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Thursday, 24th April 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

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

(The Quorum Bell was rung)

Order, Hon. Members. We now have quorum to transact business. Clerk-at-the-Table! Hon. Members, I have two short communications to make.

COMMUNICATION FROM THE CHAIR

DELEGATION FROM THE BRITISH ARMY
TRAINING UNIT KENYA (BATUK)

Hon. Speaker: Hon. Members, I wish to introduce to you a delegation from the British Army Training Unit Kenya (BATUK), who are seated in the Speaker's Gallery. The delegation comprises 13 British Soldiers led by their Regiment Administration Officer, Major David Kalawa.

The delegation is on a visit to the National Assembly to acquaint themselves with Kenya's Parliamentary system and observe the House proceedings. On my behalf and that of the National Assembly, I welcome the delegation to Parliament and wish them a fruitful visit.

You may be seated. I thank you.

THE OFFICIAL OPENING OF BUNGE TOWER
BY HIS EXCELLENCY THE PRESIDENT

Hon. Speaker: Hon. Members, you will recall that on Wednesday, 17th April 2024, I informed the House of the official opening of the Bunge Tower, which was scheduled for Friday, 19th April 2024.

Hon. Members, you will further recall that on Thursday, 18th April 2024, I notified the House and the general public of the postponement of the official opening of the Bunge Tower to Thursday, 25th April 2024, that is, tomorrow. This was in accord with the declaration of three days of national mourning by His Excellency the President following the untimely demise of General Francis Omondi Ogolla, EGH 'ndc' (K) 'psc' (FRA), Chief of the Defence Forces and nine other gallant soldiers of our county.

I wish to formally inform the House that His Excellency (Dr) William Samoei Ruto, CGH, President of the Republic of Kenya and Commander-in-Chief of Kenya Defence Forces will grace the official opening ceremony of the Bunge Tower on Thursday, 25th April 2024. The programme of events will commence at 8.00 a.m.

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In this regard, all Members and guests are expected to be seated by 7.30 a.m., at the tent that is pitched between Ukulima Co-operative Building and the new Bunge Tower. I encourage all of us to be present by 7.30 a.m. At exactly 8.00 a.m., the President will arrive and we will go through the process of officially opening Bunge Tower. I am sure you have noted the tremendous positive improvement around Parliamentary Square that will now bring some order, beauty, and dignity around the Square.

(Applause)

I want to encourage all of us to keep the mood that way so that we can have a Parliament that is environmentally friendly, green, and good to walk around. You are aware that once we open, many of you will now be transiting from the Bunge Tower to this Chamber via the tunnel across Harambee Avenue. It is so that you can have some relative privacy and freedom, so to speak.

Thank you, Hon. Members.

(Applause)

The Leader of the Majority Party says you will also have peace as you sojourn through the tunnel. Next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: Hon. Julius ole Sunkuli, Member for Kilgoris. Give him the microphone.

REQUEST FOR STATEMENT

SECURITY SITUATION IN KILGORIS CONSTITUENCY

Hon. Julius Sunkuli (Kilgoris, KANU): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the security situation in the area of Ongata Barrikoi in Kilgoris Constituency.

Hon. Speaker, Ongata Barrikoi is located along the Kenya/Tanzania border. This area is inhabited by the Kipsigis community, who are neighbours to the Kuria community, both Kenyan and Tanzanian. It is regrettable that these two communities are unable to live in harmony and have occasionally had inter-communal clashes, especially between residents of Ongata Barrikoi and Nyanderema Village in Gwitembe Location in Kuria East Constituency.

On 14th April 2024 at about 6.00 p.m., certain persons who are claimed to be from the said village of Nyanderema crossed the border of Ongata Barrikoi area and slashed approximately 13 acres of maize belonging to Mr. Alfred Mutai of ID No.24047303 and his brother, Mr. Charles Kiplang'at Mutai of ID No. 24046720. Similarly, this month, armed people suspected to be from Nyanderema Village invaded a farm in Ongata Barrikoi and chased away farmers who were planting maize, legitimately, on their farms. They cut into pieces 30 bags of fertilizer and made away with 15 bags of maize seed. Last week, attackers invaded Ng'endalel Village of Ongata Barrikoi and shot at the residents. A 15-year-old minor named Gideon Kiplang'at Sigei is currently hospitalised as he was shot on the knee. The location also suffers numerous incidences of livestock theft.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following issues:

1. What are the root causes of the insecurity situation in Ongata Barrikoi?
2. What steps is the Government taking to address the ongoing insecurity situation in the said region, including long term measures for sustainable peace in the region?
3. What measures has the Government put in place to ensure that all warring communities who border each other live in harmony?

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Sunkuli. Chairperson, Departmental Committee on Administration and Internal Security! Hon. Raso, where is your Chairperson? Are you standing in for him?

Hon. Ali Raso (Saku, UDA): Yes.

Hon. Speaker: I give you two weeks to bring the Statement.

Hon. Ali Raso (Saku, UDA): Obligated, Hon. Speaker.

Hon. Speaker: The Chairperson, Departmental Committee on Social Protection, Hon. Hilary Kosgei.

Hon. Hilary Kosgei (Kipkelion West, UDA): Thank you, Hon. Speaker. This is the response from the Ministry regarding a request for Statement by Hon. Irene Mayaka on the status report on the campaign to end female genital mutilation by the year 2022.

Hon. Speaker: Is Hon. Irene Mayaka in the House?

Hon. Members: Yes.

Hon. Speaker: Oh yes, there you are. Okay.

STATUS REPORT ON THE CAMPAIGN TO END FEMALE GENITAL MUTILATION

Hon. Hilary Kosgei (Kipkelion West, UDA): Hon. Speaker, as a way of introduction, Female Genital Mutilation (FGM) is defined as the procedure involving partial or total removal of the external female genitalia, or any other injury to the female genital organs for non-medical reasons. It is one of the most severe forms of gender-based violence. Female Genital Mutilation commonly referred to as FGM is detrimental to the physical, social and emotional well-being of women and girls. It is a human right's violation that has a trickle effect on the country's socio-economic and political development.

Hon. Speaker, the United Nations International Children's Emergency Fund (UNICEF) estimates that at least 200 million girls and women alive today have been subjected to FGM in 30 countries in Africa, Middle East and Asia. In Kenya, about 9.3 million girls and women have undergone FGM. According to Kenya Demographic and Health Survey, the national prevalence of FGM among women and girls aged 15 - 49 years has gradually declined from 38 per cent in 1998; 32 per cent in 2003; 27 per cent in 2009; 21 per cent in 2014; and 15 per cent in 2022.

Hon. Speaker: Hon. Hillary, your Statement is unreasonably long.

Hon. Hilary Kosgei (Kipkelion West, UDA): Hon. Speaker, I am aware of that. So, I will go directly to the responses.

Hon. Speaker: Can you give highlights in the Statement?

Hon. Hilary Kosgei (Kipkelion West, UDA): Hon. Speaker, I will take you right to the highlights on Page 14 on the initiatives put in place to sustain the gains made beyond 2022 and the programmes put in place to enhance awareness on the effects of FGM, which are listed as:

1. Dissemination of the declarations, commitments, and consensus made by elders to end FGM and child marriage to the grassroots levels;
2. Enhanced community participation and inclusivity;
3. Enhanced capacity building of community resource persons, including champions, role models, religious leaders, opinion and duty bearers on the effects of FGM, the existing policy, and the legal framework;
4. Enhanced stakeholder mapping and partnership with community networks;
5. Improvement of partnerships with Non-Governmental Organisations;
6. Formation of County and Sub-County anti-FGM Networks;
7. Formation of community networks such as the Survivor's Forum, Youth Anti-FGM Networks, Teachers Against FGM Networks, University/College Students' Network Against FGM aimed at promoting sustainability of the campaign;
8. Provision of technical and financial support towards development of county specific policies and action plans aimed at providing roadmaps and resource mobilisation tools to sustain the campaign against FGM;
9. Development of information, communication materials, and strategic documents;
10. Addressing emerging trends on FGM such as cross-border FGM through cross-border engagements by the administrative officers, security officers, elders and non-state actors;
11. Partnership with the Kenya Institute of Curriculum Development. (The Board has included FGM content in the CBC in the lower grades); and,
12. Active participation by the Board in all international days that protect children to create awareness on the effects of FGM.

Hon. Speaker, towards this end, the campaign can be enhanced if budgetary allocation for the next three years is provided.

I thank you.

Hon. Speaker: Hon. Hilary.

Hon. Hilary Kosgei (Kipkelion West, UDA): Yes.

Hon. Speaker: Whose Statement is this?

Hon. Hilary Kosgei (Kipkelion West, UDA): It is the Ministry's response to the request for Statement sought by Hon. Irene Mayaka.

Hon. Speaker: Hon. Hillary, please, take your seat. The practice in this House is that when Statements are sought from the Chairpersons of Committees and you correspond with the Ministries, the Statements must come under the hands of the Cabinet Secretaries. This Statement has no heading. It is about an address at Railways. It is not signed by anybody and only has a letter from a Permanent Secretary (PS) forwarding it to the Clerk of the National Assembly, which is unacceptable. This is a House of record and everything must be accounted for. And in the event that the Statement does not meet the threshold and expectations of the House, somebody must be summoned to come and defend or prosecute it. So, in future, and this is to all the Chairpersons of Committees, do not bring any Statement to this House if it does not carry the hand of the Cabinet Secretary responsible for the Departmental Committee that you oversee.

Be that as it may, Hon. Irene and the Leader of the Majority Party, you should communicate to the Cabinet that accountability to this House is from the Cabinet Secretaries.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon Speaker for actually pointing it out because I also noticed that the response has the letterhead of the Anti-FGM Board. Also, part of the response that they have given is non-committal because the only thing

that the Anti-FGM Board says is that they 'recommend' yet that was not the essence of my request for Statement.

We are currently at 15 per cent prevalence and the intention was to get us to zero per cent prevalence. Therefore, we need an enhanced campaign not only for the Government's sake, but also for the sake of all the other stakeholders who really want to assist the affected communities so that we can get to zero per cent prevalence.

Hon. Speaker, the reason I speak passionately about this is because I am among the people who went through FGM and I know that its effects are lifelong to the women and girls who experience it. So, I would not want the girls of my generation and the younger ones to continue experiencing this because it is something that will affect them for the rest of their lives. And I am sure the people from the counties that are hot beds of FGM in this particular House will agree with me because there is no need for a practice that is akin to a driver who is driving a car that has a faulty gear, but the driver gets to the destination and the car gets affected. If you understand the translation of what I am trying to say... So, Hon. Speaker, we need a response that is more satisfactory than this one.

I thank you.

(Loud consultations)

Hon. Speaker: Hon. Hilary.

Hon. Hilary Kosgei (Kipkelion West, UDA): Hon. Speaker, I agree with the concerns of the Hon. Member and, probably, you can give us direction so that the Cabinet Secretary can work out something and appear before the Committee to address the concerns of the Member.

Hon. Speaker: You are right. Go back to the Ministry that you oversee and tell them to give you a more comprehensive response. If you so wish, you can summon the Cabinet Secretary to your Committee and invite the Member to come and prosecute her case. I repeat: do not bring such Statements here again.

Next Order! Sorry, Hon. Members. Before that, I had given Hon. Pukose an opportunity to make a short Statement.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker.

On Tuesday last week, we had the Committee of the whole House on the Assisted Reproductive Bill by Hon. Millie Odhiambo and because of the amendments that were being brought by Hon. Mayaka, Hon. Shakeel and Hon. Kaluma, the Speaker referred the Bill to the Committee for winnowing. Yesterday, the Committee sat and we were able to agree with Hon. Mayaka and Hon. Shakeel. We did winnowing with the two Hon. Members and what remained is one with Hon. Kaluma. We have, however, rescheduled it to next week, Thursday based on the fact that Hon. Kaluma is travelling out of the country on official duties, and will be back on Wednesday. Our request arises because I was supposed to table a Report today. Kindly, give the Committee time to finalise with Hon. Kaluma and then we will table the Report.

Thank you, Hon. Speaker.

Hon. Speaker: Your prayers are granted. You can proceed as you have proposed. Hon. Members, on the request from the Leader of the Majority Party, we will reorganise the business of the House as follows:

After putting the Question to Order 8, we will move to Order 10. Thereafter, we will go to Order 13. After Order 13, we will go back to Order 9. Order 10, therefore, becomes Order 9. Order 13 becomes Order 10. Order 9 becomes Order 11 while the rest remain as they are.

Call out the next Order.

BILL*Second Reading*

THE NATIONAL LAND COMMISSION (AMENDMENT) BILL
(National Assembly Bill No. 43 of 2023)

(Moved by Hon. Owen Baya on 16.4.2024)

(Debate concluded on 23.4.2024)

Hon. Speaker: Order, Hon. Ferdinand Wanyonyi! Take your seat. Hon. DK, when I tell Hon. Ferdinand to take his seat, it applies to you as well.

(Question put and agreed to)

*(The Bill was read a Second Time and Committed
to Committee of the whole House)*

Hon. Speaker: Hold on Clerk-at-the-Table. Yes, Hon. Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I wanted to seek your indulgence to reorder the business appearing as Order No. 9 to become No. 11 and the business appearing as Order No. 10 to become Order No. 9...

Hon. Speaker: I have already communicated that.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker.

Hon. Speaker: I already communicated your request to the House.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Sorry, I got overly engaged with my deputy here. I did not hear that. Thank you, Hon. Speaker.

Hon. Speaker: Your deputy should not distract you unnecessarily. I direct that Order No. 10 becomes Order No. 9, Order No. 13 becomes Order No. 10 and then Order No. 9 becomes Order No. 11. The rest remain in that order. So, call out Order No. 10, which is now Order No. 9.

MOTIONS

RATIFICATION OF THE KENYA-EUROPEAN UNION
ECONOMIC PARTNERSHIP AGREEMENT

Hon. Speaker: Chairperson, Departmental Committee on Trade, Industry and Cooperatives.

Hon. Marianne Kitany (Aldai, UDA): Hon. Speaker I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the Ratification of the Economic Partnership Agreement between the European Union on one part and the Republic of Kenya, a member of the East African Community on the other part today...

Hon. Speaker: Order Hon. Member. Read the Motion as it appears on the Order Paper. For the record, Hon. Kitany, start by saying, "I beg to move".

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Speaker. I beg to move the following Motion:

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THAT, the House adopts the Report of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the Economic Partnership Agreement between the European Union (EU) and the Republic of Kenya, laid on the Table of the House on Tuesday 23rd April 2024 and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of the Economic Partnership Agreement between the European Union and the Republic of Kenya.

Hon. Speaker, the Economic Partnership Agreement between the European Union on one part and the Republic of Kenya, a member of the East African Community on the other part was laid before the House on Wednesday, 6th of March 2024 and committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration. On 18th December 2023, the EU and Kenya signed an Economic Partnership Agreement intended to boost trade in goods and create new economic opportunities with targeted cooperation to enhance Kenya's economic development. The agreement will benefit the country as it will secure access of the European Union market. The EU is a 27 country Euro16 trillion market accounting for about 17 per cent of the global Gross Domestic Product (GDP). It offers a significant export opportunity for Kenyan goods. There will be an expanded market access and more products will enter the EU market without paying any duties. Under the agreement, all the manufactured products which were not allowed to the EU market in the previous framework can now access the EU market duty-free and quota-free over the above primary products which continue to enter without duty. The agreement shall enhance commercial and economic support relations, support a new dynamic trade between the parties by means of the progressive arithmetical liberalisation of trade between them, and broaden cooperation in areas relevant to trade and investment.

Hon. Speaker, according to the provisions of Article 118 (1) (b) of the Constitution on public participation and Section 8 (3) of the Treaty Making and Ratification Act of 2012, the Committee placed an advertisement in two local dailies with nationwide circulation on 9th March 2024, requesting for submissions of memoranda on the subject. The Committee received a memorandum in support of the Economic Partnership Agreement between the EU on one part and the Republic of Kenya, a Member of the East African Community on the other part. Further, the Committee deliberated on the Treaty with the agencies involved in the recognition of the cross-cutting nature of the Treaty. It also heard the views of stakeholders for two days between 17th and 18th April 2024. Upon undertaking public participation, the Committee received numerous submissions from key stakeholders, including the Ministry of Investments, Trade and Industry, the Tea Board of Kenya, the Scrap Metal Council, the Law Society of Kenya, the Kenya Association of Manufacturers, the Institute of Economic Affairs Kenya, the Fresh Produce Exporters Association of Kenya, the Kenya Tea Growers Association, the Kenya Bankers Association, amongst others. The submissions were in full support of the Agreement as it will open up the EU markets fully and immediately. The EU partners open only partially to the EU imports over a transition period. Further, it is a World Trade Organisation (WTO) compatible agreement. The submissions observed that it is the most ambitious trade deal ever signed by the EU with a developing country when it comes to sustainability provisions such as climate and environmental protection, labour rights, and gender equality.

Once ratified, the Agreement shall secure long term market access for Kenyan Exports on duty-free quota-free basis and gradual liberalisation of tariffs on goods originating from Europe over a 25-year period. Some of the objectives of this Agreement are meant to contribute to the economic growth and development through the establishment of a strengthened and strategic trade and development partnership. This is consistent with the objectives of sustainable development. One other objective is to promote the gradual integration of the EAC partner states into the world economy in conforming with their potential choices and

development priorities as well as to improve the capacity of the EAC partner states in the trade policy and trade related issues. According to Section 8 of the Treaty Making and Ratification Act, I beg to move and urge the House to adopt the ratification of the Economic Partnership Agreement between the EU on one part and the Republic of Kenya as a member of the East African Community on the other part. I request Hon. Gichimu to second this Motion. Thank you.

Hon. Speaker: Okay. Where is the Secunder? Give him the microphone. Yes, Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Speaker. I rise to second the Motion and at the outset, let me say that the EU market is the largest in the world.

In seconding this Motion, Hon. Members ought to know that initially this Economic Partnership Agreement was meant to cover East African countries. Kenya is rated higher internationally and therefore the other countries drag their feet in accepting to sign the EPA between East Africa and the European Union (EU). Kenya had to devise a mechanism to access this market noting that the other East African countries have access to the worldwide market of goods except arms. Kenya found itself in a very tricky situation hence devising a mechanism agreeable to the other East African countries. This route was taken for Kenya to sign and seek ratification of this agreement in Parliament.

It is also worth noting that the market open for Kenya will benefit Kenyans for 25 years before the EU gets reciprocity and benefits from the Kenyan market. This provides a good opportunity for Kenyan export goods to attract and earn Kenya foreign exchange that is required. This will go a long way in stabilising the Kenya Shilling.

From the submissions that were made during public participation, the Law Society of Kenya and all the participants agreed with the State Department for Trade under the Ministry which presented this EPA before the Committee.

The Mover of the Motion has adequately covered all the areas of this EPA in brief. I join the Vice-Chairperson, who has moved the Motion, in urging Members of this Parliament to agree with the report of the committee to ratify this agreement for the benefit of Kenyans. This will also ensure we are not left behind by the other East African countries which have unlimited access to all the markets including African Growth and Opportunity Act (AGOA), except in matters of arms.

Without belabouring the point, I beg to second.

Thank you.

Hon. Speaker: Order, Hon. Members who are on their feet, take your seats.

(Question proposed)

(Hon. (Dr) Robert Pukose spoke off the record)

Yes. I can see names that have been here even before this Order was called. I do not know if they are related to this but I can see first on the screen is Hon. Eckomas Mutuse.

(Hon. Mwengi Mutuse spoke off the record)

Then clear yourself from the screen. Next is Hon. Gitonga Murugara.

(Hon. (Dr) Robert Pukose spoke off the record)

Hon. Beatrice Elachi.

(Hon. Beatrice Elachi spoke off the record)

Not on this. Next is the Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I rise to support this Motion. I can hear Hon. Pukose attempting to guide you that the Leader of the Majority Party and the Leader of the Minority Party should represent both sides in speaking.

Hon. Speaker: He is a masquerade. Ignore him.

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, UDA): He is eager to do what he does best. This is a very important Motion. As the proposer and seconder have said, it offers Kenya a good opportunity to continue accessing the EU market. Since 2014/2016, we have been able to access the duty and quota-free status of the EU market without the requisite legal statutes which we are now getting with the signing of this EPA with Kenya, which is a member of EAC.

As you may remember, since 2016, there has been a struggle between us and our partner states in the East African Community when we attempted to convince all the EAC countries to sign the EPA by October 2016. There were reservations by a number of our partner states which culminated in Kenya negotiating to sign a separate agreement with the EU as part of the broader EAC partner states. This agreement was signed last year in December and its ratification by this House will offer us a great opportunity to continue accessing the EU market for most of our exports. Most of our exports, both manufactured and raw materials like tea and coffee, now have access to the EU markets duty-free. We will be able to access EU partner states and EU nations that are part of the EU EPA quota-free and duty-free. This gives our manufacturing sector good footing.

Under the Kenya Kwanza manifesto, we committed to import and export substitution to ensure that we can export as many products and substitute locally what we have imported from different countries. This includes many products that were being imported from China and other countries. With this kind of agreement, we will grow our manufacturing sector to a point where we are able to export manufactured products to the European economies. This reinforces what the Government has been trying to do to ensure we have larger foreign exchange reserves.

By exporting more to the EU, we will earn more Euros, Pounds and other foreign currencies which will further strengthen the Kenya Shilling. Many people argue that there are no fundamentals that are supporting the strengthening of the Kenya Shilling against the Dollar. The fundamentals that people are looking for are agreements and ratification of agreements like this which will allow Kenyan manufacturers and farmers to access the EU market. This will encourage foreign exchange, further strengthening the Kenya Shilling. I assure Kenyans that with the ratification of this agreement, our foreign reserves will become stronger and the shilling will continue to gain against the other world hard currencies. This also assures Kenyans that they have a market for locally produced goods. That assurance of a market guarantees jobs to Kenyans, especially the youth. When we say that we shall be deliberate in ensuring that we create jobs, it is not just in terms of housing and other infrastructure projects, it is even in the ratification of such agreements that will ensure our manufacturing sector grows and creates more jobs for our youth.

Therefore, I support this Motion and urge Members to support the ratification of this Economic Partnership Agreement. It is a very good opportunity for Kenyan traders and manufacturers to access the European Union partner-states markets. I know there are many people who are struggling to access markets around the world, but they could not access them because of the protective duties that have been put in place by other states on goods coming

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from other countries. This duty-free access to the EU markets is a great opportunity for our country and we must take advantage of it.

I also take this opportunity to welcome the delegation from BATUK and commend them for the good work that they have been doing and the partnership that they have offered the Kenyan military in training and collaboration in securing not just this region and our country, but also in the fight against terrorism in the region and the world at large. I welcome this delegation from the British Army to the National Assembly. As the Leader of the Majority Party, I take this opportunity to assure them that we shall continue to partner with the British Army. We appreciate the support that they have also offered to the people of Laikipia and encourage them to ensure that they offer more Corporate Social Responsibility (CSR) projects to the people of Laikipia where they are training from as part of the CSR activities in the region.

Hon. Speaker: Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, let me join my colleagues in supporting this Motion. This is the way forward. Regions the world over are consolidating their markets for competitiveness. Therefore, we can no longer just sit back and say that it is enough for us to stay alone and protect our market. This protectionist ideology is no longer useful. By ratifying the EPA between the EU and Kenya, we are positioning Kenya to be able to access a huge market. As you all know, the EU is a very big market. How difficult would it be to negotiate and engage every member state of the EU? The concept of countries coming together to form blocs and unions is very timely and important. If we properly utilise and take advantage of this partnership agreement, it will help enhance our exports.

There are many areas in this country that are yet to be harnessed, especially in the rural areas. I come from the fishing community and our fish resources have not been beneficial to us. They have also not been beneficial to the communities living in the coast region because we have not had a proper marketing channel. Entering into this Agreement is one way of ensuring that we have adequate market not only for fish, but for many other products, both raw and manufactured. We should insist that we only export materials that we have added value to for us to reap the maximum benefit. Our manufacturers are also likely to benefit immensely.

It is not easy to penetrate some of these markets. You have seen how we have struggled as a country since we got our Independence to gain a foothold in international markets for most of our products. Therefore, this is a move worth supporting.

However, the lethargy we see within the East African Community is not doing us any good. The EAC needs to be more proactive and understand that the world is changing very fast. I still see a lot of suspicions within, between or among the member states of the EAC. If we can work towards eradicating these suspicions, maybe, in the fullness of time, within our lifetime, we could actually see a political federation emerging within the EAC. That will go a long way in strengthening our bloc as a market.

In conclusion, Parliament is being called upon to do what should happen at all times. These kinds of agreements need to be interrogated by the relevant committees in the manner in which we have done for this one so that as we move forward, the Parliament of Kenya, which is the people's representative and the voice of the people, is fully seized of these very vital arrangements.

With those very many remarks, I wish to support the Motion. I also join my colleague, Hon. Kimani Ichung'wah, in welcoming the BATUK delegation. I know we took some time last year to endorse the Defence Agreement between Kenya and Britain. I hope that that Agreement has been operationalised because there were some issues, which I hope we have dealt with.

Hon. Speaker: Hon. Ruku, do you want to contribute to this Motion?

Hon. Ruku GK (Mbeere North, DP): Yes. Thank you, Hon. Speaker. The EU market is very critical not only for Africa, but also for the world. Germany is almost the second largest

economy in the world, which has not been fully exploited by African countries. Kenya must lead the African continent in exploiting most of the very complex EU economies, so that we can have well-balanced trade in terms of the goods and services we export to these economies.

This Report is timely when the Government of the Republic of Kenya is trying to create job opportunities, not only for the youth, but also services which can be exported to these European economies. Therefore, it is very timely for us as a House to support this Agreement so that we can see a GDP growth from 5.5 per cent to 7 per cent. By the time we get to the next election, we can be talking of an almost double-digit growth of the economy. This can only be achieved if we have concerted efforts to export our horticultural commodities. We are enjoying a high amount of rainfall at the moment. We also have a very robust fertiliser subsidy programme, though it has some shaky issues which I am sure this House will sort out. However, there is the effort to ensure that horticultural production will increase. Once that happens, we must have a market in place to export our products.

With those remarks, I support this important and timely Motion on Ratification of the Kenya-European Union Economic Partnership Agreement. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Emmanuel Wangwe.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Speaker. Allow me to join my colleagues in supporting this Economic Partnership Agreement. The vastness of the European market is one desire that every business person wants to associate with. Accessing European market is not only an issue of marketing but also of adhering to standards. One of the world's best standards that one can ever admire are the ones for Europeans. Therefore, one benefit that comes with this Agreement is not only marketing what you have but also understanding the global standards and adhering to them.

We would like to look at the generation of Kenya today which is mainly the youth. We must endear and support the youth in manufacturing. This Motion will help us to get market for our goods. Africa is endowed with raw materials. The only thing we do not have is technology and standards which we can abide by. Therefore, I appreciate most sincerely that this Report is good. It will make our country to align itself with the global market. What we will produce might not only be for the European market or Africa but also the entire world. Therefore, I support the Report. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Dido Raso.

Hon. Ali Raso (Saku, UDA): Thank you very much, Hon. Speaker. Hon. Pukose really wants the Question to be put, but I must contribute to this Motion.

The EPAs are important. However, as a country, we must ask ourselves the hard questions. Will they be bilateral or multilateral trade links? Will we trade with 27 countries in one go or individual countries? The European Union places very stringent measures and standards in trade. We must look at them. Will they help us to put them in place, in terms of developing infrastructure? Leader of the Minority Party comes from a fishing community. At one time, they could not access the European market because of the standards that were in place.

It is also important for the Kenya Association of Manufacturers (KAM) and other players in the trading market to sign this Agreement. Are we competitive enough to trade with European market as a single player? We are within the Organisation of African, Caribbean and Pacific States (OACPS) that trade as a bloc or community. There is always strength in belonging to a big group. That is why the EU has 27 countries. Before the exit of the Brits, they were 28 countries. While I support this Report, I request the Chairman of the Committee to sit with the individuals in the Ministry who were involved in this Agreement. We not only want trade but also movement of labour, if they want to support the trading links. That is the way we can say this EPA is good to an extent. However, we must go the whole hog to enjoy its benefit. It should not be a one-way traffic.

Let me join Leader of the Majority Party and Leader of the Minority Party to welcome the BATUK team. As a graduate of Joint Services Command and Staff College in the United Kingdom (UK), I must say that the historical links between Kenya and Britain is one of the reasons we have this august House as a Commonwealth.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Mutunga.

Hon. (Dr) Robert Pukose (Endebess, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order, Hon. Pukose? Hold on, Hon. Mutunga. There is a point of order from Hon. (Dr) Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Speaker, I know that we might have one or two Members who would like to speak. However, all the Members support this Motion. If we can ratify the Kenya-European Union Economic Partnership Agreement, it will do us justice so that we move to the next Order which Members can still contribute to. I request that the Mover be called upon to reply.

Hon. Speaker: Since I had already given Hon. Mutunga the chance, let him finish. Then, I will put the Question on whether the Mover can be called upon to reply.

Hon. (Dr) John K Mutunga (Tigania West, UDA): Thank you very much, Hon. Speaker, for giving me the opportunity to speak to this Motion on Ratification of the Kenya-European Union Economic Partnership Agreement. I support it. There are 27 countries in the EU with an economy of Euro16 trillion. That is a very huge economy which we, as a country, need right now to grow.

I have gone through the Report and noted some of the issues that we wished to see happen before its adoption. People were invited to submit their memoranda which they did.

I will single out some of the key or potential beneficiaries of this Agreement. Once this market opens up, the Tea Board of Kenya will be one of them because we sell a lot of tea out there. We have a strategy to increase the amount of tea and coffee we sell. We lost the coffee quota. We used to sell more than 120,000 metric tonnes, but currently we only sell around 51,000 metric tonnes. We now have an opportunity to reach this market better. In some instances, we have been trading with the UK. We sell our coffee there and sometimes it is reconstituted. This Agreement brings in the opportunity for us to sell finished products. Therefore, Kenyan products are likely to be landing at the world market as Kenyan products but not reconstituted from another country. This is a greater benefit to this country.

The cross-cutting nature of this Agreement is key and worth noting because it does not talk of selected products. Initially, the market was open for us to sell raw materials and floricultural or horticultural products. We have a wide scope of products that we can sell right now. I would like to point out that we need improvements in certain products. For instance, we would like to recapture the coffee and pyrethrum quota. We would also like to sell more products in these markets. This is one of the most ambitious Agreements that has been signed between EU and developing countries. It is also compatible with World Trade Organisation Agreement. Therefore, we are not likely to see minor agreements disrupting this Agreement, once it is signed. The growth of our economy is key. According to Kenya Vision 2030, we target to grow at 20 per cent. Right now, we are at around 7.4 per cent. This opportunity to trade with the EU will help us secure resources for growth. The 25 years that these countries have given us are a huge potential for Kenya to grow.

We are likely to do a lot better than we have done. The fact that the Treaty has an immediate commencement date makes it commence immediately or the minute this House ratifies it. It will not wait for another commencement period. That means we can start trading right away. It is important for us to realise that the European Union (EU) is our third major trading partner. With this kind of opening of their bonds and our products, we are likely to have it as the first trading partner because we will be dealing with 27 different countries in one.

This Treaty could never have come at a better time. It is my submission that it will help our shilling to grow stronger. Foreign trade is one of the ways of getting foreign currency. We are going to open up more foreign trade. It is, indeed, going to help us improve our economy's foreign exchange and strengthen our shilling. We are also going to have the opportunity to buy more from them and improve quality of the products in this country.

I support the adoption. Thank you very much.

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

Hon. Speaker: Mover, Hon. Kitany. Give her the microphone.

Hon. Marianne Kitany (Aldai, UDA): Hon. Speaker, I beg to reply.

The ratification of the Economic Partnership Agreement (EPA) has gained a lot of support from both sides of the House. Some benefits mentioned by everyone is the access of this market to at least 27 countries. That is about Euro16 trillion economy that Kenya is going to benefit from. The current economies of our partner states within the East African Community (EAC) are considered poor. Therefore, they have favourable trading terms with the EU as opposed to Kenya that is considered a strong economy.

With the ratification of the EPA, Kenya will benefit from this agreement and have market access for its goods and services that have been selling at a very high rate. Before the signing of this agreement, the only goods allowed into the EU market on favourable terms are raw materials, mainly cut flowers. With signing of this agreement, upon ratification and coming into effect immediately, manufactured goods and services will access market. An example is our tea currently traded with the United Kingdom (UK), being our third largest market. When the tea is bought by the UK, it is value added and resold to EU markets. The benefits of value addition go to the UK as opposed to the originating country, Kenya.

The signing of the EPA between Kenya on one part and the European Union, which has 27 countries, on the other side, will instantly open market access for Kenyan tea. We currently trade it at US\$23 billion annually. We expect that to triple because we will have close to 27 countries trading. Furthermore, we will be allowed to trade in finished manufactured and value-added products. We are not looking at things like tea only but products like coffee, milk, leather, among others. They currently go from Kenyan markets to the EU. However, it is through other markets like the UK that they have access.

With that, I beg to reply. Thank you.

(Several Members walked into the Chamber)

Hon. Speaker: Order, Hon. Members. Those on your feet, please take your seats. Please, take your seat.

(Question put and agreed to)

Next Order, by the Chairman of the Departmental Committee on Defence, Intelligence and Foreign Relations. Hon. Kwenya.

RATIFICATION OF THE AFRICAN UNION CONVENTION
ON CROSS BORDER COOPERATION

Hon. Kwenya Thuku (Kinangop, JP): Hon. Speaker, I beg to move the following Motion:

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THAT, this House adopts the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its consideration of the ratification of the African Union Convention on Cross Border Cooperation (Niamey Convention), laid on the Table of the House on Thursday, 14th March 2024, and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act of 2012, approves the ratification of the African Union Convention on Cross Border Cooperation.

The Committee Report before the House details the Committee's consideration of the African Union Convention on Cross Border Cooperation (Niamey Convention). The African Union Convention on Cross Border Cooperation is a regional agreement aimed at promoting cooperation and integration among African countries. The Convention was adopted by the 23rd Ordinary Session of the AU Assembly of Heads of State and Government on 27th June 2014 to gear African states to cooperate towards the full realisation of the benefits accruable through cross border cooperation.

The Convention focuses on enhancing collaboration in various policy areas related to cross border issues. It redefines cross border cooperation as any act or policy aimed at promoting and strengthening good neighbourly relations between border populations, territorial communities and administrations or other stakeholders within the jurisdiction of two or more states, including the conclusion of agreements and arrangements useful for this purpose. It encourages member states to develop mechanisms for promoting trade, investment and economic cooperation across borders. This includes facilitating the movement of goods, services and capital as well as harmonising trade, policies and regulations.

The African Union Convention on Cross Border Cooperation (Niamey Convention) and the Explanatory Memorandum from the Ministry of Foreign and Diaspora Affairs were laid on the Table of House on Tuesday, 18th April 2023, and subsequently committed to the Departmental Committee on Defence, Intelligence and Foreign Relations. Pursuant to Article 118(1)(b) of the Constitution on public participation and Section 8(3) of the Treaty Making and Ratification Act of 2012, the Committee placed advertisements in two local dailies on Wednesday, 21st June 2023, calling for submission of memoranda on the subject matter. However, by close of the deadline, the Committee had not received any memorandum for or against ratification of the Convention.

In considering the Convention, the Committee held a meeting with the Cabinet Secretary, Ministry of Foreign and Diaspora Affairs to apprise Members on justification for the proposed ratification of the Convention. Further, the Committee engaged the Attorney-General, the Kenya Law Reform Commission, the State Department for East African Community, and the Ministry of Interior and National Administration who made submissions on the Convention. Having considered the Convention and analysed the submissions made, the Committee observed that the Convention promotes constitutional values and objectives and does not in any way allude to an amendment of the Constitution. The Convention does not necessitate changes to Kenya's domestic laws, however, because the Convention requires state parties to collaborate in institutional growth, this may necessitate policy considerations on review of the current legislative framework. The Convention imposes a number of obligations on Kenya, including the requirements to:

1. Commit cross-border cooperation in the surveying of boundaries, socio-economic development of borderlands, promotion of culture and sports across borders, and combating cross-border crime (border security);
2. Encourage, promote and facilitate information and intelligence sharing, communicate with the institution in charge of border matters;
3. Harmonise its domestic law with the Convention and;

4. Submit a report on the measures taken for the implementation of the Convention every two years.

The Convention imposes obligation on member states through their various regional economic communities to effectively coordinate with the African Union on the implementation of cross border activities within their regions to further the principles of subsidiarity and complementarity within the continent.

Hon. Speaker, at the time of consideration of the Convention for ratification, it had been signed by 19 out of the 55 African countries. Equally, only eight countries had ratified the Convention, yet 15 countries were required to ratify it for it to enter into force. Further, Kenya's ratification of the Convention is likely to influence subsequent ratification by the East African countries. Kenya is joining the Convention as a contributing member state. Thus, its ratification has no financial implications. Further, Kenya has in place various policy, legislative and institutional frameworks for cross-border cooperation including security laws, the Amendment Act of 2014 that established the Border Control and Operations Coordination Committee (BCOCC) and Joint Border Commissioners Administrative Committee with all the neighbouring countries which meet regularly to discuss cross border matters, including animal health, security issues and maintenance of boundary infrastructure, among others.

The East African Protocol on Peace and Security encourages member states to implement African Union Conventions and other international instruments that promote peace and security. In that regard, Kenya has negotiated and signed a memorandum of understanding on the demarcation and reaffirmation of the boundary with Uganda, Tanzania and South Sudan. The reaffirmation and demarcation of the Kenya-Tanzania border is ongoing, hence around 238km of the 760km well on its way to completion.

Having reviewed the Convention and considered the submissions made and pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, the Committee recommends that the House approves the ratification of the African Union Convention on Cross-Border Cooperation, the Niamey Convention.

I beg to move.

I urge the House to adopt this Report. I take this opportunity to request the Hon. Member for Mandera North to second.

Thank you, Hon. Speaker.

Hon. Speaker: Is that Hon. Bashir?

Hon. Major (Rtd) Abdullahi Sheikh (Mandera North, UDM): Hon. Speaker, I beg to second the Motion that this House approves the ratification of the African Union Convention on Cross-Corder Cooperation known as the Niamey Convention.

Cross-border cooperation stands as a cornerstone for nurturing peace, stability and sustainable development within our borders. Through fostering collaboration among its neighbouring nations, cross-border cooperation addresses shared challenges spanning security threats, economic disparities and environmental considerations transcending national boundaries. This collaborative approach not only enhances border management and security, but also engenders opportunities for socio-economic advancement, trade facilitation, cultural exchange and mutual understanding among border communities. Moreover, cross-border cooperation promotes the efficient utilisation of resources, dissemination of best practices and resolution of conflicts through dialogue and consensus building.

The Niamey Convention aligns with Kenya's constitutional provisions and legal frameworks as provided in Article 2(5) and Article 2(6) of the Constitution of Kenya and the Treaty Making and Ratification Act No.45 of 2012. Thus, ratifying this Convention does not only necessitate changes to Kenya's domestic laws but ensures consistency and adherence to legal obligations.

Ratifying the Niamey Convention presents numerous benefits for Kenya, including enhanced peace, security and stability along its borders. It seeks to foster socio-economic development in border regions, promote cultural exchange and combat cross-border crime. Moreover, it will encourage information and intelligence sharing that is essential for border security and regional stability. The Convention provides a framework for effective border management and resolution of cross-border disputes. As such, the Convention will eminently strengthen Kenya's institutional capacity and mechanism for addressing border-related issues ensuring stability and security along its borders.

Further, ratification of the Convention is a reaffirmation of Kenya's commitment to international cooperation and diplomacy. By joining other countries, Kenya demonstrates its willingness to collaborate with other African nations to address common challenges and achieve shared goals, particularly in promoting peace, security and sustainable development. Membership in the Niamey Convention provides Kenya with opportunities to assess technical and financial assistance from the African Union and other development partners. This support will facilitate the implementation of cross-border cooperation initiatives and enhance Kenya's capacity to address border-related challenges effectively.

As a Committee, having reviewed the Convention and considered the submissions made, I have no doubt that the Convention will foster Kenya's national interests and the House ought to expeditiously approve the ratification of the African Union Convention on Cross-Border Cooperation, famously known as the Niamey Convention.

I second the Motion and urge the House to adopt this Report. I thank you.

(Question proposed)

Do I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

BILL

Second Reading

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION BILL (National Assembly Bill No. 10 of 2024)

(Moved by Hon. Kimani Ichung'wah on 23.4.2024)

(Resumption of debate interrupted on 23.4.2024)

Hon. Speaker: Who was on the Floor? Hon. Tom Kajwang' was on the Floor. He does not seem to be here; the opportunity is forfeited. Hon. Mishi Mboko.

Mhe. Mishi Mboko (Likoni, ODM): Asante sana, Mhe. Spika. Nimesimama kuunga mkono Mswada huu wa mambo ya Tume ya Uchaguzi. Mswada unasema kwamba kutakuwa na upanuzi wa jopo la uteuzi wa Tume ya Uchaguzi kutoka watu saba mpaka watu tisa. Hii italetu watu zaidi ambao wana taaluma mbalimbali kushirikiana kuhusu mambo ya uchaguzi katika taifa letu la Kenya. Pia itawezesha kutoa zile tofauti ambazo zimekuwa hapo mbele ama yale malalamiko ambayo yamekuwa, haswa tukizingatia vile ile jopo liliundwa. Baada ya watu kushikana pamoja na kuzungumza ili kupata uwiano, ni vyema tuwe na hao watu tisa katika jopo ili tupate taaluma tofauti tofauti na tuwe na uwazi zaidi.

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Jambo la pili, Mswada huu pia unazungumzia mchakato wa mapito wa mipaka ya uchaguzi. Tunajua kila baada ya muda fulani lazima kuwe na mchakato wa mapito ya uchaguzi ili tuangalie mipaka ya uchaguzi ili kuhakikisha usawa na kuzuia udanganyifu. Vile vile tunapozingatia suala kama hilo, tutahakikisha kwamba ile mipaka itakavyoamuliwa ndio itakayowekwa rasmi kwa mambo ya uchaguzi, ndiposa tuzuie mambo ya udanganyifu. Ibara 89 ya ripoti ya NADCO inazungumzia kufanya marekebisho ili kuhakikisha Bunge linaongeza muda ili Bunge lipate nafasi mwafaka ya kuzingatia mambo haya ya mipaka ya uchaguzi.

Pia Mswada huu unazungumzia mchakato wa kufanya maamuzi kwa sababu kulikuwa na tetesi nyingi sana katika uchaguzi uliopita. Watu walikuwa wanashangaa kama uamuzi utafanywa na watu wachache au watu wengi au kwa kauli moja. Maamuzi sasa itakuwa ni kauli moja. Wakati wanataka kufanya maamuzi katika tume la uchaguzi, lazima iwe ni kwa kauli moja, ile kwa Kiingereza tunasema *unanimously* ama iwe kwa wingi wa wanatume. Waswahili wanasema ‘wengi wape’. Wale ambao watakuwa wengi kwa maamuzi ndiye watafanya maamuzi katika tume ya uchaguzi.

[Spika (Mhe. Moses Wetang'ula) aliondoka kwa Kiti]

[Naibu Spika (Mhe. Gladys Boss) alichukua Kiti]

Vile vile Mswada huu unazungumzia mageuzi ya uchaguzi. Kutakuwa na ukaguzi wa orodha ya wapiga kura na utazuia wafanyikazi wa tume ya uchaguzi kufanya uchaguzi katika vituo ambavyo havijawekwa kirasmi, ama kwa Kiingereza havijakuwa *gazetted*. Hapo nyuma kumekuwa na utesi Mwingi sana, hata ikaleta michafuko na sintofahamu ya kwamba pengine kuna sehemu ambazo hazikuwa zimewekwa rasmi na watu wakapiga kura pale na hesabu ikajumulishwa kinyume cha sheria. Mswada huu unazungumzia zile taratibu ambazo zitafuatwa kukagua orodha ya wapiga kura kinagaubaga na kuhakikisha kuwa vituo vya kupiga kura ni vile ambavyo vimewekwa kirasmi kupitia sheria na vinatambulika na wapiga kura na wale wanaopigiwa kura. Hiyo pia italeta uwajibikaji. Kuna marekebisho yale tuliyazungumzia mwaka wa 2023 ya kwamba kuna wakati mwingine wafanyikazi wa tume walikuwa wanakawia kutoa uamuzi kuhusu washindi ama kunakuwa na sintofahamu kuhusu idadi ya kura wanayopata. Mswada huu unazungumzia zile taratibu na vile vitakavyofuatiliwa na kwa wakati gani uamuzi lazima ufanywe, ama ile tunaita *declaration of winners* kwa lugha ya Kiingereza. Saa zingine nafafanua kwa lugha ya Kiingereza kidogo ili wenzangu waelewe vizuri. Nazungumzia hili kwa sababu kumekuwa na tetesi na malalamiko. Watu wengine wameenda kortini na kulalamika kwamba uchaguzi haukufanyika kwa taratibu ambazo zinatakikana. Imefikia watu kupigana katika vituo vya kupiga kura, haswa zile sehemu za kutangaza maamuzi yale ya mwisho ya wale ambao wameshinda.

Katika kuleta mawiano katika taifa letu la Kenya baada ya uchaguzi na baada ya kuwa na michafuko mingi sana... Majina ya watu wengi yameharibika, kama Chebukati ambaye amelaumiwa kwa mambo mengi. Mengine ni ya kweli. Mengine labda ni ya kuongezwa. Lakini kulikuwa na sintofahamu kubwa sana mpaka ukaleta maandamano na mambo mengi sana katika taifa letu la Kenya. Hivyo basi ni wakati mwafaka wa kupiga msasa taratibu hizo kupitia Mswada huu ili tuone ya kwamba jopo hili la kuunda Tume la Uchaguzi litatengenezwa kwa njia ya uwiano. Wale ambao wanasimama kwa vyama vya kisiasa na wale ambao watasimama kwa wao binafsi bila kutegemea chama chochote watapata usawa na afueni katika mambo ya uchaguzi. Mambo ya uchaguzi yanaweza kutuweka sawa na amani au kutugawanya kwa misingi ya kisiasa au misingi ya vyama vya kisiasa au misingi ya kijamii na kuleta athari kubwa kwa amani katika taifa letu la Kenya.

Nawapongeza wale wote waliochaguliwa katika jopo la NADCO ambao wameshirikiana sana na kuzungumzia kwa kinagaubaga suala hili la Tume ya Uchaguzi.

Tukifanya uchaguzi mwaka wa 2027, zile changamoto tulizozipata zitakuwa hafifu. Pia mtu atajua kweli taratibu zimefuatwa kwa njia ya usawa. Wakati ule tulikuwa na shaka ikiwa makamishena watatu wanasema maamuzi ni haya na wengine wanne wanasema maamuzi ni yale.

Sasa, je, tutafuata maamuzi ya watatu au wanne au tutafuata njia gani? Mswada unasema kwa hakika kwamba maamuzi yatakuwa kwa kauli moja ya wote kama makamishna wa Tume ya Uchaguzi ama itakuwa kauli ya wale walio wengi? Sisi kama Wakenya tutafuata uamuzi huo. Vile vile kuongeza jopo liwe na watu tisa inamaanisha tutapata taaluma zingine. Uchaguzi hauhitaji mtu wa tajriba ya uchaguzi peke yake. Kuna mambo mengi sana. Lazima tuwe na watu ambao wana tajriba nyingine ya kuongoza ile tume. Tume ya Uchaguzi ina changamoto nyingi sana. Lazima tupate wale ambao wana tajriba ya hali ya juu ya uongozi na wakati kuna shida wanaweza kuleta amani ndani ya ile Tume ya Uchaguzi.

Naunga mkono na kuwashukuru sana wanakamati wa NADCO. Najua tulipanga jambo hili sisi wenyewe kama Wabunge na tukakubaliana ya kwamba twende njia hii. Lakini, tunaona kuna sintofahamu na wengine wanasema hivi na vile. Katika taifa la Kenya, tunataka kusonga mbele. Tukisema marekebisho ni haya na taratibu ni hizi, basi sote kwa kauli moja tuweze kushirikiana. Ili wakati wa uchaguzi aliyechaguliwa kama mshindi na aliyeshindwa, wapeane mikono kwa amani na wakubali kuongoza taifa letu. Tusiwe na misukosuko, sintofahamu, vita, mauaji na kupoteza vijana.

Wakati huo tulipoteza Wakenya wengi sana. Haswa, vijana ambao tunawatarajia katika maisha ya sasa na baadaye. Hatutaki kurudi tulikokuwa tena. Kwa hivyo, lazima jopo hili lifuate taratibu ambazo zimewekwa na NADCO ambazo sisi wenyewe tumepitisha.

Asante sana, Mhe. Naibu Spika. Naunga mkono Mswada huu.

Hon. Deputy Speaker: Member for Wajir East Constituency, Hon. Aden. Member for Kanduyi, Hon. John Makali.

Hon. John Makali (Kanduyi, FORD-K) Thank you, Hon. Deputy Speaker, for this opportunity to also contribute on this very critical piece of legislation that seeks to amend the IEBC Act. The purpose of these amendments is to bring into effect the recommendations made by the public to NADCO at Bomas of Kenya. You will remember what was happening in this country before that committee was formed. We had a lot of disturbances. So, this Bill seeks to bring into effect some of the recommendations made in the NADCO Report.

As we sit in this House, I am always reminded of the constitutional edicts that specifically lift our people. If you look at the preamble of our Constitution, it states, 'We, the people of Kenya'. Article 1 grants sovereignty of the people of Kenya and delegates authority to several institutions such as Parliament. As I sit in this House, I am always reminded of what is emblazoned at the entrance of this House. That we sit here for the welfare of society and the just Government of the people.

Elections are a very emotive process. Article 89(2) of our Constitution clearly states that we needed to have delimitation of boundaries within a period of not less than eight and not more than 12 years. As we sit, we are staring at a serious constitutional crisis. This is because the time for undertaking a boundaries review has lapsed. Some of us who represent very large constituencies are at crossroads as to what... Our constituents are asking what will happen because IEBC is supposed to do boundary delimitation.

This Bill seeks to entrench and amend the provisions of the Fifth Schedule of the IEBC Act specifically, Section 36 which is situated in the transitional and saving provisions. This section only applied to the first elections under the first review, pursuant to the enactment of the 2010 Constitution. It presents the procedure for review of boundaries and what needs to be taken into consideration.

The Bill introduces one element and when we get to the Committee of the whole House, we will relook into it. As drafted, it introduces at Section 3 of the Fifth Schedule with respect

to reference materials, that the Commission shall use as primary reference the reports of the County Boundary Review Panels. This entity's composition, creation, lifeline and timeline is not described in this Bill. So, at the appropriate time we will seek to move amendments in the Committee of the whole House so that we can define the County Boundary Review Panels and how they will be created.

This Bill also seeks to align the Act with what the courts have said. I am always reminded that as we exercise authority on behalf of the people, we must always be alive to the fact that we are also subjected to checks and balances by other institutions specifically, the Judiciary. In two leading decisions, the court in the Katiba Institute and Isaiah Biwott case, declared various provisions of the IEBC Act to be unconstitutional.

As we exercise our powers under Articles 94 and 95 of the Constitution because we have the powers to make laws, I am always reminded that we must know we are also subjected to checks and balances. The courts have said that some of the provisions existing in the Act specifically, with regard to the provisions of the Chairperson are unconstitutional. Therefore, this Bill seeks to align the provisions in the Act with what the courts said. This is because both the courts and us are agents exercising delegated authority on behalf of the people of Kenya.

The Supreme Court, in the Presidential Petition clearly indicated that IEBC has serious institutional and dysfunctional problems. We need to wholesomely look at entire laws governing our elections so that we can have a seamless election. This will ensure that at the end of each and every election, the people of Kenya do not fight or draw groups because of the verdict of the elections.

There are several provisions in this Act which I think are obsolete because they are referring to the first review in the first elections. So, the amendments are well intentioned. Of critical importance is the amendment that seeks to tie the term of the Chief Executive Officer (CEO) who is the secretary to the Commission, to a period of three years. In the Committee we got representation from the public specifically, the Office of the Attorney-General, Office of the Registrar of Political Parties and IEBC itself. They clearly indicated that a period of three years for the CEO is short for him or her to actualise what they are supposed to do in that office.

As a Committee, we shall move amendments in the Committee of the whole House seeking to extend the period of the CEO of the Commission to a period of six years non-renewable. Why are we thinking that way? It is because, if we have the CEO serving for a period of three years, he might end up not conducting any elections at all. You know elections come after a five-year cycle. So, in the Committee of the whole House, we will propose to tie the tenure of the CEO to the tenure of commissioners. A period of six years as recommended in our Report.

After each and every election, the IEBC is supposed to present a report which is supposed to guide the House on what went right or wrong and what needs to be improved in the conduct of the previous election. In the amendment, it is proposed that the IEBC should bring the report within a period of 18 months. And we are totally in agreement with that recommendation. In 18 months, we will have dealt with all the disputes arising after the election. Parliament can then consider what pieces of legislation it needs to make in respect of the electoral process. This Bill is co-sponsored and we urge Members of both sides of the aisle, whether on the Government or the minority side to support this Bill. It seeks to entrench consensus in matters that are very divisive such as elections.

This Bill is a product of the National Dialogue Committee Report and the views that were received from the public. We will be seeking Members on both sides of the aisle to support this Report. We will thus move with speed to constitute the selection panel so that we can have the IEBC in place. As we speak, the residents and constituents of Banissa have no representative in this House, and have been disenfranchised. We have another 11 wards in this country that have not been able to conduct by-elections because of the absence of the IEBC.

This Bill seeks to start the process of having the IEBC constituted so that the people of Kenya in those particular places can be represented and air out their views.

I support the Bill.

Hon. Deputy Speaker: Hon. Member for Kibwezi West, Hon. Mutuse.

Hon. Mwengi Mutuse (Kibwezi West, MCCC): Thank you, Hon. Deputy Speaker.

I rise to support the amendments contained in the Independent Electoral and Boundaries Commission (Amendment) Bill, 2024.

As the House may be aware, this is one of the Bills that emanated from the NADCO process. Some of the Bills have been committed to this House and the rest to the Senate. As a way of background, it would be recalled that the national dialogue process was the wisdom of the apex leadership of the party in Government and the party in the Opposition. It was constituted to manage the disputes that had arisen out of the outcome of the last elections and other related issues.

Needless to say, as well, it was the predecessor of the bi-partisan process where yours truly and other Members of this House also served. Within the NADCO process, there was some political consensus that whatever final product emanated from the process should be carried by the Houses of Parliament as it is. It would also be remembered that under the Constitution 2010, Parliament is the supreme law-making organ. Therefore, nothing precludes Parliament from discussing and improving what emanated from the NADCO process. In pursuant of that, and in the wisdom of this House, the Independent Electoral and Boundaries Commission (Amendment) Bill, 2024, was committed to the Departmental Committee on Justice and Legal Affairs. We have carried out public participation as required under Article 118 and will be commenting on the Report that you have tabled before this House.

As has been ably articulated, the Bill primarily seeks to increase the membership of the selection panel created who would then advertise for the positions of the commissioners. As it is today, we do not have a competently constituted Independent Electoral and Boundaries Commission because we do not have a chairperson or commissioners. The process in law is that there needs to be a selection panel to advertise for those positions so that suitably qualified and experienced Kenyans can apply, get shortlisted and be interviewed. The successful candidates can then come before Parliament to be vetted and appointed by the President.

One of the contestations was that the law as it is today, in terms of the constitution of the selection panel, is inadequate. The law provides for seven members of the selection panel. It was felt that political players who are majorly political parties and other societal interest groups including the religious sector did not have adequate representation in the selection panel. It is therefore a recommendation of the NADCO. It is contained in this amendment Bill and is a recommendation by the Departmental Committee on Justice and Legal Affairs of which I am the Vice-Chairperson. It is worth increasing the number of members of the selection panel from the current seven to nine thus, political parties under the Political Parties Liaison Committee and Inter-Religious Council of Kenya can have extra membership. That way, every other Kenyan can feel that the product that emanates from that process is a product worth carrying out in the elections.

It would be remembered that we have been having post-election problems, chaos and violence. Part of the reason why some Kenyans have not been having faith in the outcomes of the IEBC has been out of the perception that certain players may have an upper hand in who becomes a commissioner in the IEBC. In order to take care of those perceptions, it is important that the selection panel is seen to be fair and fair indeed.

In Article 89 of the Constitution 2010, the IEBC is required to carry out delimitation of boundaries of electoral units, that is, wards and constituencies every eight to 12 years after the last review. The last review was carried out, if my memory serves me right, in 2012. Therefore,

2024, is the upper ceiling under the Constitution 2010 of the period under which we should carry out boundaries review.

It is urgent that we put in place an IEBC so that we do not precipitate a constitutional crisis by skipping a constitutional requirement for boundary review. As we do that, Members of this House must remember that Article 89 of the 2010 Constitution provides for a maximum of 290 constituencies and we have already reached the ceiling. Those who dream of extra constituencies must bear the reality; that to get extra constituencies you may have to amend the Constitution.

It has also been said that there is urgent need to pass this Bill. It should be remembered that the people of Banissa in Wajir went to court and sued the selection panel because they have not been able to elect their next Member of Parliament. As it is, under Articles 94 and 95 of the Constitution, this is the House that represents the interests of the people. The constituents of Banissa do not have a representative sitting in this House. When we are doing budgeting, oversight and making laws, the people of Banissa are not getting their fair share. In the wisdom of the High Court in a recent decision, it was required that the current selection panel be directed to complete the process of appointing commissioners to the IEBC so that elections can be conducted in Banissa. That process was stayed through consensus that was under NADCO.

Therefore, in order for us to obey court orders and live within the rule of law, it is urgent for Parliament to pass these amendments so that a new IEBC can be constituted. As a result, the people of Banissa and electoral wards in the country that do not have representation in their respective county assemblies can have their elections and have representatives. This is extremely urgent on the two accounts of delimitation of boundaries and for the constituencies that do not have representatives.

It would also be remembered that while Article 89 provides for delimitation of boundaries between every eight to 12 years, the procedure for that delimitation has never been legislated upon. It has been left for the IEBC and Kenyans to wonder in darkness and imagination how the process should be carried out. This is the first time in the history of our electoral reforms that we are putting up a procedure of how the process of delimitation of boundaries is going to be carried out. I urge Members of Parliament to look carefully at the procedure that is being proposed so that when we get to the Committee of the whole House, those who may have improvements can make them.

Hon. Deputy Speaker, we said our governance system be it the presidency, Senators, governors, the 290 Members of Parliament who were elected from single member constituencies, or those who were nominated to represent particular interests including the county assemblies, everything that we do is a product of the electoral reforms that are announced by the IEBC. It is important for all of us to have faith in that institution.

In the history of this country, most election panels, be it the selection panel for the Directorate of Public Prosecutions (DPP) or other offices, are domiciled in the Office of the President. In order for us to be seen to be fair, we are recommending that the budget and administration of the selection panels be domiciled in Parliament. Parliament has a bipartisan nature. It has the majority and the minority side. If they are domiciled in the presidency, there will be a perception that the people in the presidency will have an upper hand in terms of the selection and budget.

For that Hon. Deputy Speaker, we urge this House to adopt the reforms contained in this amendment and to support the Report of the Departmental Committee on Justice and Legal Affairs Committee so that we may have an IEBC as soon as possible.

I beg to support.

Hon. Deputy Speaker: The Hon. Member for Suba North, Hon. Millie Odhiambo.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity. I wish to thank the Departmental Committee on Justice

and Legal Affairs for bringing this Bill and also for the Members who were involved in the National Dialogue Committee that has made certain recommendations.

Hon. Deputy Speaker, I support but as I do so, I want to indicate that sometimes there is an advantage and disadvantage of serving in the House for a long time. Every electoral cycle we come back with amendments to the Elections Act. The reason we do that is because we never get it right. In every election cycle there is a problem. We need to interrogate the deeper issues that bedevil our electoral process. I said it yesterday and I repeat that I have written a book called *Rig or be Rigged*. In the book, as the title suggests, in the Kenyan elections, you either rig or you are rigged. We do not give any other option. Since we have that sort of mentality, we must always come back to try and get a fair system. Unless we get a third option which is elections that are done fairly above board, I will have to be chasing your bag, the way I was doing in Bomas of Kenya, to see whether you have hidden things in the bag or whether you are stealing our elections.

It is actually very backward that we do not have that much faith. The system is structured in a way that we should not have faith. One of the things I said in my book is that our system of elections is nascent and many do that deliberately, both at the party level and at the national level because we do not want fair elections. We just want to ensure that the smartest, most crooked and moneyed person wins the elections. Therefore, the people who may win the elections fairly have to go a thousand extra miles to get there.

Even though I support all these amendments that have been brought up, unless we change the reasons leading to these situations, which is our software, as individuals in this country, every election cycle, there will always be an amendment to the Elections Act. Right now, we are including the expansion of the panel which is a good thing for it to be more inclusive and also have the voice of the political players but that is not enough. I will go back to the thing that we need to change our own mindset as individuals and think about the legacy that we want to leave in this country for our children. Do we want our children, either pre-election to be fighting and be displaced depending on the alignments that are in this country every election cycle? So that if the alignments do not work ethnically, then there will be ethnic cleansing, killings and displacements or post-election violence where you see the number of people who are killed and shot by the police due to protest. Is that what we want as a country? We may be able to go through that process, but I do not think if that is something we would want to bequeath to our children and our grandchildren.

Hon. Deputy Speaker, as I have said I support, but we really need to do a rethinking as a country?

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

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

I would also want to speak on the issue of delimitation of the boundaries and the reason why we must have a commission in place. I notice we have changed the Chair. I do acknowledge you are no longer Hon. Deputy Speaker. Hon. Temporary Speaker, there are constituencies that are very fast growing in terms of population and consequently registered voters like in my constituency. I urge that due to that, we need a delimitation. My constituency is probably ripe for another constituency. The last time, our numbers did not constitute enough numbers for another constituency, but perhaps now we may probably have sufficient numbers. We need to look at that. Even when we are not looking at that, there are also other factors that are to be considered including community interest. Those are issues that apply for minority communities like the Subas.

I am saddened that even for the speakers who are speaking here, we do not prime the issue of the two-thirds gender rule. Even in the NADCO Report, we have not primed it. We are an embarrassment in the region. That even countries that are still struggling have better gender representation in their parliaments. I do not know what happened to us as Kenyans. We are always challenged by people that we have very intelligent and strong women, but when it comes to representation, other countries are doing way much better than us. Let us give an example of our neighbour Tanzania. Their President, Hon. Speaker, their Hon. Majority Leader are all women. The numbers in Parliament are more than one third for the women representation. However, in Kenya all we can pride ourselves is speaking better English as if that is the measure of intelligence. Let us learn Kiswahili and English but, our greatest measure of intelligence is when we include women since they are a very great part of this country. That is when we should be priding ourselves as a country that we have made progress. We cannot be making progress in speaking a lot of English.

There is another issue of concern that I have not seen us address here. We were very excited when we were saying that we are now bringing technology to our electoral process. Is Kenya really ready for a technological process in elections? Is Africa ready for a technological process in elections? I have been privileged to go to some countries as an election observer- I will not mention those countries now. Hon. Temporary Speaker, there are countries in Africa that we sit and go through the electoral process and there is no violence. People vote nicely and at the end, the results are announced after five or six days. The observers using the old technologies will come and declare that the process was free and fair and there was no violence. What violence do you expect in a computer system? I do not know the computer terminology, but I wish I knew. I do not know what will be fighting with the other in the computer. Is it a virus? Maybe there is a virus fighting the other for us to know that the process was not free and fair.

One of the things that I wish and I do not want to delve into because we are progressing as a country... I do not want to go deep into that issue. I would want us as a country, if we really and truly want to forge ahead, to look at whether we are ready for technology. One of the countries that I went to had excellent elections. Ghana is touted as one of the best countries in Africa. During my visit there, the electoral process was open. People voted outside classrooms, and the results were counted in the open without the use of any technology. My concern is that technology provides a non-violent way of rigging, which is okay because many people do not lose their lives. However, this means that we are losing our democracy.

I support this and thank the Committee for taking a step in the right direction. Nevertheless, we still have very serious issues in our electoral process that we need to deal with.

The Temporary Speaker (Hon. Farah Maalim): Next is Hon. Mogaka. Is he in the House? If not, let us have Hon. Thuku Kwenya.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this Bill. First, I want to congratulate the Departmental Committee on Justice and Legal Affairs. This is the first product of the nine proposed Bills by the NADCO Report. In a very special way, I also thank the Members who sat in NADCO, and who were magnanimous enough to propose some changes in the law so that we do not experience skirmishes, struggles and pain after every election.

I have participated in three elections and won. Unfortunately, after every win, we are faced with a crisis that culminates in bloodshed, loss of property and destruction of hours that would otherwise be used productively.

I carefully listened to the Leader of the Majority Party as he moved this Bill and he said that we should be careful not to amend even a comma in this Bill. I am happy that the Chairperson of the Departmental Committee on Justice and Legal Affairs was firm enough that

this is not cast in stone. I agree with the Chairperson because this Bill can be changed and improved. Members of Parliament are mandated to introduce, amend and pass laws that are suitable for this country.

I have carefully read the Bill and its proposals. In the past, all Chairpersons of the IEBC were lawyers, and we have had to replace them after each election due to legal issues. However, I have never seen them defend the Commission in court as they always have a battery of lawyers to do so. Therefore, I disagree with the proposal that the IEBC Chairperson should have the same status as a Supreme Court judge. I believe that anyone with good standing can be the IEBC Chairperson. We need someone who can manage the election process. We do not necessarily need a lawyer but an individual with a basic understanding of the law. An individual who has served in Parliament for a long time is good enough to chair the electoral body. This is one area where I will be proposing an amendment. We need to open up this position and stop giving preferences to certain professional groups.

Honourable Temporary Speaker, I have noted the proposal in Clause 6, which states that “Commission shall, after every general election, review its operation and make the necessary changes required to make its operations more efficient, effective, transparent, and accountable.” I agree with this proposal as every organisation should review itself after completing a task. However, we are aware of the past controversies surrounding election processes. Presently, we are faced with issues concerning the 2022 election, with one of the disputing groups calling for an audit of the election. The NADCO Report suggest that a committee should be formed to interrogate the 2022 election because some people want the servers to be opened. However, the said committee is not anchored in any legal framework. An audit after every election would be critical so that checks and balances are provided. The audit committee's mandate should be grounded in law.

As much as we will allow IEBC to review itself, a committee should be appointed by the President in the same manner as the IEBC commissioners. This will bring to rest some of the worries that every participant in an election goes through. Instead of resorting to demonstrations, we can wait for this committee to conduct a post-election audit. This will cure some of the problems that we have been facing after every electoral cycle. If this committee is anchored in law, it will help cure some of these issues.

I am happy that the Chairperson of the Departmental Committee on Justice and Legal Affairs plans to propose an amendment. In case it slips through his fingers, I will also propose an amendment that the term for the secretary to the Commission should not be less than six years. In the event we appoint one today, he will run an election because his term exceeds an electoral cycle. The proposal for a three-year renewable term limit is not reasonable.

The issue of boundary review is immediate and should be addressed urgently. We are running out of time as the Constitution provides that boundary reviews should be conducted at least once in every eight years and not more than every 12 years. We are now approaching the 12-year mark. Therefore, we need to take action sooner rather than later. We must go beyond the proposed amendments and take advantage of this moment to review the Constitution and make the necessary changes. In 2010, when our Constitution was birthed, our population was around 30 million. Today we are approaching the 55 million mark yet our constituencies remain the same. This is limiting as the Constitution only provides for 290 constituencies. It cannot be that we are under lock and key. As members of Parliament and legislators, we should unlock ourselves and give Kenyans fair representation in this House.

Hon. Temporary Speaker, on the issue of wards, the Commission has a free hand to increase the number of wards at any given time. However, as far as constituencies are concerned, we are bound by the Constitution. Therefore, it is about time we revisited Article 89 on review of boundaries so that we make an amendment and increase the number of constituencies in this country.

With those remarks, I support this Bill but I have my reservations. I am going to bring amendments during the Committee of the whole House so that we align and make sure that this law serves the people of Kenya.

I thank you for the opportunity.

The Temporary Speaker (Hon. Farah Maalim): Next is Hon. Gladys Boss Shollei, who will be followed by Hon. Omboko Milemba.

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this very important Bill. When I stand here, I speak as someone who was part of the initial team – the Interim Independent Electoral and Boundaries Commission that changed our electoral management system. I also stand here as someone who is an expert in election operations.

Looking at this Bill, I know that many of my colleagues have said that there is a problem with amending the electoral law after every election. There is nothing wrong with doing that at all. The international practice is that after every election, the electoral management body is supposed to undertake a review, re-look at its operations, look at the challenges that were raised in various election petitions, look at what the courts pronounced themselves on, and based on that, they re-look at the law and make sure that it is aligned with those challenges. It also looks at some of the laws that did not make sense and caused challenges during the election management process and then make changes. So, in fact, it is a positive thing.

If you look at the history of election management in Kenya, we made the turnaround after the 2007 post-election violence. What happened is that our election system had several challenges. It caused violence after every election. During that time, Kenya had what we call the Kriegler Commission, which went round the country, interviewed people and reviewed the entire register.

(Technical hitch)

The Temporary Speaker (Hon. Farah Maalim): Madam Shollei, Proceed.

Hon. Gladys Boss (Uasin Gishu County, UDA): Hon. Temporary Speaker, we then had the Kriegler Commission, which probably had the most in-depth review of our elections infrastructure that includes our election operations, our voter registration, our voter management system, and our register. Based on that, the new format of election management in Kenya was born. So, it was not by default. It was based on the Kriegler Commission. I was privileged and honoured to be part of the team that implemented the Kriegler Commission Report.

That is where the whole issue of having biometric registration began, the reason being that the Kriegler Commission found that our register used to have dead voters. There is, really, nothing wrong with having dead voters on a register. The problem in Kenya was that the dead voters would, in fact, vote. So, the biometric process of registration and identification of voters was intended to ensure that only those who walk physically to polling stations would vote. So it is not by mistake that we review our election management system.

Then, in 2010, during the first management of the elections, particularly during the referendum, it was realised that the electronic vote transmission system became overloaded. It was after that that we reviewed the problem and undertook to ensure that we had a better system next time. So, the system must keep improving. That is why we have the original Mercedes-Benz and the latest Mercedes-Benz. Systems must continue to be evaluated. Therefore, let us disabuse ourselves of the notion that there is something wrong with us because we review our election management system and our election laws.

In 2013, the court pronounced itself on where the final announcement of the result should be made. It was then said that the final result would be announced at the polling station.

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It was because of experiences. That is why we changed our laws to say that the results announced at the polling stations would be the final result.

Also, other systems were later introduced, like having a maximum of 700 voters at a polling station. One of the ways of corrupting the electoral system used to be manipulation of the numbers at polling stations where you could have 10,000 people at a polling station. Of course, they would not all vote, which means you actually disenfranchise people. Because of that, again, I was part of the team that learnt that lesson and determined that the number of people who should vote at a polling station should be a maximum of 700. That decision was arrived at scientifically. It takes five minutes for each person to vote. In a day, you have 720 minutes. Therefore, you can only have 144 people voting between Six O'clock in the morning and Five O'clock in the evening. If you put six polling booths, six clerks and six processing clerks, what happens is that you will have six people voting at the same time. Therefore, you come to the figure of 700. So, it is a science. We only learnt that and improved our law from experience. Therefore, I encourage that we constantly keep looking at our laws.

Hon. Temporary Speaker, I will now look at three other items. Having given the historical background and evolution of our electoral system, I will now look at three aspects. One, I do not agree with the proposal that a CEO should serve for a term of three years. It is too short. One only becomes an election expert by the number of times they conduct elections. It is like telling me that somebody becomes an expert surgeon by operating patients for only three years. If we want to build a cadre of electoral experts, they have to serve for a long time. Yes, I agree that the Commission must have a limited time but for the technical staff, at least for a CEO, they should serve three election cycles to make sense. In fact, I belong to the electoral network called Bridge, where you constantly go and observe elections, attend trainings and exchange notes where people teach others what happened in their own countries and so on. So, if you have a CEO for three years, my God! I do not know how he is going to run the elections. That is a very bad amendment. The danger is more in a commissioner staying longer and not a CEO, who is a technical staff.

Today if you go to the Electoral Commission, the constituency election coordinators have probably done three election cycles because the first group was hired when I was there in 2010. You find that they get better with time. All we do is just keep changing them so that they are not serving in the same station. If you look at the directors that are there, they have become better and better with time. Even now, we must ask ourselves, if we hire commissioners today, will those commissioners be experts enough to run the elections in 2027? The people who manage the elections are the technical staff. They are the ones who understand voter education, voter registration, management of the register and the IT systems. So, you cannot have a turnover of CEOs.

I welcome the change that has been made to define who the chairperson is. This is in tandem with Article 250. It also aligns with the Katiba Institute case, which clearly said no other person can be chairperson.

On the issue of enlargement of the selection panel, it makes sense and I support that amendment.

Lastly, the removal of delimitation of boundaries from the Schedule to the substantive Act is a welcome move because it does not make sense to have it as a Schedule. Most importantly, the census follows the delimitation of boundaries because there is no other basis for delimitation of boundaries except via census. I agree with the rest of the amendments except for the term of the Chief Executive Officer (CEO).

Thank you, Hon. Temporary Speaker.

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

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Speaker, for giving me this chance to comment on the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No.10 of 2024).

First, let me thank the Departmental Committee on Justice and Legal Affairs for their good job of bringing this Bill to the Floor of the House. Many Kenyans have been waiting for the passage of this Bill, especially those aspiring for electoral positions that arose from the death of their Members of Parliament or Members of County Assembly. Those electoral units have not had a chance to hold elections because the IEBC has not had commissioners to oversee the elections.

I want to, again, express confidence in this Parliament. As the immediate previous speaker said, we should continue reviewing our electoral laws and processes after every election. The growth of any democracy and democratic space in the world has been through amendment of the election laws. In the United States of America (USA), which is considered one of the most democratic places in the world, growth of electoral laws began with the founding fathers such as Thomas Jefferson, George Washington and James Madison. The current electoral process in the USA is completely different from what it was. It went through all those processes, including the great debate of Lincoln versus Douglas, a one-on-one debate that became the template for presidential debates today. They were borrowed from the Douglas-Lincoln debate in the USA. Therefore, these processes grow. Each time we get a chance to amend our election laws, we should count ourselves privileged and do the very best we can to ensure that the next election is better managed than the previous one. We should fill any gaps that were experienced in the previous election.

The Deputy Speaker, who spoke before me gave many examples. I will pick only one example in the Kenyan electoral situation. When we had election challenges during the Moi era in 1992, we had the Inter-Parties Parliamentary Group (IPPG) initiative – political negotiations which resulted in major changes in our country’s election laws – to make sure that all those who wanted to participate in subsequent elections were included so that they could take ownership of the process. That in itself was growth. I do not know if the Members in this House remember the *mlolongo* elections that were conducted in 1988. I do not know if Members remember how flawed they were. Voters were required to queue behind the agents of the candidates they were voting for. However, candidates with the longest queues of supporters ended up not being announced winners of the elections because of what was going on with our politics then. Therefore, a continuous change of our electoral laws is paramount. It must take place, so that we get a better election process.

Let me now speak about only three issues contained in this Bill beginning with the fact that it brings to bear the recommendations of the National Dialogue Committee Report. I appeared before the NADCO to represent the Kenya Kwanza Coalition. It was a very important process because it brought calmness to this country. Everybody believed that with the NADCO process, all the political players would come to the table and agree on the way forward. That is why we have calmness in the country today. We must vividly remember as Parliament that the *maandamano* that were going on at that time ceased. Therefore, the views that were given by the public and other stakeholders during the NADCO proceedings cannot be left out of this process. The best thing to do is to assemble them in the form of a Bill so that they are accommodated in the laws of the country. Therefore, as we make these changes, I want to hail the Bill for accommodating the NADCO Report and the proposals by Kenyans. We are representatives of the people and everything we do is born out of the supremacy of the people as per Article 1 of the Constitution because they hold the sovereign power.

Secondly, I want to hail this Bill for bringing to bear a process that will put in place the IEBC commissioners fast enough. However, away from that, I also hail it for ensuring that we avoid the constitutional crisis we almost had whereby we were supposed to delimit the

constituency boundaries within a period of eight to 12 years. We could not do that because we did not have the IEBC commissioners. That will now be solved. That will be a reprieve for many Kenyans, and more so those constituencies that are suffering under the fear that they were possibly protected and are likely to lose their places if this process is not undertaken. That is why I support this Bill. This is a very good process which will deal with the matter of delimitation of boundaries and constituencies.

There is the issue of the Chairperson of the Commission, which this Bill has been very particular on. I support the Bill in totality because the drama we saw during the last election should never be repeated in this country. The Bill is adopting the High Court ruling in the case of *Katiba Institute & 3 others v Attorney General & 2 others* (2018). There was a law which described the Chairperson of the IEBC to include the vice-chairperson and any other commissioner who may appear in the event that the chairperson is not present. That was very dangerous for any election process. It exposed this country and the election process to a situation whereby one can even kidnap the chairperson and bring in another person who can then announce what he or she wants as the results of that election.

Furthermore, it also showed that we could even remove the vice-chairperson and any other commissioner could then appear and announce the results. This Bill has hailed that ruling and properly defined the chairperson as being the chairperson and not any other person, including the vice-chairperson. No one can take the place of the chairperson, including the vice-chairperson or any other commissioner who purports that he or she can also be the chairperson. Kenyans chose one person as the chairperson of the Commission for a reason. The trust, rigorous interviews and aspects of training that were required of the chairperson were not the same as those that were required of the vice-chairperson. This will bring an end to the drama we saw in this country during the last election with Commissioner Cherera and the rest.

This is a good Bill. That is why I keep saying that the election process must continuously be changed and reviewed so that it gets better with the hope of attaining the infinity of perfection.

Hon. Temporary Speaker, there is also the issue of additional members of the IEBC. The Bill proposes two additional commissioners so that we move from seven to nine commissioners. This is also very good because it increases the space and leverage of operation of the Commission. It also brings to bear more minds and technical people who can assist. The Bill has gone ahead to indicate the specific areas that require more assistance. These are ICT and accounting. How often do we hear that electoral materials have not been procured because of one reason or another? We saw the gaps we had in the ICT section which remain one of the most disturbing issues in the election processes.

Hon. Temporary Speaker, as I conclude, I thank you for giving me this chance to contribute. Given that my time is over, I support the Bill.

The Temporary Speaker (Hon. Farah Maalim): Hon. Caroli Omondi.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Temporary Speaker. I have a problem with my card. I was among the first Members to step into the House. Unfortunately, my card could not indicate on the dashboard. I thank you for giving me the opportunity to contribute.

I have looked at the Independent Electoral and Boundaries Commission (Amendment) Bill and I am a little underwhelmed. Even if it is a National Dialogue Committee product, there are some serious issues.

(Hon. Owen Baya consulted several Members along the gangway)

The Temporary Speaker (Hon. Farah Maalim): Hon. Owen Baya and Hon. Members, consult in low tones.

Hon. Caroli Omondi (Suba South, ODM): We should have the spirit that amendments need to be introduced to this particular draft Bill. India, which is the largest democracy in the world, is conducting elections in which 960 million people will vote. The electoral commission of India was formed in 1950. It has only three commissioners. It had one commissioner for 39 years. It was not until 1989 that they added two commissioners. These three commissioners are actually appointed by the President of India, but on the recommendation of a selection panel of three people: The Prime Minister, the Leader of Opposition and a neutral representative of Parliament.

If you look at what we are trying to create here, we are compounding our problems. After the last election and the problems we experienced there are four things that these amendments should have addressed. Firstly, we should have timely review and delimitation of new electoral boundaries. It is a shame that we cannot keep constitutional timelines. We have not had the first major review and delimitation of electoral boundaries under the Constitution of Kenya 2010. That is such a national shame.

Secondly, we should have timely by-elections. Banissa Constituency has not had a Member of Parliament for close to a year, which is a national shame. When you read this particular draft Bill, you will appreciate that it does not provide solutions to ensure we have timely by-elections.

Thirdly, we should have a timely reconstitution of the IEBC when some of its members retire. Again, that is not addressed in this particular Bill.

Fourthly, we should have a timely reconstitution of the selection panel. We are not even debating the question of whether the selection panel should be a standing committee or an *ad hoc* committee as it is currently proposed, and its merits and demerits.

All these serious issues are not addressed properly here. Most fundamentally, even though this Bill is a NADCO product, it will create more problems.

The suggested selection panel has 12 members. How they will make a decision by voting or whatever process is unknown to me. Normally, decision making is reserved to an even number of members of an organ. We should have five, seven, nine or 11 members. However, we have 12 members here. Eight of them are from political parties. How is that inclusive and representative? Only four are non-political. There are two persons who will be appointed by the Parliamentary Service Commission, which is a political organ. Three persons will be nominated by the Political Parties Liaison Committee, which is a political organ. One person will be nominated by a political party other than a parliamentary party, which is another political organ. One person will be nominated by a parliamentary party or a coalition of parties forming the national government, which is another political organ. One person will be nominated from a political party or coalition which will not form the national government, which is again politics. There is no room for competent, independent and experienced people to oversee the process. This will create more problems.

We are deleting certain phrases in the proposed definition of chairperson. The Bill says that the chairperson shall be the person appointed in accordance with Article 252 of the Constitution. We are deleting the vice-chairperson or a member appointed by the members on a temporary basis to exercise the office of chairperson. That is a very serious problem. It simply means that if there is no chairperson who meets the qualifications of a Judge of the Supreme Court, then the Commission cannot function. There will be no chairperson. The decision of the Supreme Court was whoever exercises, in *tempuras*, the functions and duties of chairperson should have the qualifications of a judge. So, we should have re-drafted it in a different way and said that the chairperson shall retain the qualifications of a Supreme Court Judge. This should be the vice-chairperson or any other member. In other words, both the vice-chair and the chairperson should, at all times, have the qualifications of a Supreme Court Judge, so that the Commission is not stranded.

If you go further and see the current Act, where the qualifications are provided for the chairperson and the vice-chairperson, you will appreciate that there is even a member who is supposed to have qualification in law. So, there is already an avenue. I do not want to speak too much to it, except warn the House that we need to seriously reflect on this matter. We should allow open debate. Members should vigorously interrogate the proposals that are here, so that we do not have a repeat of every election which comes to this particular storyline of how we need to change the law and IEBC.

Nine hundred and sixty million people will use technology to vote in India. I witnessed what happened in 2007 when the Right Hon. Raila won the elections and his victory was stolen because the elections were manual. I insisted with the former President, the Late Hon. Kibaki, and Ambassador Muthaura that we would go digital in our electoral process. That is why we have Electronic Voter Identification System (EVID) and all the technology around voter registration and identification. What we still do not have is electronic voting. It is time we have an open debate on that. It is technology that will give us the integrity we need in our elections, keep clear record and access to information that we need to have credible, fair, reliable and predictable elections.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Member for Kuria East. He will be followed by Hon. Wilberforce Oundo.

Hon. Maisori Kemero (Kuria East, UDA): Mhe. Spika wa Muda, nakushukuru kwa kunipatia nafasi hii.

Matukio ambayo yamekumba nchi hii siku za hivi karibuni yameleta Mswada ambao uko mbele ya Bunge hili wakati huu. Lakini matukio hayo yamefuatia matukio mengi ambayo yamekuwa tangu nchi hii ilipopata uhuru. Kila uchaguzi ukimalizika, kunakuwa na nafasi ya Wakenya kuangalia, kuchambua na kurekebisha, kuzidisha, kuboresha na kuendeleza jinsi uchaguzi unafanywa katika nchi hii. Hivi karibuni, tulikuwa na uchaguzi ambao ulikuwa na tetesi nyingi sana zilizoleta mchakato huu ambao leo tunauzungumzia. Hatukubaliani na kila kitu ambacho kilitokana na mchakato wa NADCO lakini kwa sababu ni lazima Kenya iendeleo kusonga mbele, baadhi ya mambo ambayo yametokana na hiyo ripoti inatubidi tuyazungumzie na kukubaliana nayo.

Ili kuendeleza mchakato kuhusu jinsi uchaguzi utaendelea kufanywa katika nchi hii, inabidi tukubaliane na mambo machache ingawaje kuna nafasi ya kurekebisha baadhi ya mengineo. Ikumbukwe ya kwamba sio zamani, nafikiri ni mwaka wa 2016, kulikuwa na uchaguzi Marekani. Wengi wetu tunaona Marekani kama nchi iliyokomaa kidemokrasia. Demokrasia yao imekomaa kwa takriban miaka 200 kufikia sasa lakini, pamoja na hiyo, kulikuwepo na matukio sawia na yale yaliyotokea nchini Kenya tulipofanya uchaguzi mwaka wa 2022. Hiyo ni kumaanisha kwamba bado mapendekezo yako hata tukirekebisha jinsi gani kulingana na Ripoti iliyotolewa na Kamati hii ama hata na *National Dialogue Committee* yenyewe. Tatizo sio sheria. Tatizo ni ubinafsi na fikira za watu. Hakuna demokrasia inayoweza kusazwa kwa hili jambo kama demokrasia ya Marekani, ambayo ina miaka mingi. Hili jambo linaweza kuibua matatizo kama yanayoendelea hadi katika mahakama.

Kwa sababu hiyo, hata mapendekezo yaliyoko mbele yetu sio dawa ya kumaliza shida zilizoko nchini Kenya. Mawazo yangu ni kama yafuatavyo: Kwanza, Mwenyekiti anayepewa umuhimu sana anahitajika kupewa kinga ambayo Waingereza wanaiita *insulation* dhidi ya baadhi ya mambo tuliyoona kule Bomas of Kenya palipokuwa na tatizo hili. Matukio yale yanatusababisha sisi kujifunza kwamba tumempa mtu mmoja majukumu mengi muhimu lakini hatumuamini. Tunamwekea mambo mengi na watu wanamzunguka. Anashindwa kutekeleza kazi yake inavyofaa. Hata akifanya hivyo, anashukiwa. Kwa bahati mbaya, hatuwezi kuweka sheria ya tabia. Kwa Kiingereza, *you cannot legislate bad or good manners*. Ni vigumu. Lakini itawezekana ikiwa huyu bwana atapewa nafasi afanye kazi yake vizuri alafu sisi Wakenya

tuheshimu kwamba amefuata sheria zilizowekwa akitoa uamuzi. Utakuwa uamuzi wa kubainika. Hilo ni tofauti na kuweka mikangamo na mifumo kama hii ya kielektroniki na mingine ya kuendesha chaguzi. Bila sisi kuwa na imani na yule aliyewekwa pale kufanya uamuzi ule, itakuwa bado ni bure. Tutatumia hela nyingi kutengeneza *systems* nyingi za kielektroniki na nyinginezo. Itakuwa bure bila sisi kumkubali huyu bwana na kukubali kwamba maamuzi anayotoa ni sahihi kisheria, yametosha na ni ya mwafaka.

Tunaheshimu mahakama zetu. Naunga mkono Mswada huu lakini Bunge hili lisipoweza kufanya kazi yake vilivyo, tutakuwa tumetoa nafasi kwa mahakama kutunga sheria kwa niaba yetu. Niruhusu niseme kwamba ukabila ndilo tatizo letu nchini. Ni matatizo ya walio wengi na walio wachache. Ni shutuma na namna ya kuangalia yanayokupendeza. Unayavuta upande wako. Hujali masilahi yanayosaidia wingi wa watu. Hayo ndiyo matatizo. Kwa bahati mbaya, hatuyazungumzii. Walio na sauti kubwa wanapata nafasi yao kwa sababu wanaweza kwenda barabarani na kufanya fujo. Hatimaye, wao husukuma mambo yao yakafika katika upeo wa kitaifa. Wao husukuma sauti yao ikasikika na watu wote wakafuata hayo wakifikiri ndivyo inafaa kuwa. Kwa hivyo, ninakubali na kuunga mkono Mswada ili tuendeleze demokrasia. Tunaendelea kwa kila hatua. Tunaweka tofali baada ya jingine tukienda mbele.

Mwisho ni kuhusu maeneo bunge. Tumefika sehemu ambayo tutasema tuko kwa hatari na kwamba tumekiuka sheria na Katiba. Bila kuwepo sheria ya kupanua yale maeneo bunge mia mbili tisaini na kutatua jambo hili la Tume ya Uchaguzi na Mipaka kwa haraka, tutakuwa pia tumepitwa na wakati hata tukifanya ule mchakato wa kuyaangalia upya. Kwa hivyo, ninaunga mkono Mswada huu wa marekebisho ambao nimeusoma.

Haifai kwamba muhula wa yule mwenyekiti uwe miaka mitatu. Inabidi tumpe muda mrefu zaidi. Isiwe muda wake unaisha wakati chaguzi zinafanyika. Tuweke muda ambao hautakwisha katikati ya chaguzi na awepo ofisini wakati tunatathmini historia ya chaguzi ambazo zimepita. Yaani, huyu bwana awe ofisini wakati tunachambua chaguzi na utendakazi wake. Ikiwezekana, aongezwe muda. Iwapo haongezwi muda, aondolewe. Vile vile, namna ya kumwondoa isiwe ya kuletea nchi utata.

Nawachia hapo nikisema asante kwa kunipa nafasi. Vile vile, naunga mkono kuwe na nafasi ya marekebisho ya kuboresha zaidi tunapoendelea mbele.

Asanteni sana kwa kunisikiza.

The Temporary Speaker (Hon. Farah Maalim): Next is Hon. (Dr) Oundo, who will be followed by Hon. Stephen Mogaka.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Speaker, I thank you for giving me this opportunity to make my contribution to the Independent Electoral and Boundaries Commission (Amendment) Bill of 2024. Most likely, it arises from the discussions of NADCO.

We stand here today to debate this amendment Bill in the backdrop of some very embarrassing situations in which we found ourselves. The Cherera Four and the Chebukati Wing will forever be a blot to the conscience of this country. They will always be an embarrassing episode and statement on how badly an election can be held. Again, we stand here to debate this Bill when we have had no Independent Electoral and Boundaries Commission for the past one-and-a-half years. We have areas of representation that have no representation and therefore denying those members the right to be represented and to participate in country's law-making process.

We stand here to debate a Bill when, for the past two elections, the IEBC has routinely refused to allow the opening of servers whenever the Supreme Court has required it to do so for scrutiny. We find ourselves in an election system that might not meet the basic requirements of an electoral system as provided for in the law and the Constitution. That, elections must be fair, verifiable and correctly tallied to assuage the fears of all.

Looking at this Bill, it addresses three fundamental areas. One is the question of the selection panel. Two is the term of the CEO. Number three is the mechanics of delimitation of constituencies and the electoral wards boundaries. Looking at this Bill in totality, we must say it is a progress in the right manner. However, I also want to join my colleagues in saying that it does not go deep enough to address the issues that have been fomenting for many years. I voted for the first time in 1992. I must admit that since then, there have been tremendous changes in the way we conduct our elections. However, the changes have not gone deep enough to make sure that elections are conducted in a credible manner that even if anybody contested it, its determination in a court of law would be seamless, simple and straightforward.

The most interesting election that I can remember is the *mlolongo* system one. On paper and in theory, it was the most transparent election process because we lined up and you could see who had lined up behind your back. However, because of our bad manners – sorry for using those words. Because of our lack of fidelity to the law and adherence to basic morals, we botched the entire process and it became an eye sore and embarrassment to the whole world.

There is some tidying up that I must admit is good. A chairman is a chairman. A chairman cannot be a collegial. He is a chairman. He is one individual who must be held responsible for the work he does. He must chair. Our Constitution is very clear when we talk about a commission. The chairman and the Commissioners are independent. The definition that was put in the principal Act envisaged that if there is no chair, the vice-chair can hold the powers of the chair and act. That is a misnomer. We had a tendency in this Parliament that was apparent in the 12th Parliament. I can see it creeping back into this Parliament. Many times, we are in a hurry to please our political masters somewhere and we proceed to make laws that are outrightly unconstitutional and contradictory. When these laws are brought before the courts of law, they are annulled and it is the Members of Parliament who are left embarrassed with red faces as if they do not know what to do. Therefore, we must give ourselves adequate time to look at a Bill and scrutinise it in details. There is no hurry. Whatever we hurry to do will always be annulled and then we will come back to legislate it.

Any system that is done must be subjected to auditing. As we sit here today, probably the Independent Electoral and Boundaries Commission (IEBC) audits its processes and systems and retains that information for its own internal use. The public, who are the main consumers of the electoral process, never know the lapses and the areas that need to be strengthened and rectified. That is one reason why I support the provision that they must audit their processes and systems and publish the report. I want to imagine that immediately after the electoral petitions are completed – by law it is one year – they should release that report. The million-dollar question here is: What happens if the report points out some mistakes that benefited one person and disadvantaged another? What remedy do we give here? Are we opening a Pandora's box or what other remedies are we putting in? For example, if it became apparent – like it has been in the previous years where the votes of Hon. Raila Amolo Odinga were routinely and shamelessly stolen – that a contestant won elections yet another contestant has already been sworn in as the President and the process at the Supreme Court has been concluded, what do we do? That is why when we enact an Act of Parliament, we must look at posterity. We must look at all the best-case scenarios and the worst-case scenarios and put into place mitigation measures.

We have gone for an expanded selection panel on the belief that we do not want to allow any wing of the political process to appoint members of the IEBC. However, we have, again, shifted the process of interviews and transmission of the results of the interview from the selection panel to the President. The President will be given three names to pick the chairperson. That remains intact. It has been proposed that the President will be given nine names and he will be at pleasure to pick seven out of those nine names. I want to tell my coalition members, the National Dialogue Committee group and whoever brought this Bill, that

if we are going for amendments to address the problem that we have had, let us go to the root cause of the problems and not deal with superficial issues only. There is no way you can deal with the supply chain of drugs to a hospital and you do not deal with doctors who diagnose and dispense the drugs. You will not have solved the problem; you will have only made it easier for the process to move but you will have allowed typical abuse of the process. It is, therefore, important – I want to urge everybody who is concerned – that at the Committee of the whole House stage we open up this Bill for enrichment so that whatever we will give out there as the final document will be something that will solve our problems once and for all. As it is in this Bill, we are only scratching the surface of the problem; we are not solving the problem in detail.

Delimitation of electoral units is provided for under Article 89 of the Constitution. This Article was provided for with the appreciation that demographics, migrations, settlement patterns, population densities and economic activities will change. Therefore, it must be given time to be reviewed. The Constitution has set a limit of 290 constituencies. What purpose is this delimitation going to achieve? We will move one clan from this area to another where they will be – as the minorities always complain – lorded over. So, it is time we looked at the Bill in totality. On the face of it, I support the Bill but we will have to do...

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

Hon. Stephen Mogaka (West Mugirango, JP): Thank you so much, Hon. Temporary Speaker for the opportunity to also contribute to this very momentous Bill. At the outset, I support this Bill subject to the Report of the Justice and Legal Affairs Committee where you are one of the senior-most Members. I am also privileged to sit in that Committee. As I comment, I want this House to remind itself that this Bill is a negotiated document. As the JLAC Committee, we have endeavoured to give life to this negotiated document to the extent that it will satisfy this country beyond doubt and it will not alter the very substance of the negotiations and the resulting document. It is because of this that I urge Members to avoid bringing drastic changes or amendments to this Bill, lest we get back to where we were and the 13th Parliament will continue to carry the shame of not having the IEBC in place and to an extent, disenfranchising some electoral units that are not represented at the moment.

Hon. Temporary Speaker, you will recall that the Bill is an outcome of public participation that was carried out at the Bomas of Kenya. It is a kind of public participation because we had the original negotiating committee which was replaced with the committee which has brought us this Bill. When we, as the Justice and Legal Affairs Committee, seized up this legislative proposal, we also conducted parliamentary public participation to ensure that we did not miss a dot or cross on the “t” and the “i” so that ultimately, the document that we roll out of this House will put the 13th Parliament in the annals of history that we gave Kenyans a functioning law. I am also aware that once we are done with it, it will also be taken to the Senate and, therefore, this is a law that is being enacted in a very inclusive manner.

One hallmark of the Bill which makes me support it is its enhancement of transparency in our electoral process. One of the ways we are enhancing transparency is by expanding the Commission to that extent that the missing technical value which the Commission had and which culminated in unprecedented number of election petitions is going to be obviated because election is about numbers. Sadly, we have hitherto not had accountants sitting in that Commission. It is with pleasure, Hon. Temporary Speaker, that an amendment is proposed to bring the Institute of Certified Public Accounts of Kenya on board so that questions of numbers will never again be a reason for Kenyans to dispute an election.

The other area of dispute has been on the transmission of election results. It is with pleasure that Kenyans need to know that this time round we have ICT gurus in the Commission so that there will be no doubt in anybody’s mind that the result that is properly counted and tallied at the polling station is the same one that is transmitted to where it should be announced. Therefore, Kenyans must be prepared to understand that once an election has been conducted,

one will be sure that counting and tallying will be done correctly and correct results transmitted. Therefore, they will go home happy.

The expanding of the Commission would at the first sight look like an additional expense to Kenyans. However, we need to look at the kind of election petition costs that this country has been suffering through the IEBC. As an accountant, this country is going to save a lot of money because the IEBC will not be encumbered by countless election petitions. Reduction in election litigation expenses will benefit this country more compared to the two additional commissioners that we are bringing on board.

This Bill also introduces very strict timelines by putting in place the law that creates the panel and that binds it to produce their results within a prescribed timeline. It also binds the President of the Republic to appoint the commissioners within the prescribed statutory timeline so that we do not leave anything to chance. From end to end, we have statutory clarity and certainty to ensure that this country shall no longer be held to ransom by any person who fails to appoint their nominee or by any President who may decide to sit on the report of the selection panel.

This Bill brings clarity on the definition of a parliamentary party. Common parlance tells us that any political party that has an elected Member is a parliamentary party. This Bill brings clarity so that we do not have a confusion between the law that we are going to use to define a parliamentary party and the Standing Orders which are Parliament specific.

Further, Hon. Temporary Speaker, if this law is enacted, Nyamaiya Ward in my constituency, which has been suffering for lack of representation since the Leader of the Majority Party, the late Elijah Osiemo, and may God continue resting his soul in eternal peace, passed on in a road accident, will have a chance to elect his replacement. They are disfranchised and their fundamental right of representation in the County Assembly of Nyamira continues being violated because of lack of a working IEBC. If this Bill is enacted into law, I want the people of Nyamaiya to have a Christmas gift - that they will celebrate Christmas with their member in our County Assembly of Nyamira.

Holding brief for my neighbour, Hon. Patrick Osoro, Nyansiong'o Ward, which is also in Nyamira County, does not have an MCA following an election petition. Therefore, they are also unrepresented. Once this Bill is enacted into law, it will give the people of Borabu Constituency, my neighbours, an opportunity to elect an MCA and be represented.

I support the Bill and request that everybody supports it and plays their role so that we have the law in place within record time.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Timothy Toroitich, Member of Parliament for Marakwet West. Is he in the House?

Hon. Phylis Bartoo (Moiben, UDA): He is not there, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Farah Maalim): Hon. Phylis Bartoo, Member of Parliament for Moiben. Proceed.

(Loud consultations)

Order, Hon. Members.

Hon. Phylis Bartoo (Moiben, UDA): Thank you Hon. Temporary Speaker for giving me an opportunity to contribute and add my voice to the Independent Electoral and Boundaries Commission (Amendment) Bill.

This Bill is long overdue. It should have been brought earlier because of the situation in the country where some constituencies and wards are not represented because they have not been given an opportunity to conduct by-elections. We should move with speed and pass this Bill so that such constituencies and wards are given an opportunity to conduct their by-elections

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and have their representatives. It is through representatives that resources are distributed in the country. It is unfortunate that we have such scenarios.

It is also important to align this Bill to the pronouncements made by the courts. I am sure our judges in courts did their due diligence and made observations which required that we do the amendments. I therefore, think that is very much in order.

As I support the Bill, I like the fact that we are going to amend the period the CEO of IEBC serves in office. Three years was going to be a misnomer because I believe that practice makes perfect. Just like Hon. Gladys Boss said, if you are a surgeon, you cannot practise for three years and become an expert. You need to be given enough time to learn and make decisions and three years is not sufficient. I also think that the proposed six years is not enough. I propose that the CEO serves for nine years and exits just before the next election is conducted.

It is good to increase the membership of the panel. The nine members can recruit a chairman who is acceptable to the entire country – a more qualified expert. It should not be about the number of years of experience. It should be somebody with integrity. You can serve for three, six or many years, but if your reputation is in question, it becomes problematic. It is important for the selection panel, now that we are going to add more members, to do their due diligence and get someone who is going to prepare the country, serve it and give very credible results. This will ensure that we avoid situations where after every election in Kenya, there is anxiety, panic and, to some extent, some people do not wish we have elections. Kenyan citizens are not very confident because every time we go for an election, people have to fight, be displaced and results contested. We have to make it right. We hope that going forward, we train our people, believe in our system and trust our processes to get the right people. An election is just a five-year season. If we get the right people to serve, life will be easy and people will relax. They will not be anxious. Schools should not close early because there is an election. It should be a season which comes and goes.

I would wish that we leverage technology. We are in the 21st Century. Technology has come of age. It is unfortunate that we still rely on the analogue way of going to the polling station with an identity card and your name is checked. Sometimes a name is missing in the register and one is supposed to move from one station to another. The process should be watertight. We should leverage technology so that the process becomes very simple. We do not have to take a whole 12 or 24 hours voting and waiting for results. The results should be relayed very fast through technology. Life will be very easy.

It is also important to define what a political party is. When terms are misinterpreted, they become ambiguous. It is important to define it now the same way it is defined in our Standing Orders. It is also important to align the definition with the IEBC to avoid ambiguity. There are some issues which might require more amendments. When the Bill comes to the Committee of the whole House, we can iron out such issues. I would ask my colleagues to look at the Bill, read and understand it so that when making amendments, they be informative and improve the IEBC. Going forward, we would want to have a very clear election process. We do not want to finish an election and go to the Supreme Court. This creates anxiety in the country and wastes time. We should finish an election and do other things as our leaders start working immediately.

I support this Bill. I know we can not have a perfect document at ago. Learning is a continuous process. The document will be improved over time. Initially when we conducted elections, we did not have a Supreme Court where aggrieved presidential candidates would run to. We now have it. We can continue improving these documents slowly until they become perfect.

Thank you. That is my contribution.

The Temporary Speaker (Hon. Farah Maalim): Thank you. Hon. Irene Mayaka, followed by Hon. Bernard Kitur, Hon. David Gikaria and Hon. Rozaah Buyu. Proceed in that order.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Speaker, for this opportunity. I stand to also support the Bill. I thank both the President and the soon-to-be President of Africa, the Right Hon. Raila Amolo Odinga, for being magnanimous enough to rally their troops and leaders who were part of the NADCO team. The team took into consideration and conducted public participation. They considered the people of Kenya. I also thank the Departmental Committee on Justice and Legal Affairs for being able to extract this Bill and the others that are soon to come to the House. I am very thankful for this because when we have amendments to Bills that are meant to have perpetuity, it means we will leave solutions that will not only help this Parliament but also future parliaments and the people of Kenya at large. These are solutions that will be engraved in law and, therefore, very helpful to the people of Kenya. The other reason I am thankful is because in 2027, I am one of the people who wants to run for a political seat. When we have laws in place that streamline IEBC, it gives hope to myself and a lot of us who want to run for political seats, because then we know that things are going to be better than they have been in the past.

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

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

My area Member of Parliament, Hon. Stephen Mogaka, spoke about some of the areas that are currently affected because they lack representation. My home county of Nyamira has a total of 36 wards but because of all these delays, two are not represented at the County Assembly. That means when the Assembly is conducting budgetary or development discussions, two wards are not represented. If someone were to go to court and say, for example, that the County Assembly of Nyamira is not properly constituted because it does not have two members, then that would bring us a lot of issues. This is one of those Bills that we need to ensure are fast-tracked to have everyone in this country represented either in the National Assembly or at the county level.

One of the areas I am keen on that has been included is the addition of experienced professionals. As a member of the Certified Public Accountants of Kenya, I am happy the qualification has been included in this Bill. The IEBC deals with issues of integral numbers. It deals with issues that need professionals governed by ethics of the profession to ensure the procurement process is properly done and the numbers are properly calculated. I also welcome the addition of an ICT professional. Right now, we are grappling with a situation where we are catching up with technology in the world. Technology is a couple of years ahead of us. The rest of the world is currently dealing with the fifth industrial revolution. In Kenya, we are dealing with the fourth industrial revolution. There is artificial intelligence (AI) and the future of things. We have all seen the kinds of things that can be done with AI. It is going to affect us if we do not have professionals in that space who can quickly tell us about issues related to information technology.

The proposal to align the secretary's term with the new Commission for a smooth transition and practical continuity is welcome. This will ensure the secretariat and the Commission are working in tandem and the experience will be properly aligned.

There is a clause that seeks to ensure that they review operations after a general election for one year to 18 months. This is another welcome amendment. Ideally, one year is not enough for them to review a general election. Remember, in our country, a general election is not about electing one office, but a total of six offices. For that reason, a lot of work goes into that space

and review cannot be realistically completed in one year. They need more time to ensure that proper audits are done and gaps identified so as to enrich the next election.

I fully support the clause on Political Parties Liaison Committee getting extra slots. When it comes to elections, the key players are political parties because their members are running for office. Therefore, if they are properly accommodated within the selection panel, they will handle grievances brought by the different political parties and give them feedback.

The only clause I am not confident in and wish an amendment will be brought, is the CEO working for a period of three years. The IEBC is a very sensitive space and we need someone with a longer experience and one that understands everything that goes on. So, three years is not enough. The CEO will need to be trained on what goes on in that Commission. Also, familiarise themselves with all the laws that govern elections in this country and undertake delimitation of boundaries. I do not think having a CEO for three years is enough. I hope an amendment will be brought so that the CEO can serve for at least five years.

Thank you, Hon. Temporary Speaker. With those very many remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Very well. The previous speaker had mentioned names of Hon. Members to speak on this. The first on that list is Bernard Kitur, Member for Nandi Hills followed by Hon. Gikaria.

Hon. Bernard Kitur (Nandi Hills, UDA): Thank you very much, Hon. Temporary Speaker, for giving me a chance to contribute on this very important, the Independent Electoral and Boundaries Commission (Amendment) Bill.

I want to appreciate this piece of legislation from the NADCO Report and the work of enriching it done by the Departmental Committee on Justice and Legal Affairs. This is a great opportunity for Parliament to correct the many wrongs that have always happened in every electoral cycle. It is also a chance for us to ensure that every election is free and fair. Elections should not be acrimonious such that every time there is an election, people are scared. So, this Bill will guard every corner and ensure elections are peaceful.

Equally, it is very timely because we have several vacant seats both in the National Assembly and in some county assemblies, as a result of not having a properly constituted IEBC. As such, this Bill, when passed, will allow all Kenyans to have representatives in this House and county assemblies since politics is about sharing the national and county cakes. This gives Kenyans an opportunity to have their representatives speak on their behalf. It is very timely.

I want to support the expansion of the selection panel from seven to nine Members. They have included various professional bodies in our country like the Institute of Certified Public Accountants of Kenya where I am a Member. As a country, we have a long history dating back in the 1990s when various bodies were represented in the selection panel and it was acrimonious. So, this Bill is defining the bodies which will have representatives in the selection panel. It is black and white and, in my view, the members are professionals.

This Bill proposes the composition of the selection panel, how they will operate and its dissolution. So, it is giving a complete picture. This is comforting to Kenyans because it is a negotiated document. It goes ahead to elucidate more on how commissioners of the IEBC will be selected. My attention was captured the other day when we hosted friends from a country which has embraced technology in everything. In Africa, I think Kenya is on a better pedestal in terms of using technology. Section 6 of the Act on the qualifications of the commissioners proposes that they should not only have experience in finance, but also ICT as an additional qualification.

This really excites me because as a country, we are doing very well in terms of technology. We are now running 100,000 kilometres fibre optic and 25,000 free public Wi-Fi hotspots. So, by bringing persons with technological mind in the IEBC, they will adopt full technology in running our elections. This will end the acrimony we have always had and ensure that we have peaceful elections. This is because adoption of technology brings efficiency and

transparency. So, we will have a very transparent election. This excites me and that is why I support this Bill.

Hon. Temporary Speaker, this Bill has gone ahead to define the issue of when a vacancy arises, under Sub-section 1. If the chairperson is incapacitated or that seat becomes vacant, it then gives the powers to the vice- chairperson to take charge. This was a serious anomaly that existed, and that is why we witnessed some of these things previously in the last election between the Cherera Four and the then Chairman. Such things have been cured by this Bill. This is exciting as the position of the chairman will not be vacant at any one time with the vice-chairman. It goes ahead to explain what would happen in an event both seats remain vacant.

I support this Bill because it elucidates what happens after elections. The Commission will have one year to review the operations and make any necessary changes required to make the operations for the next elections more efficient, effective, transparent and accountable. Even as they do that, they will bring it to Parliament to look into it and make it better for future elections. It is exciting when you have it captured in law, that once an election is done, you can review it.

Hon. Temporary Speaker, let me capture the last and most important issue of the Chief Executive Officer or the secretary of the IEBC. I tend to disagree that we have a three-year term. In my view, I propose that we have a six or nine-years term renewable so that once an officer is there, he or she is certain that he cannot make decisions that are only futuristic. I feel this is an amendment that needs to be done.

The Temporary Speaker (Hon. Omboko Milemba): Hon. David Gikaria.

Hon. David Gikaria (Nakuru Town East, UDA): Thank you, Hon. Temporary Speaker.

Let me take this opportunity to thank the Committee for a job well done. We have been in this place and you understand the aftermath of every election since 1992. This ongoing electoral process always brings new ideas and issues, but we hope these amendments will address the chaos that follow each election.

This country has become political, and we thank God that there is some calmness so that we can focus on serving our people within the given mandate before politics take precedence again.

I am happy because this amendment is as a result of a lot of negotiations. Issues started right after the elections culminating into demonstrations that paralysed the whole country not forgetting the deaths that also occurred. It is good that these amendments are akin to a referendum, as people were given ample opportunity to express their views through NADCO, with input from various stakeholders. The NADCO started with a committee that was said had amateur members, not known from which political party, while others refused to go for meetings. It is after the “heavy weights” joined that they delivered this Bill that we now have.

The NADCO did not just discuss the IEBC. It addressed other issues related to electoral justice, outstanding constitutional matters, and the importance of fidelity to political parties. It is important to maintain fidelity and commitment to political parties to prevent switching sides based on who has won. This House will not be what it should be if we do not protect the integrity of political parties and coalitions.

It also brought about the National Government Constituencies Development Fund (NG-CDF). All these things are joined at the hip. We are asking the relevant committees to address them simultaneously and not prioritise the IEBC forgetting the inclusion of the NG-CDF in the Constitution. We need to stop this madness where people go to court to stop a transformative fund which is present and felt by every Kenyan in every homestead. We are asking the leadership of this House and the House Business Committee to prioritise as well other legislations that go hand in hand with this one, so as to actualise this whole issue that has come out.

I advocate for allocating funds to the Senate to enhance its oversight role. Sometimes, Senators remain inactive within the Senate chambers almost encroaching the National Assembly of Kenya's function instead of carrying out oversight in the counties. If they are empowered, you will rarely get quorum in the Senate. I request the relevant departmental committees that are handling legislation related to these matters to coordinate their efforts.

On matters concerning what the Member for Kuria East had indicated earlier, I totally agree with him. It is demeaning for this House to be told that they are passing unconstitutional legislation, and that we have to be guided by the courts. It is a huge setback for this House. This House has many lawyers. About 80 per cent of the Members in the Justice and Legal Affairs Committee are lawyers. It is important for us to critically look into it, and not ride at the waves that we pass unconstitutional matters and then they find their way to court.

It is important for us to look at the thematic areas that this amendment is bringing particularly on the inclusion of accountants and ICT qualifications. The only profession I am not seeing here is plumbing. You remember the role of plumbers was mentioned in the Supreme Court. The inclusion of professions in some fields that were identified is key in this amendment. I applaud the Committee for bringing this amendment. Increasing the number of members on the selection panel from seven to nine to accommodate more stakeholders is an added advantage.

Clause 2 of the Bill seeks to amend the definition of a chairperson. In the last term, I had an opportunity to bring an amendment to the IEBC Act. My amendment spoke to the chairperson. My view at that time, which I strongly still believe and might bring an amendment on, is that the chairperson possesses the qualification of a Supreme Court judge. That only means that the person must be a judge and must have a background in law. I then ask myself, are elections a legal issue or are they projects? We need successful managers and administrators of projects. We have had chairpersons who have been lawyers, but all that time there have been issues. As a country, should we only interrogate lawyers as chairpersons or can we change this and bring in project managers who can deliver even without a legal background? We need to look into that.

Clause 3 speaks about the inclusion of other people, but there are a few other things I want to say under Clause 7. When we talk about delimitation of electoral units, it is important for us to also interrogate issues here. Is it fair for me to stand here representing 5,000 people and have a vote in Parliament when someone else is representing 200,000 people and has the same? Delimitation of boundaries is important. It does not matter the size of that constituency. If a constituency has over 200,000 people, it should be given an equivalent representation in this House.

The Temporary Speaker (Hon. Omboko Milemba): Next is Hon. Rozaah Buyu. If you can, deliver in 10 minutes.

Hon. Rozaah Buyu (Kisumu West, ODM): Thank you, Hon. Temporary Speaker, for this opportunity. Before I speak to the amendments, I congratulate one Hon. Mayaka. I do not know if you were in the House at that particular time when she was responding to a question. She stood to say that she has been a victim of female genital mutilation (FGM). The reason I congratulate her is because we have many young girls in many parts of this country who have gone through the FGM. Many of them feel they were forced into FGM and their lives have come to an end. The Member stood up and shared that she has gone through that experience yet when you look at her, she is beautiful, intelligent and has everything to offer. That gives hope to thousands of young Kenyan girls who have undergone FGM that life has not come to an end. There are still huge opportunities. I, therefore, thank and congratulate my sister.

I support this amendment. It is the first opportunity to realise the negotiated NADCO Report after a fierce battle with what many people have considered woes created by the IEBC. We have a Report that was politically negotiated and this is the beginning of realising it.

Hon. Temporary Speaker, I hear many people talking about three years not being enough for a CEO. If the CEO of the IEBC needs more than three years to acclimatise himself with the job, he is not worthy of being in that position. One CEO presided over two elections and began to feel like he was the IEBC. He even began to feel more important than the commissioners themselves. I support this amendment Bill because the IEBC CEO will serve for three years. If he does a good job, he can serve for another three years. In effect, he will only be overseeing one general election. That is good for the country.

I also like the fact that the selection panel has been expanded. I heard a few of my colleagues say that when you expand it and bring in more professional bodies, we will be able to judge candidates who want to be commissioners on different aspects. An accountant will see that an applicant has finance skills, or a member of the section panel with a legal background will see that an applicant has a legal mind. The end result will be that the people who will be selected as commissioners will be all-rounded and different professional sectors would have given their nod.

Apart from increasing the number of members of the panel, I also like the fact that we are asking the commissioners not to sit pretty and feel like they have already done their part after we have a general election. It is now mandatory for the commissioners to conduct a review of the election in the first year after the election. That review should not be a secret sitting within the Commission, but should be shared publicly so that we know they had the opportunity to see what went wrong, or what might have gone wrong, and how they can rectify the mistakes that may have occurred in the previous election. This is fundamental because once you are a commissioner, you cannot say that one election will be like the next. Different challenges will be experienced during different elections. The commissioners must sit and review the election process to knock off the challenges they experienced and make the next election better.

I do not intend to speak for too long, but this is an opportunity for Kenyans to fight to have a free election that will not have people feeling like their victory has been stolen or make other people say that they stole your election, therefore, *uta* do? This is an opportunity for us to come up with a body that will be full of integrity and that will be governed by steadfast policies to make it better than the other commissions that we have had.

We had three commissioners deciding on everything in the previous election. However, this amendment Bill states that there must be, at least, five commissioners for there to be quorum. I am sure it is difficult for five commissioners to all lean on one side. We will have better balance and well-thought-out reasoning from the IEBC.

Thank you, Hon. Temporary Speaker, for that opportunity. Just remember that one woman stood out for me today, and that is Hon. Irene Mayaka.

The Temporary Speaker (Hon. Omboko Milemba): Very well. There is greatness in your contribution in terms of the term limit of the CEO. You are the first Member to speak on that in terms of the length *vis-a-vis* the feeling that a CEO may feel that he or she is there for a long time. Remember, it is a three-year term renewable for another three years, which is the six years that many Members are talking about.

Let us listen to Hon. Eve Obara.

Hon. Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Speaker, for allowing me to speak on this matter. First and foremost, let me thank and congratulate the Departmental Committee on Justice and Legal Affairs for coming up with this Bill, particularly against the backdrop of the National Dialogue Committee Report and the dispute that we all saw soon after the elections where many Kenyans lost their lives. May God rest their souls in eternal peace.

Hon. Temporary Speaker, I am a bit surprised because my sister, Hon. Rozaah Buyu, congratulated Hon. Irene Mayaka. I wonder if she congratulated her for her support of the FGM or against it. Nevertheless, that is not the issue.

I thank the Leader of the Majority Party and the Leader of the Minority Party for coming up with amendments to strengthen electoral reforms. First and foremost, there is the issue of transparent campaign financing which has been a problem in this country. If you recall, there was a time when one of our leaders said that if we, as a country, are not careful, we will be led by 'wash wash'. Guidelines have been introduced and proposed in this Bill to ensure accountability, preventing electoral malpractices and promoting a level playing ground for all candidates during the elections.

Secondly, it is what has been mentioned by many of my colleagues, that is, inclusive representation. I fully support the provision because it is crucial to ensure that all demographic groups, including marginalised communities, women, youth and persons with disabilities are included. Even though they included these parts in the Bill, I am a bit disappointed because throughout this Bill, there is no clear mention of two-thirds gender requirement that has bedevilled this country for many years. Somehow, it has not come up even in this Bill. As women, it is a matter that we will be happy to put closure to, so that what the people said in the Constitution of Kenya, 2010, is implemented.

Thirdly, it is the issue of enhanced voter education. We are aware of the importance of voter education before any electoral process. I endorse the amendment in the Bill and emphasise the importance of enhanced voter education. On the utilisation of technology, we are aware that this is a powerful tool that can enhance efficiency and transparency of electoral processes. I fully endorse this amendment and advocate for the use of technology and innovation in the electoral process, such as digital solutions for voter registration and results transmission. Collaboration with other stakeholders is also very important. I support it.

I know there are many Members who want to speak after me. A lot of these issues have already been addressed by other speakers. I do not have to take too much time of the Sitting. However, I would like to address the issue of the CEO that has come up severally. Many speakers have recommended that three years are not sufficient. However, this is in line with the Code of Governance for State Corporations (Mwongozo). All CEOs in Kenya should serve a three-year term and an additional three-year term, subject to the performance evaluation. Performance is reviewed every year. If it is good, then the term can be extended. This is not an issue as long as one CEO sits through an election, that is always after five years.

Hon. Temporary Speaker, thank you very much. I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Let us have Hon. Julius Rutto and then Hon. Jared Okello, Member for Nyando. Is Hon. Julius Rutto in the chamber?

Hon. Julius Rutto (Kesses, UDA): Thank you so much, Hon. Temporary Speaker, for giving me this opportunity to contribute. I am sorry for not responding immediately you called out my name. Hon. Kiarie and Hon. Kiborek were busy making noise here. I did not hear your invitation to speak. I rise on the Floor of the House to add my voice to this noble discussion on the Independent Electoral and Boundaries Commission (Amendment) Bill of 2024, which is timely.

As Kenyans, we understand that we are in a process of a governance period of five years and that an election comes after every five years. As we speak today, we are already two years after election. We foresee another three years coming very soon. There are burning issues that have to be cleared. Boundary review is a critical one. The Constitution provides review within eight years after an election or not more than 12 years. The month of March this year marked the end of the 12th year provided by the Constitution. We are staring at a period of uncertainty on what is going to happen, especially to constituencies the law protected. Changes in population sizes of inhabitants are among parameters for delimitation of boundaries.

I just want to pinpoint issues on which this amendment has put more weight. I support aligning the Independent Electoral and Boundaries Commission law with the ruling of the High Court, especially on the definition of a chairperson, a vice-chairman and a commissioner. This

provided ambiguity. That is why the wisdom of the courts of Kenya found it to be unconstitutional. I praise the Departmental Committee on Justice and Legal Affairs for finding that this is the right time to align and enable us to absorb some questions raised during the recent Supreme Court decision on election. We should not find ourselves in the same quagmire in future elections. It is coming out clearly that the chairperson is an office that shall oversee election in a given period, more so the national elections of the presidency. It is a preserve of that office holder or the chairperson to ensure that he or she presides over the election and pronounces results. I praise this amendment. It has captured it.

The other issue is selection of commissioners. Professionalising the Commission is timely in nature. For instance, we remember the issue of *vifaranga vya kompyuta* came up in the 2022 elections. We realised that all these confusions came around because commissioners could have had challenges in understanding technology. Kenya and the entire world is shifting to run elections through it. A requirement on testing or selection of commissioners who possess knowledge in ICT is very important. We cannot run away from ICT. The whole world has changed. We are even improving from ICT to AI. The AI is applicable in running or interacting with systems and human beings. Who knows whether the AI will make much contribution in election processes in future so that we achieve certainty and free, transparent and credible elections. All these technologies are meant to provide support so that Kenyans have confidence in election processes. Therefore, commissioners who oversee these elections should have knowledge in technology.

The other issue is accounting. We understand that an election is not only about conducting it. It is a process that engages documentation, tools, strategic materials and the process from beginning to end. In fact, the means justifies the end. Having commissioners with basic knowledge in accounting will be of importance so that they not only look at what the law provides, but also interpret figures. The other issue is looking at documents at tallying centres and interpreting them. We know that elections end with Form A and Form 34A at tallying centres. One should be able to correlate the two documents and ascertain truthfulness in what is lifted by imaging systems to the national tally centre. One should be able to ascertain the results.

Another issue is the term limit of the secretary to the Commission. This amendment provides that the secretary to the Commission shall serve for a three-year renewable term. I do not find it logical because, at the end of the day, we want to ensure that the Commission can oversee an election from start to completion.

This particular amendment provides a clause on post-election audit to be undertaken, the secretary should oversee the process from start up to the writing of the audit report. Kenyans will be yearning to know the outcome of an election process through the audit that shall be conducted by an expert employed or engaged by the Commission. Therefore, I propose that this particular clause be looked at so that the secretary is given one non-renewable term of six years like other independent commissions. The person will be certain on his work. Who knows the political turmoil and changes that will occur? Three years is so short that the person may not have time to learn, craft a strategic plan and execute it. Three years will create uncertainty to this person and in the long run, when changes occur or when political temperatures rise, as we all understand, it will affect the performance of the Commission.

Another important issue I would like to dwell on is the post-election audit. All these problems always arise before any election and people begin to recall the scars of the previous election because the outcome of that election was not known to Kenyans. We need experts to audit and report to Kenyans how the election was conducted and its outcome. That will give confidence. We all understand that an election is a dynamic process. How it was done 10 or 15 years ago is unlike how it is today.

I also want to focus on the selection panel that now accommodates additional professional bodies like ICPAK, where I am proudly Member No. 8440 and a practising Member No.1982. Why am I proud of inclusion of such professional bodies? These are bodies which over time have managed to bring assurance to Kenyans through audit and post audit processes. As I have said, election is a process. It is not only a conduct of the election. Such professional bodies will test and give us commissioners that are going to assist us manage the election. They understand critical issues in documents. We realise that we always have court cases. In 2022, the election was doubted not on the outcome, but rather on the process. Therefore, it is very important for us to ensure that professional bodies are on board. It should not only be ICPAK, but we should also find a way of embracing more professional bodies as we do religious groups. These are the people who should manage our elections. When we have challenges, we see them coming in to manage the social issues and they are blessed in bringing Kenyans together in order to have peace and tranquillity. Involving them will give more confidence to Kenyans.

Another critical issue I want to talk about is the dissolution of the selection panel. This Bill gives the panel 90 days to complete its work. I do not understand this because there can be a scenario where unforeseeable events or activities occur. For example, a court case may be instituted. The other day the Hon. Speaker mentioned rejectionist philosophers in the streets of Nairobi. What happens if these people move to court when the selection panel has just been constituted and interfere with their work? What happens if 90 days end before they complete their work? Does it mean we will appoint another selection panel? There should be a provision to cater for unforeseen events. The selection panel should be protected until it concludes its work and then it is dissolved.

Let me also mention the issue of quorum. Again, this is very important. The other day we had the Cherera Four who created confusion in the country when they left the Commission. Now it is clear because the quorum to conduct the business of the Commission is given.

Lastly, on the delimitation of the boundaries, it is...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Jared Okello.

Hon. Jared Okello (Nyando, ODM): Thank you Hon. Temporary Speaker for finally reaching to me in that catalogue. At the outset, I want to make it clear that I support the Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No.10 of 2024).

It is important to underscore that electoral systems are strengthened the world over for posterity. We, as a country, are not gearing towards supporting a particular candidate to be at a vantage position towards the next elections. We want this country to have systems that will withstand the test of time and, at the end of the day, have an electoral merchandise that responds to the needs and aspirations of Kenyans in general.

I am buoyed by the fact that both the Hon. Leader of the Majority Party and Leader of Minority Party are co-sponsoring this Bill. A testament that at certain times our country can and should reach out to one another, and in particular, at times when we have friction within our country. Now that both the Hon. Leaders have so chosen to co-sponsor this, I think it is incumbent upon all Members of Parliament in this gallery to support this in its entirety.

Stemming from the NADCO Report, we all understand the genesis of this Report: What transpired in our country soon after the elections of 2022. An election that the country has not healed from. Lives were lost. Teargas canisters were thrown at very innocent Kenyans, those who were only exercising their democratic and constitutional rights. The more reason why we must move with speed to pass this Bill so that it can become an Act of this House and of the Republic of Kenya.

Hon. Temporary Speaker, we have never gotten elections right, from 1992 to the elections 30 years later, in 2022, apart from the year 2002 when the Hon. Prime Minister said, 'Kibaki *Tosha*'. That is the only election that has stood out as the most accurate and transparent. Thereafter, our country has faced numerous challenges. Certain times lead to the deaths of so many people, such as the election of the year 2007/2008. That is why we must holistically look at our electoral infrastructure and make amendments in areas where we are called upon, like the one we see in the NADCO Report. We shall never tire of reorienting our election systems. People complain that there are perennial complainants in every electoral cycle. Far from it. We must change where need arises. We shall do this over and over again until we attain levels of sufficiency in our elections. We will not run away from it.

I am glad that the proposals here, such as appointing the new selection panel, do away with the current panel. It is a good step in the right direction. When William Ruto constituted the panel, we made necessary noises towards this. We said an umpire cannot be selected by a participant in an election. Ruto is a player; we went ahead to concoct an entire team that would look at the referee. Of course, with the resultant feature of having his input in the system. Therefore, we are doing away with this panel and incorporating a new panel...

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

The Temporary Speaker (Hon. Omboko Milemba): Very well. What is your point of order, Hon. Gichimu?

Hon. Gichimu Githinji (Gichugu, UDA): Is the Member in order to discuss the conduct of His Excellency the President in whatever manner, without a substantive motion? I think the Member should withdraw. If he has any beef with any decision that the President makes, he should bring before the House a substantive Motion.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Jared Okello. I knew that would be coming. It is per our Standing Orders that you do not use the name of the President. Specifically, it is Standing Order 87. Please withdraw and continue with your very good debating skills, which I know.

Hon. Jared Okello (Nyando, ODM): Hon. Speaker, I am perturbed that I also mentioned the former Prime Minister and no one has been able to correct me. But when I talk about William Samoei Ruto, they are so quick to correct me.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Okello. The Standing Order is specific to the presidency.

Hon. Jared Okello (Nyando, ODM): I stand to withdraw that, Hon. Temporary Speaker. I hope my time will not be tampered with as I make my presentation. I am glad that even as we come up with this new election panel, there is a proposal to retain one of the current members so that we have institutional memory of this body. I am glad to have the inclusion of two more members so that we can reach out to those who play a pivotal role in elections in this country. That is highly welcome.

As has been said, all CEOs within the Republic of Kenya serve for a term of three years. This is enshrined in the Mwongozo Code. Nothing of a peculiar nature has been presented before us to exclude IEBC from this category. If somebody convinces the whole country that they are up to the task, they will be given another opportunity to serve three more years and at least administer an election. This should not be subjected to or opened for further debate.

There is the idea of delimitation of boundaries, which I believe will certainly bring peace at last. We ought to have carried out delimitation of boundaries in 2019; we are now in 2024. There is some limbo of sorts in that regard. This report, together with the Bill, intend to put certainty and put the matter to rest. There is the issue of 26 constituencies that are still subjected to fear because, according to the previous proposal, they should have been scrapped from the catalogue of constituencies. This idea will now protect them. The additional inclusion

of ICT gurus within IEBC is welcome. We have seen crooks who are more techno-savvy than the commissioners, running our electoral systems from outside. They have the capacity to arrest results in the air, change them as they will, and send them to Bomas of Kenya, as corrected. This is a welcome idea.

Finally, loyalty and fidelity to political parties is a welcome idea. Political parties have acted as the barometer for democracy and freedom since time immemorial. Therefore, we are not going to allow people to hop from one party to another, and there will be no repercussions. From our end in the Azimio la Umoja -One Coalition, people just walked out and joined Kenya Kwanza, but there was no recourse. They are sitting pretty and without talking to the people who brought them to this house to explain to them why they had to take such a drastic action. As we finalise this Bill, I hope they will be subjected to another round of elections so that people can convince us that they are the ones who sent them to Kenya Kwanza.

I thank you, Hon. Temporary Speaker, for the opportunity.

The Temporary Speaker (Hon. Omboko Milemba): Thank you. Hon. Eric Muchangi, followed by Hon. Timothy Toroitich.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you, Hon. Temporary Speaker for the opportunity to contribute to this amendment Bill.

I wish to start by thanking the Committee for a job well done. This proposal to amend the IEBC law resulted from many deliberations at the Bomas of Kenya. The fact that they came to the House for the enactment of a law means that they did not waste taxpayers' money. For that reason, we really want to thank them.

The proposed law seeks to expand the selection panel from seven to nine. This is welcome as it gives space for the inclusion of other interested groups. You note that our country has many interest groups. Expanding this selection panel from seven to nine is a welcome idea for us to be more inclusive. This will ensure that people feel accommodated in the body that is going to select the commissioners.

Hon. Temporary Speaker, for us to avoid the crisis that we are already in, we need to ensure that IEBC is in place. The people of Kenya have a right to representation. We have constituencies and wards that are not represented properly in the House and County Assemblies. The reason is that we do not have a properly constituted IEBC. It is not okay for us to continue in this situation. It is urgent that we ensure that we have IEBC in place so as to be in a position to give those not properly represented an opportunity to elect their leaders. It is their leaders who are supposed to serve and represent them in their respective Houses. Either in the National Assembly, Senate or County Assemblies. It is not okay when we are in such a situation.

There is a proposal in this Bill that speaks to the issue of delimitation of boundaries. Hon. Temporary Speaker, IEBC is not in a position to carry out this mandate. I need to mention that my constituency is eagerly waiting for the formation of IEBC. There is some work to do. I happen to represent a constituency that falls into three sub-counties, namely, Embu East, Embu West and Embu North. My observation is that my people who come from Embu West and North really suffer. Politically, they are in the Runyenjes Constituency, but administratively, they are in another constituency. We believe that there is a job for IEBC to do in my constituency. That is why it is very urgent to ensure that IEBC is properly constituted so that they can come down to my constituency and help us get probably a new constituency that will ensure our people are fairly represented. Runyenjes Constituency right now has a population of over 100,000 voters. We feel that we stand a chance of getting an extra constituency. This means better representation and more resources coming to our constituency and county.

On the issue of the secretary to the Commission, I have reservations about a term of three years renewable once. I have interacted with many politicians, including in this House.

While engaging the voters seeking to be re-elected, they always say that one term of five years is too short to bring significant transformation in their respective areas of representation. I am shocked that the same people feel that a term of three years, renewable once, is enough time for a CEO to be in charge of an important Commission like the IEBC. I think that this should be extended to about nine years. A person who becomes the CEO of IEBC should have adequate time to implement changes, be fully in charge of the Commission, and work without any urgency. The same applies to positions like vice-chancellors who serve for a three-year term renewable once. From my observation and interrogation, that time is still not enough. For IEBC, a renewable term of three years is not adequate. We should extend this to nine years.

Hon. Temporary Speaker, with those remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Timothy Toroitich.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for the opportunity to contribute to this important Bill. I rise to support the Bill, but I will also propose some amendments to improve it.

This Bill emanates from the NADCO Report that we discussed here. Before the formation of NADCO, the country was facing issues related to electoral injustices, which had pushed it to the brink of collapse. The NADCO was established to deliberate and reach a consensus on these matters. This Bill aims to address issues raised by the High Court, in particular the Katiba Institute case, which declared some sections of the IEBC Act unconstitutional. Hence, our purpose is to address the issues raised by the court to ensure a stable democracy. Unfortunately, some individuals refuse to accept election results after every election cycle. Having a law in place to address such concerns that cannot be resolved outside the law is essential.

According to the NADCO Report, the IEBC Commissioners were supposed to be expanded from seven to nine. The Memorandum of Objects and Reasons for this Bill mentions seven to nine. However, the substance of the proposed law talks of 12, which needs to be reconciled. In my opinion, 12 is an expanded number, and Members may not agree with this. I am sure that NADCO had a valid reason for suggesting nine members.

I am from one of the constituencies that will be affected by the delimitation of electoral units. Based on the population quota, Elgeyo Marakwet County will lose two constituencies, Marakwet East and Keiyo North. I agree with the proposed amendment that provides a new ground for boundary review. Hon. Temporary Speaker, the only issue I have with it is that we cannot place it in the schedules. In terms of interpretation of the Constitution, a schedule cannot have the same effect as an article of the Constitution. So, I support the proposed amendment that we have the same lifted and be put in the substantive part of the legislation.

I support this because Article 89 of the Constitution gives grounds on which someone can challenge the removal of a constituency based on certain parameters. The proposed amendment talks of reference materials, which are primary and secondary. It refers to the secondary reference material reports of a County Boundary Review Panel. This panel is a stranger to the Constitution. That County Boundary Review Panel is nowhere in the Constitution.

It also says that the Commission may use, as its secondary reference material, other relevant data. These other relevant data need to be defined because these are the parameters that are used to determine and review boundaries.

The part of this proposed amendment that I laud is the one that seeks to amend the Act based on census data. But remember that the last census we undertook was in 2019. The next one is in 2029 — a ten-year difference. From 2019 to 2024, the population increased. Therefore, it will be unfortunate to review a boundary based on the population quota of 2019. I laud this amendment because it has given other parameters for reviewing the population quota apart from the census.

Hon. Temporary Speaker, I also have a problem with the three-year limit for the CEO of the Commission. Three years is not enough to appoint a commissioner to serve in the IEBC. I will be proposing a six-year term, renewable once. We need what you call the institutional memory of that office. The IEBC commissioners serve and leave, but we need a CEO who has inducted staff. Therefore, I will be proposing a six-year contract for the CEO, renewable once.

Hon. Temporary Speaker, as we sit in this House, remember that we have a constituency known as Banissa that lost a Member of Parliament. Since then, a by-election has not been held in that constituency because IEBC is not properly constituted as envisaged by the law. It is unfortunate. As we move this amendment, we must fast-track it so that that constituency can have a Member of Parliament who will sit in this House to legislate, represent, and offer oversight on behalf of the people of Banissa.

Normally, when an advocate fails to appear before a court of law, he sends another advocate to hold a brief for him. That was never envisaged in terms of the election of a Member of Parliament. So, we need to fast-track this amendment, agree to the issues, and amend where necessary so that certain constituencies and wards that have lost MCAs can go to the ballot and elect their representatives to the county assemblies at the county level and to Parliament if it is at the national level.

Hon. Speaker, I rest my case.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Dorothy Ikiara.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Speaker. I too rise to support this very important Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024). I want to thank the Departmental Committee on Justice and Legal Affairs for coming up with very clear and straightforward amendments which will help this country cure past electoral injustices.

Electoral systems must be supported and reviewed from time to time. I say that because this is a progressive country where we must institute positive changes that will keep this country safe every time we go for an election. This is so that Kenyans can be sure and certain that they can cast their votes, go back home, sit in the comfort of their homes, and wait for the results without any disruption.

This Bill aims to amend the Independent Electoral and Boundaries Commission (IEBC) Act to align it with the judgement of the High Court ruling in the case of *Katiba Institute & 3 others v Attorney General & 2 others* (2018). The sections and clauses that the High Court pronounced itself on as unconstitutional must be done away with if we are to cure what has been ailing us as a country.

I am particularly happy that the Committee has increased the membership of the selection panel from seven to nine members this time around. This will accommodate a high spectrum of stakeholders and other interest groups. A process cannot be disputed if as many interest groups as possible own it. This is why I support the increase in the number of members of the selection panel from seven to nine. At the same time, the increase will take cognisance of the two-thirds gender rule, whereby two-thirds of the panel must be of the opposite gender.

The Bill also seeks to amend Section 6 of the Act to include experience and professionalism. This is very important because it will be very difficult to clean up the IEBC if we do not have specific professionals serving there. Some of the credentials that have been included are accounting and ICT. These are key requirements because technology is taking space the world over. If we recruit people who are not ICT literate, we shall have a repeat of what happened in the last election.

It is also important to note that one of the amendments that has been proposed is the quorum of those who will announce the results. We are alive to the fact that in the last election, the IEBC commissioners were split into two factions. Four commissioners were on one side, and three were on the other side. The Bill is coming out with very clear reforms that five

commissioners must be present to form a quorum. That will cure what happened in the last election.

As we discuss this Bill, we should also remember that we are doing this to give Kenyans an opportunity to exercise their democratic rights, return to their homes, sit comfortably, and wait for election results without fear.

Hon. Temporary Speaker, every time Kenyans have elections, they even fear going back to their homes because they are not certain of the outcome. These amendments are very progressive. I am certain that with this Bill, we will cure all the election injustices that have been there before. I urge this House to come together quickly so that we can reconstitute IEBC as soon as possible. As Hon. Timothy has stated, Banissa Constituency lost its Member of Parliament. To date, these good citizens of this country do not get value for their taxes.

I thank the Committee that burned their midnight oil to come up with these very progressive reforms. These amendments will help this country to cure electoral injustices once and for all.

Hon. Temporary Speaker, thank you. I support this Bill.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Joshua Mwalyo.

(A Member spoke off the record)

Order, Hon. Member. Hon. Joshua Mwalyo came much earlier. Remember, he ordinarily sits on the Minority Party side. Proceed.

Hon. Joshua Mwalyo (Masinga, Independent): Thank you very much, Hon. Temporary Speaker, for giving me this time to add a few words to the Independent Electoral and Boundaries Commission (Amendment) Bill, 2024, which is very important for this country. The IEBC made us be in this House today. If it were not there, no one would be seated in this House today because there could not be any election. Therefore, this is a very important bill that we need to amend a few clauses and add others so that this country can be governed by the rule of law rather than impose some of the laws that are not in the Constitution.

I thank the Committee that sat and came up with a very comprehensive Bill that can cure so many things in this country. They increased the number of panelists who will nominate the commissioners from seven to nine. They will be nominated by bodies in this country, such as the religious sector, the Law Society of Kenya (LSK) and others. That is a good idea, as is the way it was done before. Political parties nominated panelists, and all of us were not consulted. Kenya is now being brought together and included in the law-making process and choosing these commissioners.

The Bill says that after the elections, the commissioners will sit down, evaluate the process and write a report, which will be brought to this Parliament. The lawmakers will check the issues and some of the shortcomings. Some of the shortcomings need to be enriched by the minds of this House. We need to be able to bring new blood in the way elections are conducted and also correct some of the shortcomings that we will have learned in the cycle of elections. That is a good thing because it has never happened in this country. So it is high time that we embrace the report that comes so that we can debate and everyone can give their own views on the way the Commission will be governed as far as elections are concerned. To me, that is a plus for this country.

The other thing is, in terms of credentials, they have been able to urge Commissioners to have some knowledge of technology and also some accounting skills so that when you are given a gadget, you know how to operate it and you are also able to do a few things. You are also able to pick up some knowledge and give people some guidance when they are lost.

The only thing that I think needs to be considered mostly is the way they are saying that they are going to review the boundaries. Already, those constituencies have Members of

Parliament, and they are in operation. Also, the voters in those constituencies are now used to the way the Member of Parliament, his office, and all the units are there. Once it is dissolved, it means that so many things will have to be changed. The District County Commissioners (DCCs) will have to go; the Accounting Officers (ACs) will have to be reshuffled; and the way people behave in terms of development will change because the National Government Constituency Development Fund (NG-CDF) money will not be available again because they have already scrapped the constituency.

I think this needs to be looked into properly and something is done so that we retain the same constituencies the way they are. One Member has argued that by the time the next census is done, the number of voters in that constituency or the population will have grown to the desired number by the Independent Electoral and Boundaries Commission. Also, those changes will bring friction, especially when people will not feel comfortable with their constituencies being merged with others.

With those few remarks, I want to stop there and say that this is a good Bill and I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Harrison Kombe Magarini Constituency.

Hon. Harrison Kombe (Magarini, ODM): Asante kwa kunipa nafasi hii nami niweze kuchangia Mswada huu wa Tume ya Uchaguzi na Mipaka. Kwanza Nachukua fursa hii niunge mkono na nipongeze Kamati iliyohusika kwa kuja na marekebishi ya sheria hii. Kwa hakika, ningeanza kwa kuunga mkono muda wa miaka mitatu kwa Mwenyekiti na wanakamati wengine ama Makamishna wengine. Huu ni muda wa kutosha na kama amefanya kazi nzuri, hakuna sababu ya kutoongezewa muda wa kuendelea. Hivyo basi sio lazima iwe miaka sita au tisa, kuna wengine na kila uchao, tunasema vijana ni viongozi wa kesho. Hiyo kesho itafika lini ikiwa tutashikilia tu kuwa wazee washikilie nyadhifa ambazo pengine wakati wao wa kupumzika umefika ili vijana wachukue hatamu hizo? Naunga mkono kiwango cha wale ambao wanaweza kupitisha jambo. Idadi yake ni watano. Hii itatupatia nafasi mwafaka itakayokuwa inaonyesha dhahiri kwamba yale ambayo wamepitishwa ni yale ambayo wananchi wanataka.

Naunga mkono kujumuishwa kwa wale walio na tajiriba na ujuzi mbali mbali. Kwa hakika, hapa tutapiga hatua maana katika majadiliano yao, watafika mahali ambapo watatoa uamuzi wa mwisho ulio sawa na ambao hautaletata utata wa aina yoyote.

Kwa kumalizia, nitazungumzia swala la maeneo bunge. Tukisema Kwamba kutakuwa na utata kwa sababu ya mazoea, basi ni dhahiri kuwa hakukuwa na haja ya kubadilisha maeneo bunge 212 yafike 290. Ikiwa idadi imezidi, kuna haja ya kugawanya maeneo bunge hayo ili huduma ziwe karibu na mwananchi. Kwa maeneo madogo ya wadi, ikiwa wadi moja iliyo na wapigaji kura 70,000 itaongozwa na Mbunge wa Kaunti mmoja ni shida. Ni dhahiri kwamba itastahili igawanywe ndio huduma ziweze kumfikia mwananchi pale chini aliko. Kwa hivyo, rai yangu ni kwamba kuna haja ya kuangalia swala la mipaka.

Tumekumbwa na janga Magarini, ikizingatiwa kuwa eneo moja kiutawala liko katika eneo bunge lingine. Eneo hilo hilo liko katika wilaya nyingine. Kwa mfano, eneo la Shakahola. Tulitoa taarifa kwamba kuna jambo ambalo haliendi vizuri huko lakini kwa sababu liko katika eneo bunge la Magarini, na eneo lenyewe liko katika wilaya ya Malindi kiutawala, jambo hilo halikuweza kushughulikiwa. Hakika, madhara tuliyopata yalikuwa ya kutamausha hapa nchini Kenya na ulimwengu mzima. Hivyo basi, napendekeza kuwa wakati tume hii itanza kugawanya maeneo bunge, ihakikishe kuwa sehemu za maeneo bunge haya hazipatikani kiutawala katika maeneo mengine; yote yawe upande mmoja. Nikichukua mfano wa maeneo bunge ya Magarini na Malindi, yamegawanywa na mto. Hata hivyo, kuna mahali ambapo tarafa moja imegawanywa na mto na ipo upande wa Malindi na vile vile upande wa Magarini. Ukifika

wakati huo, itastahili lile eneo ligawanywe kuwe na tarafa nyingine ili zote ziwe katika wilaya moja na katika eneo bunge moja.

Kwa hayo mengi, nasema asante.

The Temporary Speaker (Hon. Omboko Milemba): Hon. John Waluke, Member of Parliament for Sirisia.

Hon. John Koyi (Sirisia, JP): Thank you very much, Hon. Temporary Speaker, for giving me the chance to contribute to this very important Bill.

Hon. Temporary Speaker, I rise to support the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024). This amendment Bill is going to cure many problems surrounding the elections.

We have been having problems ever after and sometimes before elections. Mostly, it has been after the elections. In this country, people have fought, others have died, and properties have been destroyed many times after elections. For that reason, I thank the Committee that came up with these amendments. Sometimes, Kenyans, and mostly women, do not vote out of fear. In some areas, they are threatened, so they do not go out during that time for fear of being beaten.

This Bill will greatly help ensure that the electoral laws are followed. That committee will include people of goodwill, good thoughts, and integrity. Therefore, as a House, we need to pass the Bill. We also need to pass these amendments, as they have been brought to the Floor of the House, so that we can save this country from many problems.

There are good changes proposed for the Independent Electoral and Boundaries Commission. They have changed and increased the number from seven to nine commissioners who are people of integrity. The time of the commissioners in office should remain five years renewable. There are many Kenyans, including our sons, looking for jobs and who want to become commissioners, just like many others. We cannot say that we give them six or nine years as other Hon. Members are proposing. Five years is enough for a commissioner to serve, and if they have done a good job, it can be renewed. Therefore, the term of the CEO should also be five years. The CEO cannot hold office like a civil servant until they retire.

Hon. Temporary Speaker, still on the issue of commissioners, in the changes of this committee, they have also appointed an accountant. This is because the problem in this country has been the counting of votes after elections. An accountant will manage this because it is his line of duty to make sure that the vote counting process is quick and will not cause problems in the country as it has before.

Kenyans always see Members of Parliament because they elected us to represent them. What we pass here will be representative of the people of Kenya. They look up to us as their representatives to pass a good Bill that can make the country move forward. With this amendment, we can assure Kenyans that IEBC is going to be the good commission that Kenyans have wanted it to be.

With those few remarks, I support the Bill. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Member for Mbeere North.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. First, I commend the Departmental Committee on Justice and Legal Affairs for the work they have done as far as the Bill is concerned. The NADCO team comprised the Minority and the Majority parties. It was a well-composed team that looked at the issues affecting our nation. One of the issues that came up strongly was to do with IEBC. The recommendations in this Bill need to be supported. If you look at the definition of what a parliamentary party is, it is a great omission. There has been a very big push and pull in this House to define what a parliamentary party means. I remember the Speaker came up with a ruling that the Jubilee Party was one of the parliamentary parties. If this was clearly defined within our laws, and in this case in the IEBC Act, this House would not have gone through such rigorous ways of coming

up with a ruling from the Speaker to define what a parliamentary party is. This is a welcome amendment, and it will save this nation from the push and pull in terms of fidelity to political parties.

Second, the amendment that revises the term limit of the secretary to the IEBC to a single six-year term is welcome. It is important for whoever will be the holder of the office to have confidence that he will not serve for three years and then face a panel or go home. Six years is enough for any innovative secretary to implement different innovative solutions that can solve quite a number of challenges that we have encountered in past general elections. We need innovative solutions in this very important institution for the Republic of Kenya. Without IEBC, this country can sink into anarchy.

Therefore, the stability of the secretary of the Independent Electoral and Boundaries Commission's office is extremely important, and a six-year term is welcome. The amendment concerning delimitation of boundaries is of importance. Quite a number of constituencies are threatened to be scrapped at the moment. One of them is my constituency, Mbeere North.

The people of the Republic of Kenya and these boundaries have been curved randomly by the IEBC. The focus has not just been on boundaries but also fundamental parameters such as customs, terrain, population, geographical considerations, culture, and the history of the people. These are key considerations. You know very well that there are different sources of law, and one of them is customs. The boundaries of the constituencies in Kenya cannot be formed without considering the customs of the people. Therefore, there is a way you can be insensitive as far as the customs, origins of the people, and even the economic activities of those people are concerned. If you are not sensitive as far as those factors are concerned, then it can easily create anarchy not only in this country but also in Africa.

Today, we are experiencing anarchy in Kerio Valley, and some of these things are extremely important. You realise that sometimes there is a dispute in terms of the boundaries in that area, and probably that is one of the origins of the conflicts that have belaboured this nation over the years. The delimitation of electoral units and the proposals that this amendment is seeking to be effected are well considered. At the same time, we cannot talk only about the population; we also need to talk about other factors, as I have mentioned.

At the moment, we do not have a Member of Parliament from Mandera County because we do not have an operational IEBC in place. Therefore, if we move quickly to ensure some of these amendments are done, and the IEBC is well constituted, then the people of the constituency in Mandera County will get their rightful representation in this House—not only the constituency in Mandera but also other wards that are vacant today.

It is also important to note that IEBC staff are still incurring expenditures. It will be important to understand how that expenditure is being incurred, and we do not have commissioners at the moment. I know the budget that will be read in this House in a couple of days or months from now will have an element of factoring in the budget for IEBC. I do not know how that budget was arrived at when we do not have commissioners.

Therefore, there is a possibility of illegality as far as the allocation of the budget to IEBC is concerned. This is because IEBC is an independent body. We cannot say it is under any Ministry at the moment, but it works in collaboration with other Ministries. At the moment, the staff at IEBC are likely to have allocated themselves powers for which they do not have to submit the budget, which will be tabled in this House. I request your wisdom, Hon. Temporary Speaker, so that the House does not consider a budget that has not followed the appropriate legal procedures until we constitute a proper IEBC. Through this amendment, we are going to ensure that IEBC is properly constituted.

Hon. Temporary Speaker, I submit and support. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Simon King'ara, followed by Hon. Julius Mawathe.

Hon. Simon King'ara (Ruiru, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support this timely amendment Bill. Everybody here came through an election conducted by IEBC. As we sit here, IEBC is not there, so such business cannot continue. This Bill is very timely, and it needs to move quickly. If we are to align ourselves on election matters, we have to have a set of regulations that come through an amendment like this Bill.

We also know that after a given time, we are supposed to review our boundaries. We can use the aligned IEBC regulations to review the boundaries. The Bill adheres to the NADCO agreement. We came together and decided to own our country as one unit. One way to own our country is to work with regulations that accommodate everybody. This bill has found it worthwhile to increase the selection panel from seven to nine. This will allow many participants to be included in shortlisting and other tasks. When everybody is accommodated, running the activity is smooth. We know that everybody might not be accommodated, but when a good number is accommodated in a process, then we will have smooth elections and the development of our country.

As it was said earlier, election performance leads to the growth of any institution. If the election is not conducted in the right manner, you do not expect good results. The Bill is sensitive to an individual's performance. I agree with the amendment of having a commissioner work for three years, which is renewable after good performance. If there is no good performance, the commissioner can give room for any other person to do the work.

The proposal to do a review after a general election will address shortcomings, and the report can be used to improve future elections. That means progressively improving the status and standards of our elections to match those of other parts of the world, noting that we are part of the Commonwealth, where we are supposed to do things in the right way. During the 2019 Census, Ruiru Constituency which I represent, had a population of over 400,000 with an anticipated growth projection of 10 per cent bringing the number to 500,000. Without the IEBC, which we have taken time to constitute, we cannot have that review. I have written to this honourable House through a petition that will be coming to your desk soon. Good representation makes progress in matters of development in a given area and subsides pressure that comes when things are not done the right way. We are aware that the country has decided to work as one team. How do we work as a team? It is by constituting laws which will make us work as one-fold. One way is to have a body, that is IEBC, which will conduct credible, genuine and accommodative elections. How do we have IEBC? It is by constituting a panel which fully represents the community around.

I stand to support this and wish that all Hon. Members also support it so that it goes to the next step. May it be done before we go for the long recess.

Thank you.

Hon. Julius Mawathe (Embakasi South, WDM): Thank you, Hon. Temporary Speaker, for this opportunity to contribute to this important Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No.10 of 2024). It is long overdue and because of its delay, there has been a delay in the appointment of IEBC Commissioners. I give kudos to the NADCO team that was led by Hon. Kalonzo Musyoka, the Leader of the Majority Party, Hon. Ichung'wah and the Departmental Committee on Justice and Legal Affairs for the wonderful job they have done in putting this together.

We appreciate that henceforth IEBC will have a secretary who shall serve for a three-year renewable term just like all the CEOs of the Semi-Autonomous Government Agencies (SAGAs).

The issue of the selection panel cuts across very well. There are appointments of nominees from the Parliamentary Service Commission, the Political Parties Liaison Committee, the Law Society of Kenya, the Institute of Certified Public Accountants of Kenya

and political parties. There is need to talk about their independence. If the referee is not neutral, there is a chance of there being squabbles.

In the last three elections, we have had post-election issues and challenges. That falls back on how IEBC and the referee are perceived to have performed. This time we must come up with a referee who does not favour either side. This is why putting together a bigger panel is better since they come from across the board.

There is also the issue of the independence of IEBC. It must be independent. I am talking about the delimitation of boundaries because it affects us, especially the Members of Parliament for Nairobi County and the surrounding areas. If you look at Embakasi South Constituency, the population has grown by approximately 84 per cent. That is from a population of 300,000 to about 580,000 people with 169,000 registered voters. There is need to subdivide such constituencies. Out of the 290 constituencies, some have about 60,000 or 80,000 residents. Some of those constituencies have a higher population than some counties. Embakasi South Constituency has a higher population than Tharaka Nithi or Lamu counties. We need to figure out a way to delimit those constituencies and reduce their population sizes. During the delimitation of constituencies in 2011/2012, we did not have skyscrapers in Pipeline area. Most buildings currently have 10 floors or more. Buildings in slum areas did not even have a first floor back then. Therefore, we need to think about how we will delimit the constituencies and reduce their population sizes.

Nairobi's population was about 2 million. It is now 4.6 to 4.8 million. We need to delimit and subdivide the constituencies, not only within Nairobi County that had been given a provision to subdivide constituencies and get an additional 12 constituencies, but also places like Kiambu. I know there is the discussion that delimitation of constituencies should not be based on population size alone. However, we serve human beings who form the population. Some constituencies carry a slightly heavier population load than others.

I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Daniel Karitho followed by Hon. Anthony Oluoch.

Hon. Daniel Karitho (Igembe Central, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to add my voice to this very important amendment Bill on the IEBC. It is very important to have a Commission in place that is human-friendly and very concerned about the wellbeing of the electorate.

I like the clause that states that the Commission shall, after every general election, review its operations and make necessary changes. To err is human. Even the Commission can make mistakes. It is good that they will now have the chance to review their performance and make changes. After reviewing and making necessary changes to make their operations more efficient, effective, transparent and accountable, they will still publish the report in the *Kenya Gazette* and submit it to Parliament. This means the Commission will have an opportunity to see how they have performed. We can then correct any errors.

The Commission will also have effective leaders. The commissioners will be picked by a selection panel made up of a team of eminent persons picked from different sectors in this country. Therefore, we will have a very efficient and effective Commission that will effectively and thoroughly handle election affairs in this country.

It is also very important to note that I support the provision of a secretary. A secretary will serve for a given period of time. These changes will have a time framework, whereby one will serve for a specific duration. The secretary, who will also be the Chief Executive Officer, will serve for three years. He or she will serve very carefully knowing that his or her term is limited and can be reviewed according to his or her performance.

The Commission will handle delimitation of boundaries. Some constituencies have challenges. For example, my constituency had a population of 250,000 as per the 2019 Census,

and we have now increased. This means that we are disadvantaged because the border review did not happen on time. If we did it on time, we would have two or three additional constituencies in my constituency. This means the services will be closer to the people. The resources will also be adequate, compared to other constituencies with 50,000 or 70,000 electorates which get the same resources that I get with more than 250,000 electorates. We need the Commission to be in place as early as possible. I request all Members to support this Bill.

When I talk about the time limit, it includes cases whereby some Members feel that the delimitation does not favour them. If they go to court, their cases will not stay there forever. This is because they have a limit of only three months, from the time they are filed in court, for them to be determined. Therefore, I believe that these amendments are very important. It is good because we are all supporting them, so that we can have this Commission in place as early as possible, for this country to move forward.

I am also grateful to the Departmental Committee on Justice and Legal Affairs that proposed these amendments. We should all support them so that we can have this team in place.

Thank you, Hon. Temporary Speaker, for giving me this opportunity.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Anthony Oluoch.

(Technical hitch)

Hon. Peter Orero (Kibra, ODM): Hon. Temporary Speaker, I think he is not ready. Allow me to contribute.

The Temporary Speaker (Hon. Omboko Milemba): Very well. We shall go to the Member for Kibra and then we come back to Hon. Anthony Oluoch. There is some technical hiccup, but we will come back to you. Proceed, Member for Kibra, *Mwalimu* Orero.

Hon. Anthony Oluoch (Mathare, ODM): I now have the microphone. Hon. Temporary Speaker, I thank you for giving me this opportunity to contribute.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Anthony Oluoch. We have to correct that you are the one speaking on this matter. Proceed.

Hon. Anthony Oluoch (Mathare, ODM): Thank you for that, Hon. Temporary Speaker. I thank you for giving me the opportunity to contribute. I also thank the NADCO that came up with this very elaborate Bill, alongside eight other Bills which will be brought to this House. They will give effect to the bipartisan approach that came as a result of protracted issues that arose post-election.

This Bill raises a number of things. The first one that I will speak about is additional qualifications that have been introduced for one to qualify as a commissioner in IEBC. One should have ICT and accounting skills which is an important qualification. Among the requirements under Article 38 of the Constitution, one very important duty that is required of the commissioners is to collate votes. There has been a lot of contestation during the elections, and in particular on the day of announcements on the questions of addition, collation and delays that accompany this. This holds this country in a lot of suspense and tension that is unnecessary. One more important thing why this qualification is important is because our data and the election results are stored in some servers which, for some reasons, we outsource to persons outside this country. When we pass this amendment, we must also have accompanying regulations that demand that our election results should not be stored in servers outside this country. This touches on, among other things, the question of sovereignty and intellectual property rights. When we have election disputes, we have to call a foreign country like Venezuela to get the results.

Among the things that have become very contentious is the question of election audit. The servers and systems where we store our results should be resident in this country. If the

responsibility will be on a commissioner, then he or she should be able to develop a system on how we can store our election data.

I also agree that we need to increase the selection panel from seven to nine people. One of the things you must do when you conduct an election is to imbue confidence among the players and the people who will vote. That is so that there is confidence that election referees will be impartial when citizens exercise their rights under Article 38 of the Constitution. Showing that impartiality to Kenyans begins with the selection process. Increasing the number from seven to nine achieves inclusivity. I note with satisfaction that the nominees of the Parliamentary Service Commission include a representative of the Majority and the Minority. Similarly, there is a representative of the party or coalition of parties forming government or is the Majority. There is a representative of the party or coalition of parties that forms the Minority. Other people and diverse stakeholders are included. This goes a long way to try to ensure that there is inclusivity and confidence building in the process of recruiting commissioners with the widest possible acceptance.

The Bill also seeks to ensure that the IEBC conducts an internal review equivalent to the audit that many Kenyans were asking after the 2022 election. It will now be a requirement. One of the things the IEBC would say is that there is no law demanding or requiring them to carry out an audit. The requirement is now there. This audit should include, among other things, an audit of the servers. One of the questions at the Supreme Court for every election petition is an audit of the servers. The servers are extremely opaque. They are sublet to foreign countries or persons in foreign countries, whom we are unable to reach. They would then say that they have intellectual copyright issues that do not allow them to allow people to get into these servers. I think there will be need for accompanying regulations. Whoever gets these contracts, if they must be foreigners, must cede to the fact that it is the right of the electorate and the people who vote and contract them to access these servers to carry out reviews. The reviews include an audit of results and elections stored in those servers.

This Bill also seeks to ensure there is cohesion. We have intended or sought to deal with historical questions of the dispute of the last election since this has been achieved by the manner in which we try to carry out the selection panel, in particular, the issue about the four commissioners who were subjected to a dishonourable exit. We have recently buried General Ogolla. With the burial, belatedly, none other than the President of the Republic of Kenya and the Cabinet Secretary for Defence exonerated General Ogolla from any ill intent during the last election. Similarly, we need to review the decisions made against the four commissioners and exonerate them by allowing them a dignified exit. This is so as we have closure and realise the bipartisan spirit with which we approached the talks that gave birth to this amendment Bill. Because of the Bill that will be passed, we need to review and recall the decision that gave these commissioners a dishonourable exit.

There is a question of delimitation. Delimitation under the Constitution was intended to be done, at least, eight years and not later than 12 years. Unfortunately, because of the circumstances that led to the last general election and the untimely exit of the commissioners and its disbandment, we are approaching the tail end, actually, the last month, the 11th hour, 55th minute of the time that the Independent Electoral and Boundaries Commission is required to carry out delimitation.

The question of delimitation has a number of implications. There are, at least, 30 constituencies that were saved during the last delimitation. What will happen to these constituencies is something that this Bill should seek to address because once it expires even those Members of Parliament and I see Member for Ruiru sitting here, I am not sure that his constituency was among the ones that were saved. If his constituency was one that was saved, it means that he ceases to be a Member of Parliament, and his constituents will cease to enjoy all other services

that accompany it like allocation of National Government Constituencies Development Fund and allocation of any other appropriations that we make in this House.

Lastly, on the issue of continuous voter registration, there are a number of people who have become 18 years or are approaching 18 years and need to enjoy the rights under Article 38 of the Constitution, the right to vote and the right to elect a person of their choice. In the 11th Parliament, when I was practising as a lawyer, Hon. Opiyo Wandayi was removed from this House allegedly for dishonourable conduct. I went to court and Justice Odunga gave a ruling that the right of the people to representation cannot be taken away. This right, as a result of the lapse that we have allowed, will be taken away when we do not allow IEBC....

The Temporary Speaker (Hon. Omboko Milemba): Hon. Orero.

Hon. Peter Orero (Kibra, ODM): Thank you, Hon. Temporary Speaker, for giving me this chance also to contribute on the amendments to the IEBC (Amendment) Bill.

As a country, we have come from far since Independence. We must retrace our steps. Long time ago, we did not have commissioners. We were a single-party state but when we changed to a multi-party democracy, people realised that we needed to have a democratic space in this country. From that time, as a country, we thought that we needed to have commissioners with integrity. This Bill has come about because of the last general election, and every other year that we have had an election, we always have issues with how the elections are conducted. We cannot refuse to take cognisance of the fact that the composition of the commissioners came as a result of the NADCO Report. Initially, the ruling Government had decided that the commissioners would be appointed with or without the other side of the Government, but because of the serious conflict that came after the elections, it was only necessary that this country comes together and brings out formalities and modalities of choosing new commissioners.

I suggest that the term limit of the commissioners be five years because they undergo a very vigorous process during voting. I think this is the only country in the world that has very many features in our ballot papers during elections. We also have our fingerprints verified during elections. We take this election so seriously that this country puts a lot of resources into ensuring that our elections are free and fair, which has never been so. As parliamentarians, we are here as a product of the elections. Nobody can come to this august House without going through elections. Therefore, it is our singular responsibility to ensure that those who are nominated as commissioners carry themselves with a lot of integrity and patriotism.

I am happy that we have allowed Members of the selection panel to be increased from seven to nine. This will ensure that we have broad-based personalities to choose high ranking Kenyans with better credentials, to conduct our elections in the near future.

I am also happy that both sides of Parliament; the Majority and Minority have been included as part and parcel of the selection panel. This will ensure that the right personnel are nominated as commissioners so that future general elections are conducted in a free and conducive environment. This reminds me that the nominated commissioners should ensure that our elections are free and fair. Also, they should carry out audits immediately after elections are done, but the time for appeal if the elections are not done properly, has always been very limited. I remember last time we were struggling to avail documentation within one week or so. We need to push the time limit for appeals so that those who want to appeal can have enough time and judgment is done appropriately. Not the way it has been previously done.

Again, I am happy that this Bill talks about the conduct of the CEO of IEBC. Before, the CEO had more powers than commissioners. So, we need to look at the powers of the CEO, commissioners and chairperson of IEBC. This will ensure that we do not have conflict of interest. As a country, we need to move from where we are and gain a more democratic space. So, we can carry out elections and review boundaries of our constituencies in a more amicable way.

Thank you, Hon. Temporary Speaker. I support this Bill and hope that all my colleagues will support it.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Naomi Waqo.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this very important debate on the Independent Electoral and Boundaries Commission (Amendment) Bill (National Assembly Bill No. 10 of 2024).

It is now over one year since the last commissioners vacated office and the gap is so huge because we had so many things that needed to be done within the past two years after the last elections. We have lost some Members of County Assemblies (MCAs) and many counties and wards are looking forward to having a replacement of the people who transited.

We have also lost a Member of Parliament and his constituents are eagerly waiting because a gap remained and they are not receiving the services they ought to receive. I support this Bill because it is the only way we can get qualified commissioners in place so that Kenya can progress because in the past other chairpersons like Issack Hassan and Wafula Chebukati and their teams have faced a lot of challenges. After every election, Kenyans get passionate and do many things with a lot of energy. They have not had peace to do their work. If we give all the attention that this Bill deserves, we will have in place people who are qualified and ones who would give service to our country.

I support this because the issue of reconstitution of the IEBC is a matter of national importance. We seriously need our commissioners in place so that we can progress in different ways.

I support this Bill because we will put into consideration the critical function of IEBC under Article 88 of the Constitution 2010. We cannot afford not to have an IEBC in place anymore. We are almost halfway. We are done with our second year and getting into our third year. After this, preparation for the next elections should start. If we are not careful, we will have a lot of work that has not been attended to and our commissioners will be harassed at the end of the day. We cannot afford to waste any more time.

The Bill proposes amendments to the Independent Electoral and Boundaries Commission Act to increase the number of members of the selection panel from seven to nine. This is very important because number seven somehow limits it. Therefore, by adding the two to get nine members for the representation, a wide spectrum of stakeholders and taking care of different groups, will satisfy many people. As we all know, Kenyans have a lot of interest in this commission. Everybody is keen, and even when it comes to application, thousands of people would apply. So, when we take into consideration the methods that will guide us get qualified people, we would be doing the right thing.

It is proposed that two persons representing the majority or coalition of parties be nominated by the Parliamentary Service Commission. This would confirm that our interest too, would be taken care of. Also, there should be three persons nominated by the Political Parties Liaison Committee of which, one shall be from a party other than parliamentary or a coalition party not forming the national government, and every interest shall be taken care of. I strongly support this, including the third person nominated by the Law Society of Kenya. This excites me because even the Law Society of Kenya will have a representation and give their input as the process goes on so that we have the right people in place.

One person nominated by the Institution of Certified Public Accountants of Kenya is another important area. The input of this qualification will bring a big benefit to the entire nation. Finally, two persons be nominated by the Inter-Religious Council of Kenya. We know very well their role in this country. We are the way we are because of prayers and our religious leaders have always led us in prayers. They have always prayed for this nation and the heavy rains that we are experiencing now is also as a result of prayers. To have this representation will enhance the work of the commission.

Hon. Temporary Speaker, I support this because the selection panel shall finalise the recruitment exercise within 90 days. This limitation is very good because the panel would have finished what they are supposed to do and give their results so that Kenyans can move on. This again will take care of our interests. It confirms that the panel will be dissolved thereafter. That means they will handover after they put in place their commissioners and the panel will be dissolved.

In terms of time management, 90 days is quite good and I believe that this work will be finished within those days. I support this because the Bill proposed amendments to Section 6 of the Independent Electoral and Boundary Commission (IEBC) Act to include experience in information and communication technology and accounting as professional qualifications. This is very important because when it comes to counting the votes and putting into consideration the many things that happen, this particular qualification among the many qualifications is quite important. Well qualified people should be considered and they will guide this nation to another level.

Additionally, the Bill seeks to ensure that IEBC is efficient in the manner in which it performs its functions. That is all we need as a nation. The Bill has proposed amendments to the IEBC Act to provide that the Commission shall after every general election review its operations and make necessary changes. As we know very well, after every election Kenya gets into a crisis mode. Supporters or electorates move on roads to demonstrate and picket. This will help the commissioners to sit and reason out to see where the gaps are and correct for the future. It is also very important to do that.

Hon. Temporary Speaker, the other issue that the Bill is proposing is that once the IEBC is constituted, it shall look into the issues of boundaries and delimitation as provided for in Article 89. We have had issues to do with conflicts and this boundary delimitation needs to be given a lot of attention.

I support the Bill. It is my prayer that soon...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I also rise this evening to support this IEBC (Amendment) Act.

First, I appreciate where we have come from knowing very well that in 2013 when we came to 11th Parliament, we went through a process but later found ourselves in the same challenges. We had to come in and remove IEBC at that time and reconstitute it. A process we went through at Windsor Hotel then. It led to our team of IEBC leaving office. After that, we have continued as a country to always have the same challenges. One of the things we need to ask ourselves before we do this is: is there a time we shall appreciate that sometimes it is all of us politicians who find ourselves messing up our own institutions by trying to find things to work better? For the future, we need to ask ourselves that question. We have gone through a crucial process where every time we have young people who will always fall, they become "fallen soldiers". I will call them thus. I am hoping as we bring these amendments, we are carrying in very serious thoughts and reflecting on what we have gone through.

I appreciate the proposed amendments because our election cycles have remained the same. The IEBC has six main functions, one of which is working closely with political parties. The political parties handle nominations, and it is the IEBC's responsibility to regulate these processes. If IEBC works closely with political parties, we will have a calm country. Streamlining the nomination process will lead to free and fair elections. Therefore, this process should also consider the Political Parties Act. It is crucial to make these amendments because our processes often end up in a quagmire.

During our preparations for the 2022 Elections, a lot was happening. On 23rd August 2022, we had to conduct the Kakamega and Mombasa gubernatorial elections, as well as three other constituencies. What happened to IEBC then for these not to be part of the main

elections? This Bill, unfortunately, does not address all of these issues. During elections, the country is always on edge, and we need to find ways to handle these issues better. We either address them in the regulations or this Bill so that we do not find ourselves in that quagmire again.

We have also brought the First Schedule into the main Bill, which is a significant improvement. I congratulate the team for reorganising and aligning things, but we still need to look at the structure of IEBC. The Presiding Officers are critical people in this structure, but they are temporary. They perform crucial tasks before the elections are finalised, such as picking election materials, organising polling centres, tallying results, and handing over results to county officers. Everything happens at the polling centres, and I agree with the proposed amendment that everything should be finalised and announced there. We hope that this change will prevent disagreements over results.

I do not know why we are not talking about the nomination period we have given ourselves. For example, the official campaigns began on 29th May 2022, immediately after nominations. These campaigns last for three months, and I believe we should have urged the IEBC to ensure that most of the necessary preparations are done before the elections. The Bill should have included a specific timeframe for the submission of party lists and documents to the Registrar of Political Parties. This will help us avoid delays and streamline the process. We should finalise with all these things that take us back, before the official campaign period. The only thing that I think will remain there, are these disputes we have during nominations. I know we have a period of about 30 days to resolve our disputes but after that can we not reduce the official campaign time? We can do it in two months. This is because in three months, by the time you are finalising that leg, you will have gone through quite something. So, it is something we can think of, which was not there.

As we reorganize ourselves, we need to ask ourselves whether we want to see an IEBC that is functional. First, we have agreed we shall have two members from the Parliamentary Service Commission and from other bodies. That is now the panel. Going forward, whoever we pick from either side, we must accept they are Kenyans in the first place. We must look at it and appreciate that we must look at the secretariat.

I agree to the three years, renewable. But after removing commissioners, we still have all the returning officers. How do you work? Why can we not say that a returning officer who has presided over three or four elections should leave so that we bring in new ones and we start on a new slate? With this, we will not blame the secretariat or the other team for any mess that may happen. As I support, we must look at the secretariat. You cannot just give it to the CEO and leave out the key structure. That key structure is what runs the whole institution; it is the engine. So, if we want to relook at the whole structure, we must look at so many things.

Hon. Temporary Speaker, with those few remarks, I beg to support this Bill.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well, there being no further interest in this debate, I want to call upon the Mover to reply. Hon. Githinji.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Speaker. As I rise to reply, I find myself in a very interesting and peculiar situation, whereby I wear the shoes of the Leader of the Majority Party and the Leader of the Minority Party to reply to this important Bill. I must confirm I have their blessings to do that, and I associate myself with the sentiments of the Members.

Let me start by thanking NADCO, which was ably represented by Members of this Parliament led by the Leader of the Majority Party and the Leader of the Minority Party, and thank the Committee of Justice and Legal Affairs for a work well done. The Committee has been able to dispense with this Bill within the shortest period possible since it was committed to it, and we thank that Committee for prioritising this Bill in their agenda.

Without belabouring the importance of this Bill, it comes at a time when this country finds itself in a situation where there are no commissioners in the IEBC. This has really affected several parts of this country. Some people have gone unrepresented for a long period of time. We have wards which require elections. Banissa Constituency lost its Member of Parliament, Hon. Kulow. May his soul rest in eternal peace. Those citizens require representation, which can only be done through a by-election, which has to be conducted by the IEBC. This Bill is very important and timely, and ought to be given the priority it deserves.

I also thank Members for supporting the clauses that seek to delete unconstitutional sections in the IEBC Act. There was overwhelming support for the inclusion of additional qualifications for commissioners. They should have ICT and accounting skills. Information and Communication Technology is very central when it comes to tallying votes and even storage of election data.

The increase in the number of members of the selection panel from seven to nine has also received a lot of support from the Members. All stakeholders and interest groups can also be included so that all parties will feel that the election process, which starts with the recruitment of the commissioners, is free and fair. This is done squarely for the interest of Kenyans who expect that elections are free, fair, credible, and verifiable.

Of importance is the definition of a parliamentary party in the Bill. It will now be in tandem with the definition in the Political Parties Act and also with the Standing Orders of this House. It will now be easy for political parties to share the spoils when it comes to the Political Parties Fund without much litigation or misunderstanding.

Hon. Temporary Speaker, let me take this opportunity to thank all the Members who have supported this Bill. It has received overwhelming support from the entire House. Although Members had reservations on specific clauses, those reservations were in the spirit of the NADCO Report. They have not deviated in any way. It is only that the legal procedure of law-making must be followed, and Members also have the leeway and freedom to state their reservations on the Bill and possibly have them accommodated during the Committee of the whole House.

I do not want to repeat what Members have already said. This is a very important piece of legislation. I urge the House Business Committee to prioritise consideration of this Bill so that we can finalise it before the forthcoming long recess. The Bill can be dispensed with by Parliament before it moves to the next level. The NADCO considered all these matters after receiving many recommendations.

Hon. Temporary Speaker, I am happy because one of the issues that had been raised by some fronts on cost of living is not part of this Bill. It can only be addressed through other interventions like what is being done by the Government. There are some interventions like fertiliser subsidies which support farmers, so that we can produce enough food to feed our people.

Matters of the economy can only be achieved through policy interventions by the Government. We applaud and support our President, His Excellency William Ruto, for coming up with some hard and unpopular decisions that have gone a long way to stabilise the economy of this country, which is on the right trajectory. These are the issues that were raised but the Government is addressing them.

Hon. Temporary Speaker, I beg to reply. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well and thank you. I thank all the Hon. Members who have contributed to this Bill. The interest it earned indicates that we shall call upon the House Business Committee to prioritise it. It is an urgent matter that requires the IEBC to fulfill the requirements of the Constitution.

Next Order.

MOTIONS**RATIFICATION OF THE KENYA-EUROPEAN UNION ECONOMIC
PARTNERSHIP AGREEMENT**

THAT, this House adopts the Report of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the Economic Partnership Agreement between the European Union and the Republic of Kenya, laid on the Table of the House on Tuesday, 23rd April 2024, and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of the Economic Partnership Agreement between the European Union and the Republic of Kenya.

The Temporary Speaker (Hon. Omboko Milemba): Mover. He is not in the House. The Motion is deferred to the next Sitting.

(Motion deferred)

Next Order.

**SENATE AMENDMENTS TO THE WATER (AMENDMENT) BILL
(National Assembly Bill No.33 of 2023)**

THAT, the Senate amendments to the Water (Amendment) Bill (National Assembly Bill No. 33 of 2023) be now considered.

The Temporary Speaker (Hon. Omboko Milemba): Mover.

Similarly, the Mover is not in the House. This Motion is deferred to the next Sitting. Hon. Members, going by what has happened to Order Nos. 10 and 11, and noting that the Movers of the rest of the Orders listed as Nos. 12, 14, 15, 16, 17, 18, 19, 20, 21 and 22 are not in the House, I order that we defer them to the next Sitting which is tomorrow at 2.00 p.m.

(Motions deferred)

(Committee of the whole House deferred)

(Bills deferred)

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, we may rise. Hon. Members, the time being 8.49 p.m., this House stands adjourned until Thursday, 25th April 2024 at 2.30 p.m.

The House rose at 8.49 p.m.

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