of the NG-CDF to address the court matters, whatever we did was zero because it was a predetermined decision by the courts to remove the NG-CDF from us. The public was looking forward to the moment we are in now, to bring it under the Constitution. I thank Hon. Chepkong'a and the team that has put this together. We want Kenya to move forward. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Musa Sirma. Let us constrict this to three minutes. Hon. Mule Stephen, you may proceed because you had a similar proposal earlier.

Hon. Stephen Mule (Matungulu, WDM): Thank you very much, Hon. Temporary Speaker.

Today is one of the brightest days in this House, and we want to give Kenyans the best Christmas by ensuring that justice is being done but, not through the courts, but through this House. This is done by working on a process whereby we ensure we entrench the three Funds that touch the core of this nation in the Constitution. That is for the Wanjiku, Mutiso, Kamau and the Otieno of this country.

We worked very hard with Hon. Gichimu at the beginning of this Parliament to ensure that those Funds are safeguarded. We had seen the danger of the influx of people who do not want development in our constituencies. I thank Hon. Chepkong'a and Hon. Otiende Amollo

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for bringing this back. I also thank the Speaker, Hon. Moses Wetang'ula, for allowing the initial proposals to be part and parcel of the consideration for entrenching those three Funds.

Without fear of contradiction, the only projects that make sense to Kenyans in this country are those that are done at the constituency level, especially those that touch on education and security sectors. They make sure that our children get bursaries to go to school.

As Hon. Chepkong'a has alluded, Members of Parliament are not part and parcel of the management or micro-management of the NG-CDF in this country. We are only patrons and play our role as legislators and overseers. Kenyans throughout the country have made numerous calls to Hon. Gichimu and me, wanting to know the status of the Fund. I wish to inform and assure them that we have a Christmas present for all Kenyans. This House will deliver it by early February when the House resumes from recess.

At the very least, it is important to ensure that the women of this House have a Fund. That is to make sure they are active where they are, at the constituency and county levels. Going forward, we want to ensure that the senators who are elected in this country have resources to oversee the counties. I know that governors went to court to support a case and give senators limited power and financial muscle to oversight them. We want to do the right thing right now and ensure that the three Funds, which are extremely important in this country, are entrenched in the Constitution. They should become part and parcel of the supreme law of this country so that nobody touches them anymore.

When the time of reckoning comes, I urge all fellow Members to be with their people. They have brought you to this House. Let us be present and reach the two-thirds voting quorum that required to entrench those Funds in the Constitution. Let us give Kenyans and students peace of mind for the prosperity of the great nation called Kenya.

God bless Kenyans. I wish you a happy Christmas and New Year. We will have good news for you come New Year. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Let us hear from Hon. Millie Odhiambo, the Whip of the Minority Party, because of her position and rank.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. I also thank the Mover.

Indeed, separation of powers is one of the reasons why people have been fighting the NG-CDF. One thing we need to consider is that we did not know we would have IT in this generation. The world changes. The concept of separation of powers is good, but some instances must be an exception to the rule, especially where things are working. Due to this, we have always, and as much as possible, tried to distance Members from the NG-CDF. I know we are trying to take that format.

However, the fact is that we have that Fund and that the public generally associates with Members of Parliament. The Fund has brought significant change to our constituencies, especially areas hitherto marginalised and areas like ours that do not normally support governments. We have been primarily in opposition for years. Funds would not come to us. That is why it is important that we have money going to governors and money going to the NG-CDF Fund.

I sit in the Budget and Appropriations Committee. Even though the Constitution provides that funds shall be spread out equally and, in some instances, equitably, the reality is that it does not happen. Funds are always allocated in a skewed manner, usually favouring areas that have voted for governments. What happens at our local levels? You are gone as a Member of Parliament if the NG-CDF does not reach one corner of your constituency, whether or not you are involved.

I would not want us to follow the procedure at the expense of justice. That is why, to ensure fairness, our Constitution of 2010 departed from technicalities. I welcome this. We will

fully support the constitutional amendment Bill when you bring it. My constituency will support it fully.

The Temporary Speaker (Hon. Peter Kaluma): Let us hear Hon. Raphael Wanjala because of his status and rank.

Hon. Raphael Wanjala (Budalangi, ODM): Thank you for giving me the chance to contribute to this important Motion.

I have served in Parliament since 1997 when you would come to Parliament and finish five years without doing anything in the constituency, apart from holding *harambees*. The salary for a Member of Parliament was only Ksh70,000. That was the time when there were many defections from political parties. People would line up at the State House to get even Ksh20,000 or Ksh15,000 for *harambees*. We sat down and decided otherwise between 1997, 1999 to 2000. It was a very difficult time for Members of Parliament. Members of Parliament slept outside their houses. No Member of Parliament would walk without biker shorts because they could be arrested and charged in court or beaten by the police at any time. The President did not want them to be independent.

That is when we established the Parliamentary Service Commission and the NG-CDF. It was not easy. Hon. Raila, whom we served in Parliament, fought equally hard with the late President Kibaki. They fought to help us come up with the NG-CDF after the year 2002 when the late President Moi left office. Raila went even further during the Building Bridges Initiative (BBI). He told and requested Members of Parliament to entrench the NG-CDF and other funds in the Constitution.

Sometimes, we, Members of Parliament, are our own enemies because we do not want to see the future. We want things that serve our interests. Let us serve the country. Yesterday, Busia County was rated number three for using money well. However, you will never see anything done by the county—only billboards of things that are done by the NG-CDF. There is no other thing that is done by the county.

(Applause)

If there is anything that should be supported and all Kenyans support, it is the NG-CDF. We have come from far. That is why I have always proposed that a constituency gets a billion from the Ksh700 billion that is allocated to roads during budgeting.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Wanjala, you will be added exactly one minute. Ensure you are done within one minute.

Hon. Raphael Wanjala (Budalangi, ODM): That is why I have always proposed that each of the 290 constituencies gets Ksh1 billion out of the Ksh700 billion that is allocated to the construction of roads. We can leave the balance to the leadership of the country to know where to allocate depending on their interests. That way, it will be easy for a Member of Parliament to decide which road to start tarmacking. One will have tarmacked so many roads in five years. However, you will find one constituency with Ksh15 billion while others have none. That type of budgeting is killing us as Members of Parliament.

(Applause)

Let us sit down, have a *Kamukunji* and discuss these issues. We used to talk even with the late former President Moi, who was a dictator. He would call us in a *Kamukunji* in the current Senate chamber. We would discuss and agree.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Wanjala, withdraw references to the country's second President. He always served as an elected President.

Hon. Raphael Wanjala (Budalangi, ODM): I withdraw.

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The Temporary Speaker (Hon. Peter Kaluma): Thank you. Hon. Pukose, the Chairman of the Departmental Committee on Health.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you. I thank Hon. Chepkong'a, together with you, Hon. Temporary Speaker, Hon. Otiende Amollo as the co-sponsor, Hon. Murugara, and all our legal colleagues in this House for the effort to make this legislative proposal.

(Hon. Alice Ng'ang'a spoke off the record)

I am being reminded by Hon. Alice Ng'ang'a, the Member for Thika Town, to also thank ourselves for signing this Motion and ensuring that it went beyond the two-thirds threshold. Two hundred and fifty-eight Members signed the Motion. That is beyond 233 Members.

The NG-CDF is the most devolved Fund as far as development is concerned, where 95 per cent of it goes into development projects, bursaries, and making an impact within the community. On the other hand, when we compare it with our devolution process, we would have seen development if the funds in the county governments had been devolved to the wards. Unfortunately, we devolved corruption to the counties. When you move around here in Nairobi, it is shameful because you hear things like: "That building belongs to a county executive committee member (CECM) from a certain county," or "That House belongs to the governor from a certain county," and then you wonder! Some of us have been in this House for three or five years, and that kind of house is what you cannot afford. How could a CECM who has just served for one year afford that?

Even when you travel out of the country, you hear that a certain mall in Dubai or Turkey belongs to a certain governor. We got it wrong as far as devolution is concerned. Therefore, the National Government Constituencies Development Fund (NG-CDF) must be protected because its impact on society is enormous.

With those comments, I look forward to waiting for the Bill next year and wish everyone a Merry Christmas and a Happy New Year.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gichimu will be followed by Hon. (Dr) James Nyikal, and then Hon. Caroli Omondi.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Speaker. Indeed, it is a great moment for Kenyans. This sends a very strong signal to enemies of the people of this country, the busybodies who have been going to court to challenge the NG-CDF, which has been very effective at the constituency level. Let me join the chorus of the Hon. Members to confirm that that is the only Fund that has been very effective in this country in terms of devolved development through decentralisation by the national Government.

I hope the county governments can emulate that Fund to devolve the funds, which rest at the county government to the ward levels, just like the national Government has been able to devolve funds to the constituency level. As Members of Parliament, let me thank us all for appending signatures in support of the latest legislative proposal, which will become a bill and eventually a law. I am very optimistic that it will ultimately become the National Government Decentralised Fund Act.

If the problem was development, then let us use the word decentralised. The effect will still remain the same. I can confirm that, like in my constituency, Gichugu, the NG-CDF has funded numerous development projects, of which my people and I boast of. Numerous schools with tiles, well-renovated, very modern classrooms and even the Information, Communication and Technology (ICT) hubs are built through the NG-CDF committees. The youth of this nation will also find a place to boast out of that Fund, which is called NG-CDF.

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Without much ado, I am looking forward. My people are even asking when we will go for public participation at the constituency level so that they can support it and become law, or when we can entrench it in the Constitution.

With those few remarks, I wish every Member of this House a Merry Christmas and a Happy New Year.

The Temporary Speaker (Hon. Peter Kaluma): Hon. James Wambura Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. No single Government fund has had the impact that those three devolved funds have had, particularly the NG-CDF. There is no single constituency in this country in the area of education where you cannot find classrooms that have been built by that Fund. There is no single constituency where you cannot find a number of students, now even professionals, who have become professionals because of the bursary that, that Fund gives. There is no other fund that the people have access to like the NG-CDF. When a school burns down, or the wind blows the roof off, the people merely approach the Chair of NG-CDF, and within a week, some action is taken. There is no single Government fund that I know of that people have access to, such as that Fund.

There is no fund that I know of that practices the principle of public participation. Long before people started talking about public participation, NG-CDF was in the thick of public participation. That is where the involvement of Members of Parliament is. As leaders in the constituencies, we must take part in public participation when those funds are being disbursed or the proposals are being made for their disbursement. No fund has been as cost-effective as that one. When ECDE classrooms are done by county or national Government or the Ministry of Education, the cost is almost twice what we have here. The claim that it violates the separation of powers or those that are found by the High Court to be so is not true. We just have public participation and oversee it like any other fund.

As I end, if something helps the people, that is the basic issue that any effort in Government should be. If we find a principle that helps the people, why do we want to kill it? Then let us just change the law. The law does not mention. All they want is for it to be in the Constitution. Then let it be so.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Caroli Omondi.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Temporary Speaker. Let me begin by saying that I fully support this proposal and was the first to sign it. Secondly, let the word go forth from here to the rest of the world that NG-CDF will never die in Kenya. It will never die. As I have said before, we will keep amending the law until the courts are happy with whatever we have.

That said, there is a misconception that when Members of Parliament sit down with their constituents to select priority projects, it infringes the doctrine of separation of powers. When you go to an election, you present a manifesto and win. You are given a mandate to do two things. That is: To prioritise development projects for your people because that is the basis upon which they voted for you, and you are given the budget-making power, whether it is a Parliamentary or a Presidential system like the one we have. Once you have that power, you are not breaching the doctrine of separation of powers. You have been given a mandate. That is why the budget-making power sits with those in authority - those elected. If you go to the Westminster model, the same members of parliament who make the budget are the same ones who oversee the implementation of the budget. I completely do not understand this nuance where the courts say that Members of Parliament sitting down with their constituents, having been elected, violate the doctrine of separation of powers. When you present your manifesto and are elected, whether in a parliamentary or a presidential system, you have the mandate to

prioritise development, make budgets and oversee the budget implementation. So, we need to go back and have that discussion with the courts.

Secondly, the NG-CDF has the best accountability mechanism in all Government funds. There is no over-pricing or excessive profit. It helps with money circulation at the grassroots. There are no pending bills. The local people do most of the work. No other development mechanism in the Republic can be compared to NG-CDF. Even if the courts say the constituency is not a development unit but an electoral unit, there is no problem with that. Within those constituencies are sub-counties. So, we need to align the sub-counties within the boundaries of the constituencies. We will confine the law to whatever the courts want. This is the most impactful Fund in the Republic of Kenya.

Finally, let me wish everybody a merry Christmas. I want to start a book club in Parliament by inviting everybody to buy and spend the next two weeks reading *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Lydia Mizighi, Member of Parliament for Taita Taveta County.

Hon. Haika Mizighi (Taita Taveta County, UDA): Ahsante, Mhe. Spika wa Muda, kwa kunipatia fursa ili niweze kuchangia mada hii ambayo ni ya muhimu sana. Mambo ya NG-CDF na NGAAF ni masuala muhimu sana. Miradi ambayo inafadhiliwa na fedha hizo ndio inaonekana mashinani katika pembe zote za nchi. Shule zimeboreshwa na ofisi za chifu kujengwa. Hata pesa za basari zinasikika sana kule mashinani. Mpango mzima wa hizo fedha hauwezi kusahaulika wala kufutiliwa mbali.

Nawapongeza Wajumbe wenzangu ambao wamechukua fursa ya kufanya mchakato mzima wa kukusanya zile sahihi ili tuweze kujumuisha masuala haya kwa Katiba. Pesa nyingi ambazo zimetengwa kwa ugatuzi hatuoni kazi zake. Kuna uzembe fulani katika kaunti nyingi. Wananchi wanalia kuhusu afya. Ni shida tupu. Hakuna madawa na hospitali zimezorota kabisa. Hata masuala ya maji yamekua shida mashinani. Fedha ambazo zimekua za manufaa sana ni NGAAF na NG-CDF. Niko katika mstari wa mbele ili tuweze kujumuisha mpango mzima huu ndio hata maseneta wapate fedha ya kuangalia vipi kaunti zetu zinaendeshwa. Naunga mkono.

Ahsante kwa kunipatia fursa hii.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Adan Keynan will be followed by Hon. Naomi Waqo, and then Hon. Anthony Oluoch.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Temporary Speaker. The institution of NG-CDF and the framers of that law have freed Parliament from the yoke of the Presidency and marginalisation by members of the Executive. Before we enacted NG-CDF, a Member of Parliament was a pauper - the most disadvantaged. He was not respected and was not part of the national development agenda.

Luckily, the framers of the current Constitution equated representation to our sovereignty. Those individuals who put every effort to rubbish the role of a Member of Parliament are indirectly sabotaging our Constitution. I want to tell my colleagues who are new that the assumption that is out there, through the agents of devolution, is as if there is federalism. What we have is an economic devolution which means taking resources to the grassroots, but this has been abused.

Historically, where I come from, I represented two constituencies: Wajir West and Eldas. When I was first elected as the Member of Parliament for Wajir West, as a young legislator, it was the only constituency in the history of Kenya without a single secondary school. Having been there for more than a decade, I left that constituency with so many secondary schools, primary schools and other institutions, courtesy of NG-CDF.

If our Government does a thorough formative and summative investigation on the projects on the ground today, the only ones that are visible are the ones that have been sponsored and implemented by NG-CDF. As a Member of Parliament, you should have no

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apology whatsoever for standing firm with NG-CDF. I also agree with you that we should allow our senators to get Senate Oversight Fund. There are many resources that have been devolved through devolution. Please, let us kill this issue of jurisdiction or competition between the Senate and the National Assembly.

Hon. Temporary Speaker, I will be at the forefront in ensuring that our senators get resources to oversee the billions of shillings that are allocated to the county governments. There is also the issue of NGAAF. Our ladies also play a critical role in the development agenda. I want us to think outside the box. Out of a budget of Ksh3 trillion, why not allow 10 to 15 per cent, through those processes, so that the elected leaders also....

The Temporary Speaker (Hon. Peter Kaluma): Add him one minute because of rank.

Hon. Adan Keynan (Eldas, JP): Do you want to lower the standards of the development agenda in this country? Do you want to watch other people and remain aloof in the implementation? How will you implement your development agenda? You were elected on a platform. You went to the grassroots. You know that the most difficult job, that is sought after, is to be elected as a Member of Parliament. You have no apologies to make. Let us entrench those funds in the Constitution. The courts should not be involved in legislation. Let their role be that of neutral arbiters in interpreting the law as it is. They should not take sides.

I agree with Hon. Caroli Omondi. In whichever form, I want you to adopt this slogan: “No NG-CDF, no representation; no NGAAF, no representation; and no Senate Oversight Fund, no representation.” Please act firmly and move with speed because time is running out. We only have next year. We only have one more budget cycle. The other year is the election time. Nobody will be here. Therefore, we have one year. Within the next six months of that year, this legislative proposal must meet the constitutional threshold, as prescribed by the courts to our friends.

I wish you good festivities and a happy new year. See you next year, Insha’Allah.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Naomi Waqo.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to add my voice to this important legislative proposal that seeks to amend the Constitution under Standing Order 114(7A).

NG-CDF and NGAAF matters are very special to us because they make a lot of difference to the people on the ground. Many poor children receive bursaries. Many schools have been developed and classes built. Many things have changed because of NG-CDF. It has empowered the Members of Parliament to be relevant in their constituencies.

The County Woman Representatives who are here receive only Ksh7 million per constituency from NGAAF to make a difference. With that limited amount of money, we have accomplished many projects and made a significant impact on the people, which cannot be compared to what others have done. My only request is that, as we incorporate this into our Constitution, we consider ways to increase the NGAAF funding so that women can be further empowered. This is because we are passionate, hands-on, and we make a lot of difference.

The only money that can be fully accounted for is the money that goes into the hands of women leaders today. That is why, as I advocate for this, I also want to emphasize that we need some increment. However, the most important step is to have those Funds enshrined in the Constitution.

The Senate oversees billions of shillings in the counties, and it is only fair to empower the senators to carry out that responsibility effectively.

With those few remarks, I wish everybody a Merry Christmas and also thank every Member of Parliament here for all the support they have given us as leaders, and for all the business that we have transacted.

Thank you.

(A Member spoke off the record)

The Temporary Speaker (Hon. Peter Kaluma): I pronounced myself on who speaks next. Hon. Anthony Oluoch.

Hon. Anthony Aluoch (Mathare, ODM): Thank you very much, Hon. Temporary Speaker. Let me lend my support to this proposal to entrench NG-CDF into the Constitution, taking into account that the recent court's pronouncement is such that by June of 2027, the current NG-CDF will cease to act. Apparently, the court did not take into account the collapse that would occur and the void that would ensue as a result of the expiry of NG-CDF, if we did not either amend or entrench it in the Constitution. Luckily, if we entrench this in the Constitution, we will be following one of the edicts of the court when it decided in the Building Bridges Initiative (BBI) case, when it said that there is no such thing as an unconstitutional constitutional provision. I support that we put this in the Constitution so that we then now find what excuse the court will have, or the activists, or the counties, to want to say that the NG-CDF is unconstitutional.

Let us reflect back on what the NGCDF is a victim of. In my view, the NG-CDF is a victim of central government bureaucrats. When we passed the Constitution 2010, we intended to devolve funds down to the lowest unit. The lowest unit currently, as we know, is the constituency. I want to disagree with the court that the constituency is not a unit of development. The units of development are down from the national Government. They go to the sub-counties. If you want to call it constituency, so be it. If you want to call it a sub-county, it is a unit of development. You can only go lower at the ward level, which does not exist now. The county governments do not recognize it and so, the lowest unit we know is the sub-county and the constituency.

Hon. Temporary, the NGCDF is also a victim of the county governments. The court cases that have been sponsored, not only against it but also against the Road Maintenance Levy Fund (RMLF), are sponsored by the counties themselves. There is a misnomer among county governors that money that is taken away from NG-CDF would result in more money into the counties. That is a fallacy. The Constitution divides funds between the national and county governments, and even if money is taken away from the NG-CDF, it would still remain centralised. For this reason, among others, I support entrenching this into the Constitution so as to put this matter to rest once and for all.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Alice Ng'ang'a will be followed by Hon. Mwashako, and then Hon. Peter Salasya.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Temporary Speaker. Just the other day, I researched the impact of NG-CDF at the grassroots level and the finding was that it is the only project that is felt in every corner of this nation. Whether you go to Busia, Taita Taveta, Tana River or Nandi, you only see NG-CDF projects. I have never understood why people want to change what is working. But they want what is not working. Everywhere you go, from the tiniest to the biggest projects, they done using NG-CDF. I did research on why those projects are very important to Kenyans. It is because of public participation. Before you identify a project to undertake, the community tells you what they want in their sub-county or village. So, when the NG-CDF committee implements that project, it is significant and has a lot of impact in that area.

Moving forward, every court ruling is telling us to do public participation. I also want to request the Judiciary that before they make a ruling, they do public participation. If you visit any constituency, you are welcomed by NG-CDF projects. The students in secondary schools, tertiary colleges or universities are given bursaries by NG-CDF. In the security sector, NG-

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CDF comes out very strongly. I have put up a modern police infrastructure in my constituency at a place called Ngoigwa and insecurity has gone down.

We should support NG-CDF. I want to thank Hon. Chepkong'a for taking us through this legislative proposal. We should not give up because this is not the first time we are discussing NG-CDF. We have discussed it so many times when a ruling is made by the Judiciary. We will not tire because we represent the people of this nation and know what is good for them. We know NG-CDF is working.

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

Hon. Danson Mwashako (Wundanyi, WDM): Ahsante sana, Mhe. Spika wa Muda. Nasimama kuchangia *Legislative Proposal* hii kwamba NG-CDF izeze kuingizwa kabisa ndani ya Katiba yetu ya Kenya. Ni jambo la kutia moyo, tukiona wananchi kule mashinani wanavyojivunia NG-CDF kwa kuchangia maendeleo ya maeneo Bunge. Kenya yetu imekuwa na sehemu ambazo zimeboba na zingine zilizobaki nyuma tangu tupate Uhuru mwaka wa 1963. Kama unakumbuka, kuna Hoja ilikuja hapa Bunge mwaka wa 1965, ilikuwa inaitwa *Sessional Paper No.10 of 1965* ambayo iligawanya Kenya vipande viwili. Kipande kimoja kilikuwa cha manufaa na basi Serikali Kuu ikawekeza kule. Kipande kingine kikawa si cha faida sana ambacho kilibaki nyuma kwa miaka mingi.

Kungekuwa mfumo kama NG-CDF ungetumika kugawanya pesa ambazo zinachangia mambo ya barabara, maji na pesa ya elimu, basi Kenya yote ingeendelea kwa usawa. Hatungekuwa na maeneo ambayo yamebaki nyuma. Hii hazina ya NG-CDF inatakikana ichungwe si na Wabunge tu, lakini hata Serikali ya Kitaifa inatakikana ijuwe hii ndio hazina pekee ambayo inafikia mwananchi kule mashinani.

Pesa hizo za NG-CDF leo hii zinasomesha watoto ambao hawangeweza kwenda shule. Kwa sababu ya maamuzi yanayofanyika kule mashinani, yanaweza kufikia wale maskini hohe hahe ambao hawangeweza kufanikiwa na ndoto zao za elimu.

Kile ambacho kinatia moyo sana ni kuwa, asilimia sita pekee ya NG-CDF ndiyo inagharamia mishahara na marupurupu ya Kamati inayosimamia. Ingekuwa magatuzi yetu ya kaunti yamewekewa asilimia ya chini hivo ya kugharamia mishahara na zile marupurupu, tungeona maendeleo yakifanywa na kaunti zetu.

Sisi kama Wabunge na Wakenya, tuanafaa tu, tuunge mkono swala hili, ili hata kwa hii hazina, pesa za maji, barabara na stima...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Peter Salasya was to speak next.

Hon. Peter Salasya (Mumias East, DAP-K): Thank you, Hon. Temporary Speaker. I want to stand in support of this Motion that has been sponsored by Hon. Chepkong'a.

I want to thank him because of the seriousness he has shown in terms of mobilising the number of the people to support it. That is why I have decided to be here until the conclusion of this Motion. I do support NG-CDF because it has given the House more powers to oversight the Executive. With NG-CDF, we will not find ourselves in State House seeking for development. We will even criticise the Government when they make any mistake, or are selective in sharing development without fear.

I want to thank those who came with the idea of social media. Members of Parliament are doing a lot of work, but it is only that some of them are not on social media. That is why some Kenyans cannot understand the work that they are doing in their constituencies. I am happy that currently, Kenyans have now noted the importance of the Funds. If you listened to the presentation by Hon. Chepkong'a, he has said that there is no Member of Parliament who walks with those cheque books. Then you realise that what they are saying about our deliberations on micro-managing the NG-CDF becomes a double standard.

When you look at how the NG-CDF has been structured, it is being operated by a seven-member committee, and this is something that Kenyans need to understand. Why is it that NG-CDF with only Ksh38 billion can be felt across the country? You can see a lot of work that,

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that Fund has done in the entire country as compared to what Ksh380 billion allocated to counties is doing. That is why we really need to look at why counties have a lot of problems in terms of service delivery. It is because of the wage bill, something that do not affect the NG-CDF. It is only the seven-member Committee that is formed and that is entitled to allowances, but with a maximum number of meetings to hold.

We want to call upon the Senate or whoever is in charge of the counties... The wage bill from the community village administrator, ward administrator, sub-chief, chief officers is consuming about 60-70 per cent of the entire budget. We must look at how the counties can reduce their wage bills so that our people can continue to get development.

Last is on the issues of the roads. As Hon. Wanjala has contributed...

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

Hon. Johana Ng'eno, you have the Floor. He would be followed by Hon. Mary Emaase, Hon. Paul Mwirigi, Hon. Robert Basil and Hon. Thuku Kwenya in that order.

(Hon. Mary Emaase spoke off the record)

Hon. Johana Ng'eno came before you.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Thank you, Hon. Temporary Speaker for protecting me.

I wish to thank the Member for Ainabkoi, Hon. Chepkong'a, for making it right by looking at the law, and answering the questions that were asked by the members of the public. The NG-CDF has been taken around corners. It has undergone so many changes because some few people feel that the NG-CDF does not deserve to serve the people of this Republic.

I remember an American called David Thoreau who once wrote an article called Civil Disobedience. Civil disobedience means disobeying the laws that you know are unjust. I believe the rulings which have been made by the courts severally are parts of the laws that the people of this Republic should civilly disobey. I say so because the CDF or the NG-CDF – or whatever name it is called – just like what my colleagues have said, salvaged the image of the people of this Republic. The National Government Constituencies Development Fund (NG-CDF) managed to equalise many areas which were always marginalised. It has brought value to the society. It has made people who do not have access to education, to access education. It has made people access roads and many other things that would not have happened in this Republic.

The reason I feel there is this continuous litigation against NG-CDF is because of sibling rivalry. There are some members of the county assemblies who feel that when the Members of Parliament oversee the NG-CDF, they make inroads in the society. I wish to thank Hon. Chekong'a. Let us entrench this in the Constitution and allow it to work.

Lastly, I want to wish the Members of this House and the members of this country a Merry Christmas and a Happy New Year. I also wish to take this opportunity to invite Members of this House and members of the public to Kapkatet, the Kalenjin Music Festival. That would be a great moment for all of us. You are all invited.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mary Emaase.

Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity. I also would like to support the proposed constitutional amendment to anchor the NG-CDF, the NGAAF Fund and the Senate Oversight Fund into the Constitution. The National Government Constituencies Development Fund is the best thing that ever happened to this country. So, it must be protected, defended and celebrated. At this juncture, I want to appreciate, congratulate and applaud all the leaders who established the NG-CDF.

One of the reasons there is discontentment in certain quarters or parts of the country is because of the feeling of exclusion. Exclusivity in development, exclusivity in appointments and exclusivity in many other things. However, the NG-CDF, I dare say, was the first equaliser. I am told that before the promulgation of the new Constitution, development used to follow regions that were politically correct. Today, every region, irrespective of its political affiliations gets basic development. Therefore, it should not be lost in the minds of those individuals that are persistently hell-bent in killing NG-CDF that, first, the NG-CDF funds are derived from the national Government share of revenue and second, it is a fund that is very successful.

Today, we have children of the poor and the most vulnerable accessing education. Today, we are able to build infrastructure in schools, buy buses for schools, build dining halls or multi-purpose halls and administration blocks across the country, courtesy of the NG-CDF. So, I support this proposal. It is long overdue. It is time, Hon. Members, that we pass this Bill once it gets to the Floor of this House so that we protect the NG-CDF. We must also continue demystifying the notion that the NG-CDF is managed by Members.

The NG-CDF is not managed by Members of Parliament. We only guide. It is managed by an independent body of the NG-CDF Board and we only guide them as they implement the projects.

Thank you. I support the amendment.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Paul Mwirigi

Hon. John Paul Mwirigi (Igembe South, UDA): Thank you very much. I also stand to support this proposal of entrenching the NG-CDF in the Constitution. In the past, we have encountered many challenges whereby we have been taken to court for operating an unconstitutional fund. So, this proposal will help the fund to exist without any court cases.

For the seven years I have been a Member of Parliament for Igembe South Constituency, the Fund has helped me a lot to develop the constituency. Whenever you go in the constituency, the most visible projects were done through NG-CDF. The Fund has enabled many young people from poor backgrounds to go to school. So, it has enabled poor families, whose dreams were dimmed to think that, in future, they can be somebody in life. The Fund has encouraged them to gain education to make them big people in this country.

Also, that is the Fund that exposes the constituents to public participation whereby they participate and say what development they would want be done in their various areas. Also, in the security sector, the Fund has improved it eminently. All police stations and chiefs' camps have been built.

Also, the National Government Affirmative Action Fund (NGAAF) has also helped people on the ground. I also support it to be entrenched in the Constitution so that our women can have something to take to the people on the ground.

The people of Igembe South Constituency have given me their full support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Robert Basil:

Hon. Robert Basil (Yatta, WDM): I came before Hon. Thuku, but I thought...

The Temporary Speaker (Hon. Peter Kaluma): Well, you will speak after him.

Hon. Robert Basil (Yatta, WDM): He will speak after me. So, thank you. Allow me to add my voice to the Members who have spoken before me on the legislative proposal to entrench NG-CDF in the Constitution. From the onset, those who were in school before the NG-CDF was crafted can attest to you that NG-CDF has done a tremendous work in bridging the gap on education, and the judges who quashed away the NG-CDF do not seem to understand how NG-CDF operates or how it works. I want to call upon them, or any other Kenyan who is a patriot, to really understand that NG-CDF is a very essential kitty which we cannot take away from this country.

If you recall very well, NG-CDF has actually bridged the development gap across the country. Before NG-CDF, our parents were over-burdened by many expenses. Considering that

our budget is not itemized, NG-CDF is the only kitty that brings equity on matters to do with education, security and other activities. Importantly, our country needs to attain SDG 4, which talks of inclusivity and equity in terms of quality education. NG-CDF will support Kenya to achieve or attain SDG- 4. We have something called ‘sphere standards’, which calls for quality education. Without NG-CDF, Kenya will fall below in terms of attaining the requirements of sphere standards, which are global measures or global units that guide issues to do with education, among many other issues.

Hon. Robert Basil (Yatta, WDM): Hon. Temporary, speaker, there is the National Government Affirmative Action Fund (NGAAF). Issues of equality and closing the gender gap cannot be attained when we do not have the NGAAF. Anyone who means well for this country should allow us to entrench the National Government Constituency Development Fund (NG-CDF), NGAAF and the Senate Oversight Fund in the Constitution.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Thuku Kwenya.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I wish in a very special way to emphatically support this proposal. I cannot wait for the day that we are going to discuss the entrenchment of this Bill into the Constitution, so that we can have a constitutional provision where the NG-CDF is entrenched. For the last 20 years since the introduction of the Constituency Development Fund (CDF), we know the kind of exploits it has done in our constituencies. Some of the Members sitting here today are here because they got an enabler through education, through that Fund that we so celebrate. I fault the drafters of our Constitution 2010 because were it not for experiment or trying to reinvent the wheel, we should have devolved our Government to the constituency level. Such that we have 290 devolved units of government and do away with the county governments.

All we did with the devolution that we introduced was reinvent the wheel and bring about very expensive units that are becoming very difficult to run and oversight. We also get some constitutional moments whereby we should think of disbanding the county governments and having those units as constituencies. Constituencies are very efficient because we only spend 6 per cent of the fund on the management of the same. NG-CDF is here to stay and no court of good standing should pronounce that Fund as unconstitutional. What is of public interest should be given first preference.

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Speaker. Let me stand and go on record to support my colleagues for bringing this constitutional amendment to entrench the NG-CDF, the Senate Oversight Fund and the NGAAF. Article 63 of the Constitution compels state organs - and that means the Government - to have reasonable access to services in all parts of the country. Article 43 has a list of economic and social rights that have literally been met by NG-CDF.

I happened to be in court on the day of the ruling and it was a very sad day. A bench of Kenyan judges could say that NG-CDF is unconstitutional and that it has done nothing; or what it has done is illegal or unlawful. I forgave them because the Bible says that we should forgive 70 times seven times, but if I had a way, I would not have forgiven them. The fallacy that a constituency is not a unit of service delivery flies in the face of Article 63 of the Constitution. Kenyans live in constituencies and not in the counties. Counties are just an amalgamation of the constituencies. Kenyans who live in those constituencies deserve services, both from the county government and the national Government. So, to say that the national Government cannot use any other system to take services to the grassroots is literally unfair and a fallacy. The truth of the matter is that the National Government Constituencies Development Fund (NG-CDF) should be tied to the Members of Parliament. Why do I say so? It is a poisoned chalice to a Member of Parliament. That is because if you mess up with the NG-CDF, the

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electorate will teach you a lesson. Equally, if you do well with the NG-CDF, the electorate will for sure give you another term. So, a Member of Parliament is in mortal fear of being kicked out if he messes up NG-CDF. That is why the impact of NG-CDF has been more noticeable than anything else.

Hon. Temporary Speaker, I signed and I will continue to advocate for NG-CDF. Additionally, I would like to tell Kenyans that NG-CDF is going nowhere. They should not be afraid but relax as we sort these things out.

Thank you, Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. John Kwanjiku.

Hon. Njuguna Kwanjiku (Kiambaa, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Motion. I would particularly like to congratulate Hon. Chepkong'a and the Committee that sat down and came up with the specifics of making sure that we entrench NG-CDF, National Government Affirmative Action Fund (NGAAF) and Senate Oversight Fund into the Constitution. From the mood of the House, it is clear that the majority of the Members understand the concept of NG-CDF. There are many projects that we have undertaken in our constituencies, including making sure that we have built modern police posts to boost the security sector that has been neglected for a very long time.

In the education sector, we have made sure to modernise our public primary and secondary day schools. We also oversee and make sure that students in various constituencies benefit from the bursary. We also make sure that we prudently oversee the use of the money that has been allocated to us through the NG-CDF.

This is the only unit of devolution that really works. Sometimes, we give governors a lot of resources, but we cannot identify projects that are done by that money within our constituencies. But within the same constituency, we can see different projects that have been done by NG-CDF.

I was against the Senate Oversight Fund, but it is a high time we also supported the Senate so that they can also make sure that devolution works. That Fund will also help them ensure that there is prudent use of Government resources through devolution.

Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Joseph Oyula.

Hon. Maero Oyula (Butula, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to also contribute to this Motion. I would like to start by thanking Hon. Chepkong'a for reviving this Motion, which was brought to this House more than one year ago.

The NG-CDF has been fought by individuals or groups of individuals who were getting a lot of money from donors under the pretext that they were paying fees for vulnerable children. So, this is the only route that will make those people not to interfere with NG-CDF. As it has been said, NG-CDF has done a lot of work in the constituencies and, therefore, it must be protected. If you go out here, everybody will tell you to protect NG-CDF because it is the only Fund that has done projects in the rural areas. So, it is important that NG-CDF, NGAAF, and the Senate Oversight Fund be protected by entrenching them in the Constitution.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Jessica Mbalu.

Hon. Jessica Mbalu (Kibwezi East, WDM): Thank you, Hon. Temporary Speaker, for giving me the opportunity to add my voice in support of the legislative proposal to entrench the National Government Constituencies Development Fund (NG-CDF), the National Government Affirmative Action Fund (NGAAF), and the Senate Oversight Fund into the Constitution.

As a Member of Parliament representing a single constituency, I am aware of the social impact of the NG-CDF on our people, especially because we oversee it. That is the only fund

whose effects are visible on the ground. The NG-CDF caters for the smallest unit of development. The national Government allocates funds to constituencies to help Kenyans.

Some of the benefits we get include bursaries. Education is the backbone of many places, like my Kibwezi East Constituency in Makueni County. I have seen the social impact of the NG-CDF and the opportunities that are enjoyed by students who have benefited from bursaries. When I go around my constituency to oversee the NG-CDF projects, I find parents shedding tears because of the bursaries that they get to pay...

The Temporary Speaker (Hon. Peter Kaluma): Your time is up. Hon. Jackson.

(Hon. Jessica Mbalu spoke off the record)

Give her 30 seconds. It seems as though power has gone, or is it the information, communication and technology (ICT) system?

Hon. Jessica Mbalu (Kibwezi East, WDM): Hon. Temporary Speaker, I think it is the ICT system, but I will take your instructions.

The NG-CDF has also helped in terms of security. We have been able to deal with security issues and emergencies that occur in our constituencies. The NG-CDF has catered for all that.

When the Women Representatives in the House get the NGAAF money once it is entrenched in the Constitution, they will be able to walk tall. As lawmakers, we promise Kenyans that we will entrench the NG-CDF in the Constitution as required by the courts.

With those few remarks, I support the Legislative Proposal.

The Temporary Speaker (Hon. Peter Kaluma): Bishop Jackson Kosgei.

Hon. (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Temporary Speaker. First, I want to congratulate the Member for bringing this proposal to entrench those funds in the Constitution.

It has been said that shared prosperity in a nation enhances two important things. First, it enhances national pride in its citizens. It also brings about inclusivity in the society because everybody feels like they belong to that country. One thing that brings prosperity closer to every citizen in an inclusive way is a system of funding that touches on every constituency.

Because I can see time is a bit short, I will mention three reasons why this legislative proposal is important. First, you cannot deny citizens a right they have enjoyed. That is the law. Secondly, the NG-CDF has had a visible impact on the people over the years. Finally, by entrenching it in the Constitution, we will ring-fence it against overzealous people who selfishly interpret the Constitution while ignoring the benefits of such funds, which help to bring devolution closer to our people.

Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mulanya Geoffrey.

Hon. Geoffrey Mulanya (Nambale, Independent): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support this Motion. I congratulate Hon. Chepkong'a for bringing this Motion so that we can amend the Constitution to entrench NG-CDF in the Constitution. When the court delivered its ruling and declared NG-CDF unconstitutional, I was surprised. When I analysed further, I realised that the judges are out of touch with reality and the truth on the ground. Before NG-CDF, everybody in this country was a guest of honour in *harambees* to build schools. Judges do not participate in *harambees* and so, they do not feel the pain that people go through to build schools. Instead of helping to develop our jurisprudence by stretching the law to the purpose and the need on the ground, judges are trying to interpret the law as it is, which affects the common person.

I support this particular amendment.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Sabina Chege.

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Hon. Sabina Chege (JP, Nominated): Thank you, Hon. Temporary Speaker. I join my colleagues in congratulating Hon. Chepkong'a and the team. NG-CDF has really brought development on the ground. I cannot forget NGAAF that we as Woman Representatives fought for, so that County Woman Members can have an impact on the ground. Though not many people speak about it maybe because of the numbers, NGAAF has a direct impact on our youth and mothers. I hope it will also be entrenched. Even as we say the Senate Fund should be entrenched in the Constitution, we need to have a look at it and see what it is really meant to do.

As we break for Christmas, it has been a tough year for Parliament. We have learnt lessons. I wish every Member of this House and the public at large a merry Christmas and a happy New Year. I urge that we keep peace. Leaders are fighting for NG-CDF, NGAAF and all the funds for the benefit of Kenyans. Kindly allow leaders to work. We may differ in opinions, but allow your Member of Parliament to come to the ground and work together with you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Francis Sigei, then Hon. Jematiah.

Hon. Francis Sigei (Sotik, UDA): Hon. Temporary Speaker, thank you very much for giving me this opportunity to support my colleagues on this very important amendment. I thank Hon. Chepkong'a, Member for Ainabkoi, for coming up with this proposal.

NG-CDF is the most popular fund at the grassroots. It is the real devolution in this country. Anybody opposing the Fund is fighting the poor of the poorest. We are very happy that we will make the busybodies irrelevant in this country. They have done a lot of damage.

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

Hon. Jematiah Sergon (Baringo County, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Motion on the entrenchment into the Constitution of counties and constituencies funds. I want to speak for NGAAF.

Hon. Temporary Speaker, I must say the proponents of the Constitution were misguided. The funds that County Woman Representatives get in NGAAF are very little. Even as we entrench it in the Constitution, we really want it to be considered and added adequately. I cannot be in charge of six constituencies and have Ksh6 million per constituency, while my counterpart probably has Ksh150 million. In all fairness, how am I supposed to take care of women, youth and people with disabilities? Who is a youth? Everyone in this country looks like a youth. It is not possible for me to work in a whole county and use barely an eighth of the money that I am given.

Even as we entrench NGAAF in the Constitution, that money should be really considered fairly and added. The work of a County Woman Representative is to deal with emotions, but not with infrastructure. Dealing with emotions is almost impossible. That money cannot make me die, survive or live properly. So, I just survive there.

Lastly, I wish all of you merry Christmas as we go for recess.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Clive Gisairo.

Hon. Clive Gisairo (Kitutu Masaba, ODM): Thank you, Hon. Temporary Speaker. The debate about the constitutionalisation of NG-CDF is long overdue. This is something that should have been done a long time ago. It is a Fund that touches every village in this country. It educates the poor, builds infrastructure that can be seen and outlives any parliamentary session. Therefore, it should not be fought by anyone. We should all support it because it is the only way we will continue to have development that can be seen on the ground every year. The money that goes to the counties goes to the pockets of a few people.

I support the legislative proposal.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Rahab Mukami will be followed by Hon. Paul Biego, Hon. Joseph Lelmengit and then Hon. Timothy Toroitich who will contribute in one minute each.

Hon. Rahab Mukami (Nyeri County, UDA): Thank you, Hon. Temporary Speaker, for giving me this chance to contribute.

I congratulate the Member for bringing this amendment, especially for NGAAF. I support my colleagues because County Woman Representatives need more money to empower women. When you do it, you empower the society. I also support NG-CDF. When you go on the ground, you will see many projects, courtesy of NG-CDF. It is used to construct classes and other projects, including chiefs' offices and police posts. We can feel its impact on the ground.

I also thank our President. I remember there was a time I had requested him....

The Temporary Speaker (Hon. Peter Kaluma): Next is Hon. Paul Biego.

Hon. Paul Biego (Chesumei, UDA): Thank you, Hon. Temporary Speaker. I rise to support this legislative proposal to entrench NG-CDF and NGAAF in the Constitution. As we are all aware, those funds have a vote on bursary which is open to local primary schools, secondary schools and tertiary institutions. It accommodates a wide range of education beneficiaries, including post-graduate students.

The NG-CDF and NGAAF advocate for accountability because no funds are allocated without public participation. The funds are disbursed equitably across the constituency. Some Members would not be sitting in this House without NG-CDF. Children have dreams. Let us make them valid.

I support this legislative proposal to amend the Constitution. I congratulate Hon. Chepkong'a for bringing it.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Josses Lelmengit.

Hon. Josses Lelmengit (Emgwen, UDA): Thank you, Hon. Temporary Speaker. I rise to support this legislative proposal to entrench NG-CDF in the Constitution. As much as it promotes quality education, I do not want to forget localised development.

With NG-CDF, Hon. Temporary Speaker, we have numerous businesses and contracts that benefit the local *mwananchi*. I support this because it will decentralise development and help build young entrepreneurs out there.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Lastly, Hon. Timothy Toroitich, in two minutes.

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Temporary Speaker, I rise to support the anchoring of the NG-CDF and NGAAF in the Constitution because once they are entrenched, the court cannot declare the Constitution of Kenya unconstitutional.

What I oppose is anchoring the Senate Oversight Fund in the Constitution. That is akin to saying that we want to create a fund for the Members of the National Assembly to oversee the Executive in the functions of the national Government under the Constitution. Senators are already paid to offer oversight, and their role is to oversee county governments. Why should we create a fund for the senators to oversee a function that is already entrusted to them by the Constitution? We have county assemblies. What is their role in this country if we are creating a fund for the senators to oversee devolution or to oversee the county governments?

Hon. Temporary Speaker, I only support the anchoring in respect to the NG-CDF and NGAAF. As for the Senate, the county assembly is sufficient, and the role of oversight as mandated by the Constitution to the senators is enough.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): The time has been short, Hon. Members, for us to adequately speak to the matter but, as and when it matures, we will have all the time to debate it.

Let me, on behalf of the Speaker and the leadership of Parliament, commend and thank all of you for the very active engagement we have had during this Session. As you go home, enjoy your Christmas.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 7.07 p.m., this House stands adjourned until Tuesday, 11th February 2025, at 2.30 p.m.

The House rose at 7.07 p.m.

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