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(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)

(Technical hitch)

Hon. Speaker: Are you ready?

Hon. Ali Raso (Saku, UDA): I am not ready, Hon. Speaker.

Hon. Speaker: Pardon. You have a report on the Strategic Goods Control Bill.

(Hon. Ali Raso spoke off the record)

Okay. Clerk-at-the-Table, call out the next Order. I will come back to you.

QUESTIONS AND STATEMENTS

STATEMENT REQUESTS

EFFECT OF TAX MEASURES ON CERAMIC TILES

Hon. Speaker: Hon. Irene Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the effect of successive tax and tariff measures on ceramic tiles, particularly their impact on competition, prices, construction costs and affordable housing.

Ceramic tiles are essential construction materials used in residential houses, commercial buildings, schools, hospitals and other public projects. Therefore, their price and availability have a direct bearing on the overall cost of construction and affordability of housing. The taxation of imported ceramic tiles, under tariff heading 6907, has undergone significant changes in recent years. The Tax Laws (Amendment) Act, 2024 introduced an Excise Duty of 5 per cent of customs value or Ksh200 per square metre, whichever was higher. The Finance Act, 2025, increased the specific component to Ksh300 per square metre, while the Finance Act, 2026, subsequently moved the applicable minimum to Ksh50 per kilogramme, while retaining the 5 per cent *ad valorem* component.

Hon. Speaker, while these measures may support local manufacturing, their cumulative effect on competition and consumers requires examination. Where the cost of imported tiles

increases significantly while domestic production remains limited, consumers may face higher prices and fewer choices. Therefore, we need to establish whether the measures have strengthened local production capacity or reduced competitive alternatives faster than the expansion of domestic capacity.

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

1. The current structure and performance of the ceramic tiles market, including the number of local manufacturers, importers, distributors and major retailers, the respective market shares of local and imported tiles, changes in production, imports and consumption over the last five financial years, and whether any undertaking currently meets the criteria for a dominant position, as specified under Section 23 of the Competition Act (Cap. 504).
2. The effect of the successive tax and tariff measures introduced in 2024, 2025 and 2026 on imported ceramic tiles, including the complete tax and levy burden before and after each amendment, the resulting change in import volumes and values, and whether the reduction in imports has been matched by a corresponding increase in domestic production and supply.
3. The effect of the tax measures on wholesale and retail prices, consumer choice and competition in the market, including whether the measures have disproportionately increased the cost of lower-priced tiles commonly purchased by low-income households and middle-income households, and whether they have created conditions that can facilitate excessive market concentration or the exercise of substantial market power.
4. Clarification on whether the Government assessed the likely impact of the tax measures on competition, market concentration, barriers to entry, consumer prices and market access before their introduction, including the institution that undertook the assessment, the methodology used and whether the Competition Authority of Kenya has undertaken any investigation into possible abuse of a dominant position, under Section 24 of the Competition Act.
5. The current and expanded production capacity of local ceramic tile manufacturers, including investments made, new factories or production lines established, employment created, technological improvements and product diversification, since the introduction of the tax measures, and whether local manufacturers have sufficient capacity to meet national demand, in terms of product range, quality and price.
6. The effect of the tax measures on construction costs and affordable housing, including the additional cost of finishing a standard residential unit, their impact on households, contractors, retailers and other businesses in the construction value chain, the revenue generated from the ceramic tiles Excise Duty, and whether the protection afforded to local manufacturers has resulted in measurable improvements in investment, production, employment, productivity and competitiveness.

I thank you, Hon. Speaker.

Hon. Speaker: Chairman of the Departmental Committee on Finance and National Planning, where are you? Member for Kesses, go ahead.

Hon. Julius Rutto (Kesses, UDA): On behalf of the Departmental Committee on Finance and National Planning, I endeavour to bring a response within a span of three weeks or so.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I want to acknowledge, in the Speaker's Gallery, students from Chuluni Girls Secondary School, Kitui East Constituency, Kitui County; and Embu County Mixed School, Manyatta Constituency, Embu County. In the Public Gallery, we have students from ACK Tigoni Senior School, Limuru Constituency, Kiambu County; Kikiini Comprehensive School, Mwingi West Constituency, Kitui County; Kyondoni Girls Secondary School, Kitui West Constituency, Kitui County; and Ilays Integrated Academy, Langata Constituency, Nairobi County. Hon. Edith Nyenze has asked for an opportunity to welcome a school from her constituency. Go ahead and speak for everybody else.

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Speaker, for giving me this opportunity to welcome all the students who have visited the National Assembly this afternoon. I welcome Kyondoni Girls Secondary School and Chuluni Girls Secondary School from Kitui County, and the others from Mwingi and Embu counties. I welcome all the students to the National Assembly.

In particular, I welcome Kyondoni Girls Secondary School, which holds a special place in my heart. I once taught there during my first posting, and I rose from classroom teacher to deputy principal and then principal of the school. I am really proud of this school. They are also my neighbours at home. Kyondoni Girls Secondary School, you are most welcome, and I am proud of you. This is one of the best schools in the constituency and in the country. They perform very well in their examinations, and I am very proud of them.

All the students here today are not just visitors to the National Assembly, but are also our future legislators, governors, presidents, doctors, and so much more. You can achieve all your dreams. I welcome you, knowing you are our future leaders who will uphold our Constitution. Go for it. You are equal to the task. I hope you leave this place inspired to be more disciplined, hardworking and patriotic. I wish you all the best, especially the Form Four students as they prepare for their examinations.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. I join Hon. Nyenze in welcoming all the students, their teachers and those accompanying them to the House of Parliament.

Hon. CPA Julius Rutto, proceed.

ALLEGED LAND GRABBING IN KESSES

Hon. Julius Rutto (Kesses, UDA): 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 Lands regarding the alleged grabbing of land in Kesses Constituency.

The East African Tanning Extract Company Limited (EATEC) Outspan Block in Kesses Constituency reportedly owned approximately 2,673.94 acres of land. In 2000, the company resolved to subdivide the land and set aside 10.5 acres for the development of a school and a further 10.5 acres for the establishment of a trading centre. However, the land reserved for these public purposes was allegedly irregularly acquired and occupied by private individuals. Consequently, the intended school and trading centre have not been developed, thereby denying residents the anticipated public facilities and raising concerns regarding the ownership and administration of the land.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Lands on the following:

1. Details on the registration status of the 2,673.94 acres of land belonging to the East African Tanning Extract Company Limited (EATEC) Outspan Block, including the relevant parcel numbers and any subdivision undertaken.

2. The circumstances under which the land reserved for the school and trading centre was occupied by private individuals, and the status of any investigations conducted into the alleged irregular acquisition and occupation of the land.
3. The measures being taken to recover, secure and restore the affected land to its intended public purpose.
4. The long-term measures being taken to address the recurrent cases of land grabbing in Eldoret and provide a lasting solution to protect public and private land from irregular acquisition and occupation.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Lands, when can you bring a response? Is there any Member of that Committee present? Clerk-at-the-Table, direct them to bring a response in two weeks.

Hon. John Makali, Member for Kanduyi.

MANAGEMENT OF SUGAR IMPORTS INTO THE COUNTRY

Hon. John Makali (Kanduyi, FORD-K): 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 Agriculture and Livestock regarding the management of sugar imports into the country and their impact on the revitalisation and long-term sustainability of the local sugar industry.

According to the Kenya Sugar Board Strategic Plan 2025-2027, Kenya's sugar consumption reached approximately 1.14 million metric tonnes in 2024, against domestic production of 815,454 metric tonnes per year, as per the Kenya National Bureau of Statistics (KNBS) National Agriculture Production Report, 2025, leaving a deficit of about 30 per cent. On 6th August 2026, the Cabinet Secretary for Agriculture and Livestock Development announced that sugar imports had declined from approximately 200,000 metric tonnes in 2025 to about 60,000 metric tonnes in 2026, citing improved domestic production and sufficient local stocks to meet domestic consumption. He further directed the Kenya Sugar Board to stop issuing any licences for sugar imports, declaring that domestic production was, for the first time, sufficient to meet the country's needs. This raises concerns regarding the accuracy of the determination and management of the national sugar deficit and the potential impact of additional imports on Kenya's rising sugar industry, including sugarcane farmers and other actors within the value chain.

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

1. A report on the current National Sugar Balance Sheet, indicating the quantities of sugar produced domestically, consumed and imported for the last two years.
2. The persons and entities, if any, licenced to import sugar into the country for the last two years, the quantities and the amounts thereof.
3. The metrics employed by the Ministry and the Kenya Sugar Board in determining the quantity of sugar imports, specifying how the current sugar supply management complies with the provisions and objectives of the Sugar Act, 2024, to grow domestic sugar production.
4. The measures being undertaken by the Ministry to protect local sugarcane farmers and promote long-term sustainability of the local sugar industry after the enactment of the Sugar Act, 2024.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Agriculture and Livestock, Hon. Mutunga, when can you bring a response?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): We can bring a response in two weeks, Hon. Speaker.

Hon. Speaker: Pardon?

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): In two weeks.

Hon. Speaker: No, next week.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thursday next week.

Hon. Speaker: Yes. Let us go back to Order No. 5. Chairperson of the Departmental Committee on Administration and Internal Security, proceed. I had already called out your name. Apologise to the House for coming late.

Hon. Gabriel Tongoyo (Narok West, UDA): My apologies, Hon. Speaker.

Hon. Speaker: Go ahead.

PAPER

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Administration and Internal Security on its consideration of the Strategic Goods Control Bill (National Assembly Bill No. 15 of 2026).

Hon. Speaker: Thank you. Let us go back to Order No. 7.

QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENTS

Hon. Speaker: Hon. Hussein Barre, Member for Tarbaj. Give the microphone to Hon. Hussein. Hon. Yusuf, give him way.

OPERATIONALISATION OF DIGITAL HUBS IN WAJIR COUNTY

Hon. Hussein Abdi (Tarbaj, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Communication, Information and Innovation regarding the status and operationalisation of digital hubs in Wajir County.

The Government has undertaken to establish digital hubs across the country to enhance access to digital services, digital skills and economic opportunities at the ward level. However, despite the construction of digital hubs in Wajir County, none is currently operational due to the lack of requisite computers and equipment.

It is worth noting that Tarbaj Constituency has completed the construction of a digital hub and made several requests to the Ministry of Information, Communication and the Digital Economy for the supply of computers to enable the facility to commence operations. Despite these requests, computers have not been supplied. The continued construction of digital hubs without equipping and operationalising those already completed raises questions about the effectiveness and sustainability of the programme.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Communication, Information and Innovation on the following:

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1. The status of all digital hubs in Wajir County, indicating the number constructed, those equipped and operational and those awaiting equipment.
2. The criteria and procedure used in the allocation and distribution of computers and other equipment to digital hubs across the country, and the reasons why completed hubs in Wajir County have not been prioritised.
3. The timelines for completion of equipping and operationalisation of digital hubs in Tarbaj Constituency.
4. The measures being undertaken to ensure that existing digital hubs are fully equipped and operationalised before further resources are committed to the construction of additional hubs.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Barre. Chairperson of the Departmental Committee on Communication, Information and Innovation, Hon. KJ, when can you bring a response?

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, on this one, we commit to bring a response in a week, that is, next Thursday. We will combine it with a similar request for a Statement, as we will be responding on the status of all digital innovation hubs.

Hon. Speaker: Excellent. Member for Westlands, Hon. Tim Wanyonyi. I received a letter nominating Hon. Bishop Kosgei. Go ahead, Hon. Bishop Kosgei. Give the microphone to the Bishop.

IMPLEMENTATION OF EXEMPTIONS ON IMPORTED ASSISTIVE DEVICES

Hon. (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the implementation of exemptions provided under the Persons with Disabilities Act, 2025, with regard to imported assistive devices for donation to institutions of or for persons with disabilities.

Section 56(5) of the Persons with Disabilities Act, 2025 provides that equipment donated to institutions and organisations of or for persons with disabilities is exempt from duties and Value Added Tax to the extent provided under the tax laws. Further, Section 56(7) of the Act empowers the cabinet secretary responsible for matters relating to finance to make regulations to better carry out the provisions of the section. However, the National Environment Management Authority (NEMA), in a letter dated 12th August 2026 addressed to Hope Mobility Kenya, a charitable organisation, stated that the exemption provided under Section 56(5) of the Act does not extend to Extended Producer Responsibility (EPR) fees.

Consequently, the Authority indicated that under the Sustainable Waste Management (Extended Producer Responsibility) Regulations, 2024, it could not accede to the organisation's request to waive EPR fees. The situation raises concern regarding the effective implementation of the reliefs contemplated under Section 56 of the Persons with Disabilities Act, 2025, particularly where assistive devices donated for the benefit of persons with disabilities remain subject to statutory fees and charges.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning on the following:

1. A report on the number and categories of assistive devices imported for donation to institutions of or for persons with disabilities in the last 3 financial years and the EPR fees paid in respect of such imports.

2. The status of development of regulations pursuant to Section 56(7) of the Persons with Disabilities Act, 2025, including specific timelines for publication.
3. A report on the review of relevant laws that concern the imposition of fees on imported assistive devices for persons with disabilities, including the interaction between the P Persons with Disabilities Act, 2025 and the Sustainable Waste Management (Extended Producer Responsibility) Regulations, 2024.
4. Measures being taken by the Government to ensure that imposition of taxes, fees and other charges on assistive devices does not inadvertently create financial barriers to their accessibility by persons with disabilities.

I thank you.

Hon. Speaker: Thank you, Bishop. Chairperson, Departmental Committee on Finance and Economic Planning? Member for Kesses.

Hon. Julius Rutto (Kesses, UDA): Thank you, Hon. Speaker.

Hon. Speaker: Two weeks?

Hon. Julius Rutto (Kesses, UDA): Let it be three weeks, Hon. Speaker.

Hon. Speaker: Why three weeks?

Hon. Julius Rutto (Kesses, UDA): Because we had already committed to the other one, and we can now push them together.

Hon. Speaker: This one is very simple and direct. You can do it in a week.

Hon. Julius Rutto (Kesses, UDA): Well guided.

Hon. Speaker: Bring a response in two weeks.

Hon. Julius Rutto (Kesses, UDA): Thank you, Hon. Speaker

Hon. Speaker: Hon. Machua Waithaka.

DELAYED LABORATORY ANALYSIS ON COUNTERFEIT AND SUBSTANDARD ALCOHOLIC BEVERAGES

Hon. John Waithaka (Kiambu, UDA): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives regarding delays by the Kenya Bureau of Standards (KEBS) in certification and provision of the laboratory analysis reports for suspected counterfeit and substandard alcoholic beverages.

The Anti-Counterfeit Regulations, 2010 require samples of goods suspected to be counterfeit to be submitted to an approved laboratory for testing and analysis. The Kenya Bureau of Standards is mandated to undertake quality assurance and inspection of goods in Kenya. However, there have been considerable delays by the Bureau in analysing the samples and issuing the requisite laboratory reports. These delays have impeded the timely investigation and prosecution of persons suspected of manufacturing, distributing or selling counterfeit and substandard alcoholic beverages.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Trade, Industry and Cooperatives on the following:

1. Clarification on the standard period prescribed by the Bureau for analysing samples and issuing laboratory reports.
2. A report on the number of samples awaiting analysis, indicating when each sample was submitted and the expected date of completion.
3. The reasons for the delays in analysing samples and issuing laboratory reports on suspected counterfeit and substandard alcoholic beverages.

4. The measures being taken to expedite pending analyses and prevent delays in future.
5. The measures being taken to strengthen coordination between the Bureau and relevant agencies to facilitate timely prosecution of offenders.

Hon. Speaker: Thank you, Hon. Waithaka. Chairperson, Departmental Committee on Trade, Industry and Cooperatives. *Wapi Mhe.* Shinali? *Wapi* Member for Aldai?

*(Hon. Bernard Shinali and
Hon. Marianne Kitany took their seats)*

Hon. Speaker: Member for Aldai, raising your hand does not respond to what the Speaker is calling you for. That Statement is directed to both you and your Chairperson. When will you respond, Hon. Shinali?

Hon. Bernard Shinali (Ikolomani, ODM): I will respond in two weeks.

Hon. Speaker: Do you know which Statement it is?

(Laughter)

Hon. Bernard Shinali (Ikolomani, ODM): Hon. Speaker, I overheard you while I was coming. That is why I rushed in.

Hon. Speaker: There is a request for a Statement by the Member for Kiambu, Hon. Machua Waithaka. It is No.04 on the Order Paper. It is about illicit alcohol. Bring a response in two weeks.

Hon. Bernard Shinali (Ikolomani, ODM): I will bring a response in two weeks, Hon. Speaker.

Hon. Speaker: Okay. Responses to Statements. Is Hon. Patrick Makau in the House? He is not. That Statement is deferred. Is Hon. Amos Mwago in the House? That Statement is also deferred. Is Hon. Mumina Bonaya in the House? That Statement is deferred. Is Hon. Stephen Mule in the House? He is in the House.

(Hon. Gabriel Tongoyo spoke off the record)

Yes, Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I need your indulgence. I have heard you talk about the Statements sought by Hon. Mwago, Hon. Patrick Makau of Mavoko Constituency, and Hon. Mumina Bonaya, which have been slated on the Order Paper. Hon. Speaker, you ruled that when a Statement for response has been slated, and the Member is not present, it can be tabled instead of deferred.

Hon. Speaker: Instead of deferring. So, I direct you to table the response to Hon. Patrick Makau; he loses the opportunity to interrogate the response. Amos Mwago loses the opportunity to interrogate the response. Also, Hon. Mumina, who was very agitated when she requested for a Statement, is not here. So, table the responses.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker.

(Hon. Gabriel Tongoyo laid the documents on the Table)

Hon. Speaker: They will read through and pursue you through different avenues. Hon. Stephen Mule is in the House. Are you holding brief for your Chairman? Do you have a response?

Hon. Stephen Mule (Matungulu, WDM): Well, Hon. Speaker, I think I was not well briefed on this one, so I beg not to respond.

Hon. Speaker: Mule will hold it for a little while. If the Chairman comes, we will give him an opportunity to respond. Antoney Kibagendi? Again, that is finance. He is not in the House. Yes, Kesses? Okay. Kibagendi is not in the House. He deferred. Umul Kheir Kassim is the Chairman of the Committee on Regional Development in the House. Do you have a response?

Hon. Umul Kheir Kassim (Mandera County, UDM): Yes, Hon. Speaker, I have a response.

Hon. Speaker: Table it. She will pursue any clarifications through different avenues. Hon. Leader of the Majority Party starts the Statement. Hon. Deputy Speaker, I am told you are holding his brief. Go ahead and present.

(Hon. Umul Kheir Kassim laid the document on the Table)

STATEMENT

Hon. Speaker: Hon. Deputy Speaker.

BUSINESS FOR THE WEEK OF 5TH TO 9TH OCTOBER 2026

Hon. Gladys Boss (Uasin Gishu County, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to present the following Statement on behalf of the House Business Committee, which met on Tuesday, 29th September 2026, to prioritise business for consideration during the week. Hon. Speaker, I wish to formally welcome Members back to the House as we commence the Third Part of the Fifth Session. I hope that, as we resume from the just-concluded long recess, we are ready to consider the upcoming priority business during the final part of the session. Regarding the business schedule for Tuesday next week, the House is expected to consider the following Bills at various stages, some of which are listed in today's Order Paper.

Second Reading of the following Bills:

1. The Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024).
2. The Sacco Societies (Amendment) Bill (National Assembly Bill No.32 of 2025).
3. The Public Service Superannuation Scheme (Amendment) Bill (National Assembly Bill No. 33 of 2025).
4. The County Assemblies Pension Scheme Bill (Senate Bill No. 14 of 2024).
5. The Public Transport Motorcycle Regulation Bill (Senate Bill No. 38 of 2023).

The Committee of the whole House will have the Kenya Revenue Authority (Amendment) Bill 2026 and, secondly, the Power of Mercy Bill (National Assembly Bill No. 56 of 2025). Additionally, the House will debate the following Motions on the committee reports, should they not be concluded today:

1. The Report on the inspection visit of the Kenya diplomatic missions in Zimbabwe and Botswana.
2. The Report on the inspection visit to 14 special needs schools in specified counties.
3. The Tenth Report on the examination of audited financial statements from seven state corporations.

4. The Fourth Report on the employment disability audit in public institutions.
5. The consideration of the Public Petition No. 2 of 2026 regarding the production, distribution and consumption of illegal alcoholic brews in the country.
6. Report on the inspection visit of the Kenya diplomatic missions in France and the United Kingdom.
7. The report of the regional seminar of African Parliaments for Climate Action, Reducing Methane and Promoting Development.
8. The Twelfth Report on the examination of audited financial statements for the Agriculture Information Resource Centre Revolving Fund.
9. The Fifth Report on the examination of audited financial statements of NG-CDF for constituencies in three counties.

The House will also prioritise the consideration of the nominee for appointment as Member of the Parliamentary Service Commission (PSC). In conclusion, Hon. Speaker, the House Business Committee shall reconvene on Tuesday, 6th October, to schedule business for the rest of the week. I now wish to lay this statement on the Table of the House. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Deputy Speaker.
Next Order.

BILLS

First Reading

THE NATIONAL CORONERS SERVICE BILL
(National Assembly Bill No. 60 of 2026)

*(The Bill was read a First Time and
referred to the relevant committee)*

Hon. Speaker: Thank you. Hold on. I will acknowledge, in the Public Gallery, Kathyani Comprehensive School from Mwala Constituency, Machakos County. On my behalf and on behalf of the House, we welcome the students, those accompanying them and their teachers to the House of Parliament.

Next Order.

Second Readings

THE ELECTIONS (AMENDMENT) (NO. 2) BILL
(Senate Bill No. 29 of 2024)

Hon. Speaker: George Best, you are the one moving this Bill, I am told.

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Speaker. I beg to move that the Elections (Amendment) (No. 2) Bill (Senate Bill No. 29 of 2024) be now read a Second Time. This Bill emanated from the National Dialogue Committee (NADCO), established through a parliamentary resolution in 2023 to facilitate dialogue and consensus-building and recommend appropriate constitutional, legal and policy reforms on issues of concern to the people of Kenya. The Bill, therefore, is a consensus Bill. The parties in NADCO discussed and agreed on it at that time. It was to be initiated through the Senate, and the Bill was passed and brought to us for concurrence; now we have to deal with it during the Second Reading.

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Briefly, the Bill contains the following proposals. The Bill seeks to align the terminology used in the Act with the provisions of the Constitution and the Political Parties Act with respect to the role of political parties to nominate candidates for elections and the function of the IEBC to register candidates for elections. What we are doing here is to clarify who handles nominations before elections and what role the IEBC plays in registering candidates to seek elective positions. There is a mix-up here because sometimes we say that IEBC conducts nominations on the day it registers, and that is not accurate. The correct position is that political parties conduct nominations, and IEBC registers candidates to participate in the elections.

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

*[The Deputy Speaker
(Hon. Gladys Boss) in the Chair]*

Second, the Bill seeks to align the Act with various court judgments which have been passed. The first is on education, because the Elections Act provided that those elected to Parliament and county assemblies must have a degree. The court in the case of Wambui and 10 others versus the Speaker of the National Assembly and six others in the Constitutional Petition Number 28 of 2021, in the Petitions Numbers E59, E077, E037, and E065 of 2021, declared those provisions to be unconstitutional. Therefore, there has to be an alignment so that the law conforms to the decision of the court. The requirement that a party list shall not contain the names of a candidate nominated for an election was also declared unconstitutional in the case of Commission for the Implementation of the Constitution versus the Attorney General, being Civil Appeal No.351 of 2012. Again, we have to align this one.

Third, certain aspects of the procedure on the determination and declaration of election results were declared unconstitutional, and this was in the IEBC case versus Maina Kiai and others, 2017 EKLK. That is where we find the decision.

Fourth, various provisions on the exercise of the right of recall of a Member of Parliament were declared unconstitutional in the case of Katiba Institute and another versus the Attorney General, which is Constitutional Petition Number 209 of 2016. What more this Bill seeks to do is to limit the freeze on the registration of voters during a by-election to the affected electoral area and prohibit a person who registered as a voter during such a suspension from contesting in the by-election of the affected electoral area. What we are doing here is to ensure that if there is a by-election declared in a constituency, then we suspend the registration of voters for everybody, including those who intend to contest in those constituencies. They proceed further to bar that you cannot go to another constituency to register during that period and go back to your own constituency to run in the by-election.

We have to make this clear to kill the mischief that somebody will decide to register in a constituency away from their own constituency to circumvent this particular provision. Then we also have to, in this particular Bill, place an obligation on a coalition political party to submit their nomination rules to the IEBC within 14 days of registration. A coalition political party is a political party like any other, and, therefore, it has to comply with the timelines that are set in the Elections Act. We also have to deal with the deletion of the provision giving IEBC powers to conduct and supervise the nomination of candidates by requesting political parties to deal with this.

Fifth, we require that a person on a party list for purposes of nomination to a county assembly is a registered voter in any of the wards in the county in which the person is nominated, and the political parties should ensure equitable representation from all wards in the respective counties. This is to comply with equity when it comes to nominations, because you have instances where nominees come from particular wards to the exclusion of other

wards. We also have to provide an express provision for IEBC to appoint a place as a polling station, as well as publication and publicization of a notice specifying the polling stations established for each of the electoral areas. This is a concern raised by Kenyans that they need to know where polling stations are, where they are going to be as we near the election. Then increase the number of voters per polling station to a maximum of 1,000 voters to facilitate effective and efficient conduct of elections.

I must confess here that, as the Chairperson of the Departmental Committee on Justice and Legal Affairs, we have a slight problem with this provision and a few of the other provisions. We will be making proposals to amend these provisions when this Bill comes to a third reading. As you know very well, the current provision is that a polling area should not have more than 700 voters; that is, a polling station must have at least 50 and a maximum of 700 and possibly that is what should be retained, especially now that the IEBC is not in a position to review polling stations. Time is running out, and there is a lot to be done. We thought IEBC would actually come up with new polling stations which would be used in the coming general election. This appears not to be the case and, therefore, it may not be appropriate now to have this provision effected.

We have to delete the role of the IEBC in the settlement of electoral disputes, including disputes relating to or arising from nominations. This is what is proposed in the Bill. But the IEBC has been setting up tribunals where you take your dispute when you have nomination problems with your party. What we are seeking to do is to remove the role of the IEBC in this, so that the IEBC would deal with the disputes regarding registration. Now, disputes regarding your nomination will have to be dealt with by the Elections Disputes Tribunal.

We have a raft of other proposed amendments which will be introduced so that we streamline the particular Act, especially in this Bill, conscious of the fact that we should not be making substantive election amendments now. Time may not allow. It has been recommended by Kriegler and everybody else, including the courts, that it may not be appropriate to amend election laws 12 months before the elections. However, this particular law is a consensus law, and most of it is agreed upon in the country. It does not emanate from Parliament. It emanates from a committee that was set up to resolve what we felt were election disputes during that time. So, it is an amicable way of settling election disputes, and we have come up with this proposed amendment.

Another one we propose is to provide procedures for access to information, including technology, pursuant to a court order, because, remember, we had the issue of opening servers, and there was a big dispute regarding this. A provision is in this Bill on how the IEBC is going to comply with a court order that says you have to provide information within a given period of time, bearing in mind that some of this information is protected by many sets of laws, including the Data Protection Act, which protects your own individual particulars or details.

Then another one we are dealing with, for purposes of validity of election of MCA, we propose in this Bill that an appeal arising from a dispute in the election of an MCA lies to the High Court and that the High Court is going to be the final decision maker regarding that appeal. In essence, a dispute regarding the election of an MCA is heard by a Magistrate's Court. If there is an appeal, it is to the High Court.

To avoid duplicity of litigation and unending litigation, we provide that the High Court is going to be the final determinant of an appeal such that an MCA will not go to the Court of Appeal or to the Supreme Court unless it is purely on constitutional matters, which possibly have to be done not by way of an appeal, but by way of a petition. We have made proposals for the purposes of the validity of the election of the Member of Parliament, senator and governor, and to allow for an appeal to the Court of Appeal on matters of law and fact. It also expressly provides that the decision of the Court of Appeal is the final decision. This is purely because, as Members of Parliament, your petitions originate in the High Court. Therefore, the

High Court will make the first determination. The second determination is done by the Court of Appeal. For purposes of bringing an end to litigation, we intend to make the Court of Appeal the final court of determination regarding appeals. If you wish to go to the Supreme Court, there will be no bar because that is provided for in the Constitution. However, you would have to do it separately and away from the appeal by filing a separate petition. There are many other election-related processes for the IEBC that are included here.

Hon. Deputy Speaker, while this Bill was initiated in 2023/2024, it has taken a bit of time to progress. The Senate took a bit of time and the Bill has also stayed here. It is high time we brought it to an end, and I urge Members to do so. We are moving into an election and there is a raft of demands from the people. We must move with speed to look at some of these provisions in the Elections Act, 2011. The Justice and Legal Affairs Committee (JLAC) will produce the proposed amendments to the Bill. We will also look at those amendments in the Committee of the whole House. For now, this being a very important Bill, I urge Members to have a glimpse of it. You can look at the Report on the Bill, which we have already tabled, and also participate in the Committee of the whole House when we make further amendments to make this law appropriate. This is one of the most important laws in the country. I urge all Members to support the Bill.

With those remarks, it is now my pleasure to move the Second Reading of the Bill. I invite the Leader of the Majority Party, the very able Member for Kikuyu Constituency, to second the Bill.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. I rise to second this Bill as has been ably moved by the Chairperson of JLAC, the one and only Member for Tharaka, also known as Sir George Murugara. He is a very polished lawyer who worked with very serious law firms. Some people claim to be lawyers, but you cannot see any legal knowledge in them. However, when you engage with someone like Sir George, you understand why he is called Sir George, or why somebody like Hon. TJ is called CJ. This is because you can see the lawyers in them in everything that they do, even in their legislative work.

Hon. Deputy Speaker: Leader of the Majority Party, for your information, I am the one who named him Sir George when we were at university.

(Applause and laughter)

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Deputy Speaker, I wanted to spare you that lest somebody asks how you got to name him Sir George when you were both students at the University of Nairobi. You and Sir George did not just attend any other university; it was the University of Nairobi.

As Sir George has ably moved, this Bill is part of the NADCO Bills. It is also one of the Bills that began in the Senate and sought to do a number of things as agreed during the NADCO process.

First, it aligns our Elections Act with the Constitution on the roles of the IEBC. Sir George has very well put that in his moving notes because the IEBC registers candidates for elections and political parties that will be involved in the elections. He also mentioned the role of the IEBC in nominations of political party candidates. Therefore, this Bill seeks to realign that so that we do not have the IEBC involved in party nominations.

Second, it removes provisions that the courts have since struck down or declared unconstitutional. Some of these provisions touch on the education requirements of candidates and parts of the recall law, or the process and requirements that were declared unconstitutional by the High Court. Therefore, we are just realigning with what has already been declared unconstitutional by the High Court. So far, nobody has gone back to the Court of Appeal or

filed in any other appellate court to challenge the unconstitutionality of the particular provisions. Therefore, under the NADCO deliberations, we thought it wise to remove those provisions that have already been declared unconstitutional, since they are moot as they stand. The education requirements touch on Members of Parliament and Members of the County Assemblies (MCAs).

Third, it seeks to strengthen the transmission and declaration of results so that our election processes remain above board, and it is clear to Kenyans, and all and sundry, including observers, how we transmit and declare results. The results that you declare at the polling station, largely as was envisaged by the Constitution and our election laws, are the final results, as declared at the polling station where people vote. It also provides for the evaluation of elections under Article 88(4)(h) of our Constitution. Those are the things that this Bill intends to do.

On separating the role of nomination and registration of candidates by the IEBC, we are making it clear that parties will nominate their own candidates. The IEBC will then just register those candidates to participate in the elections as nominated by their political parties. On the education requirements for MCAs and Members of Parliament, it is just the deletion of the provisions that were declared unconstitutional by the High Court.

The Bill proposes that anybody who is being nominated to a county assembly must be a registered voter in that particular county. I am wondering whether this provision will be constitutional because, if you are running as a Member of Parliament, you are only required to be a registered voter, and not necessarily in the constituency where you are running. You will remember the case of the by-election for the Senate seat in Makueni County, when the daughter of the late Senator Mutula Kilonzo sought to run, but was not a registered voter in Makueni. That matter ended up in the courts, and it was declared that as long as you are a registered voter, irrespective of where you are registered, you can run for a seat. I am just wondering whether this provision which requires that you be a registered voter in the county in which you are being nominated, will again be declared unconstitutional by the courts. I want, with immense respect, to express my reservations about this particular provision.

The best-case example would be Nairobi County, which is home to Kenyans from all parts of the country. We have Kenyans from the northeastern, where the Member for Kamukunji originally hailed from. He is an elected Member of Parliament in Kamukunji, Nairobi County. Hon. TJ., all the way from Homa Bay, is an elected Member of Parliament in Ruaraka in Nairobi. The children of the Member for Kamukunji, the Member for Ruaraka and my children as the Member for Kikuyu...

Hon. Yusuf Hassan (Kamukunji, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Yusuf, what is your point of order?

Hon. Yusuf Hassan (Kamukunji, JP): I want to correct the Leader of the Majority Party. I do not come from northeastern. I am a Kamukunjian.

(Laughter)

So, please...

(A Member spoke off the record)

Oh, courier?

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Deputy Speaker, I understand Hon. Hassan's fear. However, he should not be afraid because Nairobi belongs to all of us. I know the fear that many of you are subjected to, especially in those small parties where you are told

that Nairobi belongs to a particular community. Nairobi belongs to all of us. That includes even the people who originally hailed from northern Kenya, those who hailed from central Kenya, those who hailed from Nyanza, like the Member for Ruaraka, who hailed from Homa Bay. In fact, his brother who is a Senator and his late brother were elected in Homa Bay and the people of Ruaraka knew when they were electing him as Member for Ruaraka. They knew that.

Hon. Deputy Speaker, our children, your children, Hon. TJ's children and my own children are being raised in Nairobi, but I am elected in Kikuyu, out of Nairobi. Are you now telling me my daughter cannot be nominated in Nairobi, yet she was born in Nairobi, has been raised in Nairobi and is a resident of Nairobi? How fair can that be or how unfair could that be? That Just because my daughter chooses to go and vote for the father in Kikuyu, in Kiambu County, they cannot be nominated as an MCA in Nairobi County? This particular provision is very unconstitutional and unfair and that is why I said, with immense respect to the Senate, that on that particular provision, I would be moving amendments when we get to the Third Reading to remove that particular provision. Any Kenyan can be nominated to serve in a county assembly in any part of the country. That is how we bring our people together and build cohesion.

Member for Kamukunji, I think you were a Member of the National Cohesion and Equal Opportunity Committee in the last Parliament, and the Chairperson of the Committee, Hon. Yussuf, is here. I can see him shaking his head in agreement that the only way to bring Kenyans together and create cohesion among us Kenyans is to make sure that a Kuria from Migori can be nominated in the County Assembly of Nyeri and the people of Nyeri can get to see the value of working with a person who is from a minority community in another county.

Hon. Deputy Speaker, our own county laws, when it comes to the executives, were required as a matter of principle by the County Governments' Act to have representation of minorities within those counties. Therefore, I am saying, even within the county assemblies, if you probably have 10 members of the El Molo community living in Kiambu, but you find an El Molo from Baringo or from Nakuru County who has served his party very well and the party feels obligated to nominate that El Molo to represent minorities in Kiambu County, why not? The party should be left to have that prerogative to nominate people who are serving the party at that particular time, representing those minorities. Minorities do not necessarily need to be registered voters in the particular county.

We have a community called the Shona in this town, here in Upper Hill and Hurlingham. That community has a very huge representation of citizens in Kikuyu, in one particular ward called Kinoo. They are also found in Hon. Wamacukuru's Kabete Constituency and Hon. Kwanjiku's Kiambaa Constituency. This Shona community only got citizenship like four years ago. Many of them were not able to access education opportunities beyond high school because they did not have identity cards, they could not go to colleges, they could not go to universities. You may probably find a Shona from Hurlingham who was lucky to have attained a university degree and can be nominated as a Member of Parliament in this House. Why would we stop that person from the Shona community from being nominated?

I have a young girl that I sponsored from that community way back in 2016 and has now graduated from the University of Nairobi. The first Shona girl in Kenya to access education opportunities beyond high school is now a graduate of Economics from the University of Nairobi.

(Applause)

I sponsored that girl when she was in Class 8 at HGM Primary School in Kinoo through high school at Senior Chief Koinange High school, through the University of Nairobi. If tomorrow she serves the United Democratic Alliance (UDA) or the Orange Democratic Party (ODM) and the party feels obligated to nominate such a brilliant young mind to the County Assembly of

Nairobi, why would she be denied that opportunity because she hails from Kinoo and she wants to vote for the Member of Parliament who sponsored her through high school, through university and has given her an opportunity now to be nominated? This provision is very unconstitutional and I will oppose it. Hon. Murugara, when the time comes, I will be moving an amendment, but I want to convince you. Hon. Sir George, actually drop that particular amendment when we get to Third Reading so that we give all Kenyans a fair playing ground to serve.

Lastly, clauses 22 and 24 require polling stations to be gazetted, at least, three months before an election and set a ceiling on voters per station. This is very important, so that we do not have situations where voters do not know where they will be voting two months before an election. This again is in line with all the recommendations that were there in the Kriegler Report, that there must be clarity and certainty in terms of where polling stations are so that we do not have issues like we would hear in the past that there are mobile polling stations and polling stations whose location is not known. It must be clear 90 days before the general election where polling stations are, they are gazetted and you know what number of voters are there per polling station so that when we win these coming elections under the Broad-Based Government in 2027, there will be no doubt that we won fair and square. That is why it is important that we pass these amendments, so that there are no chances of people playing monkey business.

Hon. Deputy Speaker, in conclusion, Clause 31 provides access to information held by the IEBC and where such information is required for purposes of scrutiny of votes. Again, because Kenyans have a constitutional right under Article 35 of the Constitution of access to information, and, therefore, even information being held by the IEBC should be available especially in terms of being able to scrutinise the votes. The information shall be provided within three days in the case of a presidential election and within seven days of all other elective positions so that if people want to go to court to file petitions and they need particular information relating to a particular election, then the IEBC will be obligated within three days for the case of a presidential election and within seven days for other elective positions to provide this information.

Hon. Deputy Speaker, let me not belabour many other points because of time, and I can see I am short of time, and support this particular Bill.

As I second, I urge the House to support the Elections (Amendment) (No.2) Bill (Senate Bill No.29 of 2024) and as I said, it is part of the NADCO agreed Bills that are good for our election processes. It is also good that we finish with these election-related laws long before the elections, so that we do not start rushing after the recess next year. We have a very short time next year to process some of these businesses and, therefore, it is important that we expedite with this as early as now.

Thank you, Hon. Deputy Speaker. I beg to second.

(Question proposed)

Hon. Deputy Speaker: Hon. Daudi.

Hon. Aden Mohammed (Wajir East, JP): Thank you, Hon. Deputy Speaker. I rise to support this Bill. This is a very important piece of legislation now that we are going to elections in 2027 and the only thing that it is doing is to clean up our election laws to follow the dictates of our courts that have declared several portions of that law unconstitutional. As Parliament and as a Committee, we want to remove those sections that have been declared unconstitutional from the laws of Kenya.

The other thing is that I heard the Leader of Majority Party talk about what these laws from the Senate propose regarding the position of MCA. It is unconstitutional and as a

Committee we are bringing an amendment to delete that section from these laws. These election laws also clearly set out the appeal process.

When election disputes arise, those concerning MCAs will be heard and determined at the High Court. For those involving governors, senators or Members of Parliament, the matter will proceed to the Court of Appeal. For those of us who have gone through petitions, we know that they are very costly and take a long time. If an appeal proceeds all the way to the Supreme Court, a person could remain in court for the entire term. Therefore, this is a very good provision. It clearly shows where the appeal process will end.

Finally, regarding the Senate proposal to limit polling stations to no more than 1,000 people, I think the Committee will propose an amendment to retain the limit at no more than 700 people per polling station. We want to make elections easier, not harder, for people. A limit of 1,000 people per polling station could mean it takes more than 12 hours to vote. We will, therefore, propose an amendment to that section and retain the number at 700, if the House agrees.

With those few remarks, Hon. Deputy Speaker, I support. Thank you.

Hon. Deputy Speaker: Those who want to contribute, please press the intervention button. Hon. Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Deputy Speaker. I also rise to support these amendments to the Elections (Amendment) Bill (No. 2), Senate Bill No.29 of 2024. First, I am glad we are processing this Bill through the two Houses of Parliament. This was among the recommendations made by NADCO. It sought to achieve electoral justice and amend the election laws. It also sought to make the laws more succinct, reduce suspicion, and promote consultation within and among political parties to ensure that the right thing is done.

One key point is the amendment replacing the term “nomination” with “registration of a candidate”. Nomination has always been associated with party primaries. By making this change in the Act, we clarify that the provisions concern a candidate’s registration. We are not limiting it to the nomination process.

The second point is on stronger internal party governance. Different political parties and coalitions shall submit certified nomination rules to the IEBC within 14 days of registration. This makes the process easier. It also allows anyone involved to review the laws. It ensures transparency and accountability throughout the process. On the issue of a cleaner voter inspection and rectification process, the public will be allowed to engage and review the voter register. This strengthens the register’s integrity. It also helps to identify errors, duplications or omissions before the election date.

There is also a very important amendment. This involves adding the word “valid” immediately before the words “Kenyan passport”. We all know our passports expire. This is intended to ensure that when you go to vote on election day, your passport is valid. I hope the IEBC will conduct adequate public participation on some of these changes. We should not have a Kenyan voting on election day using an expired passport. This requirement is now provided for in law. This needs to be done not only by the IEBC, but also by those interested in vying for elective positions. We must ensure that the citizens are aware of these important amendments.

I want to agree with the Leader of the Majority Party on one of the amendments. This concerns allowing a person to be nominated only where one has been elected. This amendment contravenes Article 39 of the Constitution that provides for freedom of movement and residence within Kenya. Therefore, I hope that the Leader of the Majority Party is listening. If he brings this amendment, or if he does not, some of us will also bring an amendment. We should ensure that this part is corrected. It will raise several issues. This is especially because it directly contravenes a provision of the Constitution of Kenya.

Another provision that I find ambiguous is the amendment proposed under Section 38B. It proposes deleting the words “not exceeding 700” appearing immediately after the words “polling station shall not exceed” and substituting therefor the words “by between 50 and 1,000”. The phrase “between 50 and 1,000” introduces ambiguity into our law. It will affect many things. It could create room for malpractice.

At each polling station, we need clear definitions and specifications. All polling stations should have a specific number. The provision should not allow for a range of 50 to 1,000 people. That is not clear. The previous law, which set the limit at 700, was quite clear. If we want to increase the number, let us specify the new limit. We should not introduce ambiguity.

I commend NADCO for its work on this matter. I also commend the fact that we are doing this. Many naysayers have said that NADCO’s recommendations ended when we lost Baba. However, bringing some of these laws to the Floor of the House clearly demonstrates determination to enact the proposed amendments. We want to strengthen the electoral process and ensure overall electoral integrity as we approach the next general election.

With those few remarks, I support and I submit.

Hon. Deputy Speaker: Member for Marakwet West, Hon. Timothy Toroitich.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Deputy Speaker, for giving me the opportunity to contribute to this important Bill. From the outset, I thank my Chairman, Hon. George Gitonga Murugara, and the people of Tharaka for sending a distinguished lawyer and advocate to this House. He can prosecute such very important Bills.

We are aligning our legislation with various court decisions. One of the most prominent cases in this country is the *Maina Kiai* case. In that case, the court held that results declared at the polling station shall be final.

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

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

Hon. Temporary Speaker, we have aligned that particular court’s decision with our elections Act. Therefore, we must align court decisions with our legislation. One of the most important provisions we seek to amend is found in Clause 3. For the avoidance of doubt, the proposed amendment provides that a person who registers as a voter during the period when voter registration is suspended for the purpose of a by-election, as contemplated under subsection 1B, shall not be eligible to contest in the electoral area affected by the by-election. The provision means that IEBC will freeze voter registration for a specified period. During that period, an individual shall not be eligible to contest. This will ensure that an individual does not register during a by-election and seek to contest for a seat while voter registration is frozen.

Hon. Temporary Speaker, in the context of Clause 19 of the Bill, I wish to differ with the Leader of the Majority Party. This particular provision is very progressive because it provides very clearly that a person shall not be nominated by a political party under subsection (4) unless the person is, on the date of submission of the party list by the political party, a registered voter in any of the wards in the county in which the person is nominated.

Many a time, we see MCAs serving in counties where they are strangers. They are not registered voters in those particular counties. If an MCA is nominated, for example, in Uasin Gishu or Elgeyo-Marakwet counties, that particular nominee must have some interest in that particular county. We should avoid imposition where a nominee is brought from a certain county to represent a particular county. This is a very important amendment that provides that a nominated MCA must be a registered voter within that particular county.

I have an issue with Clause 21 of the Bill. Under the current election law, there is a limit on the number of registered voters in a polling station. The law says a minimum of 50 and a maximum of 700. Under this particular amendment, the Bill proposes to increase the number from 700 to 1,000. For me, in fact, the number should have been decreased. As we speak, a polling station is actually, politically speaking, a unit of development. So, increasing the number of voters per polling station from 700 to 1,000 is quite unreasonable. When it comes to the Committee of the whole House, I shall propose an amendment to that particular amendment. In summary, I support the letter and the intent of this particular amendment. We have to facilitate the IEBC. It has an obligation to conduct free, fair, transparent and verifiable elections. Therefore, this House must facilitate IEBC by ensuring that we make certain amendments that will facilitate it to conduct free and fair elections.

As I finalise, in as much as we support the IEBC, political parties in this country must ensure that they conduct free and fair nominations. When we move to the Committee of the whole House, I shall propose an amendment to ensure there is transparency and fairness in political parties. The law must be amended in such a way that political parties must be given freedom to ensure that nominations are conducted in a free and fair manner to avoid fallout and many other issues.

For that reason, I support this particular amendment.

Hon. Temporary Speaker (Hon. Peter Kaluma): Just before you conclude, Hon. Toroitich, do you have your copy of the Constitution?

Hon. Timothy Toroitich (Independent, Marakwet West): Yes, Hon. Temporary Speaker.

Hon. Temporary Speaker (Hon. Peter Kaluma): Can you open Article 83? Because of your deep knowledge of law, I would like you to allow the House to benefit from your consideration of what is in Article 83(1) and (3), against what is proposed in Clause 2B of the Bill. In fact, you can read the entire Article 83.

Hon. Timothy Toroitich (Independent, Marakwet West): Article 83 of the Constitution provides for registration of a voter. Article 83(1) of the Constitution says that a person qualifies for registration as a voter at elections or referenda if the person—

- (a) is an adult;
- (b) is not declared to be of unsound mind; and,
- (c) has not been convicted of an election offence during the preceding five years.

Article 83(2) of the Constitution provides that a citizen who qualifies for registration as a voter shall be registered at only one registration centre. Article 83(3) provides that administrative arrangements for the registration of voters and the conduct of elections shall be designed to facilitate, and shall not deny, an eligible citizen the right to vote or stand for election.

Hon. Temporary Speaker (Hon. Peter Kaluma): If you look at Article 83(3), which you have read, can you read it against Clause 2(d) of the Bill and make a determination as to whether that proposed amendment is necessary in terms of your own guidance. I am only seeking your views because you have some additional time to contribute.

Hon. Timothy Toroitich (Independent, Marakwet West): Is that 3B?

Hon. Temporary Speaker (Hon. Peter Kaluma): It is 2(d). Letter D for dog.

Hon. Timothy Toroitich (Independent, Marakwet West): Item 2(d) talks about inserting the word “valid” immediately before the words “Kenyan passport” in the definition of an identification document.

Hon. Temporary Speaker (Hon. Peter Kaluma): Yes. So, what it means is that if you got a passport today and it somehow expired, with the proposed insertion, if you are registered as a voter with that passport, you will not vote.

Hon. Timothy Toroitich (Independent, Marakwet West): Yes, that is...

Hon. Temporary Speaker (Hon. Peter Kaluma): Now, if you look at Article 83(3), is that an administrative measure that is aiding registration or denying registration within the meaning of the Constitution? Because for you to be given a passport, it confirms you are a citizen. Could we have your thoughts on that?

Hon. Timothy Toroitich (Independent, Marakwet West): That is an issue that came up in our Committee. Since my Chairman is here, we could get further guidance from him. I will be properly informed by my Chairman.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. Chairman, have you made your contributions?

Hon. George Murugara (Tharaka, UDA): I have already. We have actually said there is a raft of amendments to the Bill, which we will be introducing during the Committee of the whole House. I ought to disclose that one of them is actually to propose a deletion of that proposed amendment, such that when you have a passport, even if it has expired, you do not cease to be a Kenyan. It is only that you may not use it to travel and you may not use it to do many other things, but for purposes of election, we cannot disenfranchise you by saying you cannot vote. Because if that is what you used to register, you use it to vote.

Hon. Temporary Speaker (Hon. Peter Kaluma): Before you sit down, Chair, the Kriegler Commission said amendments to election laws should be brought at least one year to.

Hon. George Murugara (Tharaka, UDA): Correct.

Hon. Temporary Speaker (Hon. Peter Kaluma): We are already within the year. What is so necessary for elections here that we have to pass this Bill?

Hon. George Murugara (Tharaka, UDA): Purely because even the IEBC feels we should do this. Number two, we feel it does not go into the substratum of the elections we are going to hold, but we want to make it easier for Kenyans to conduct next year's elections without raising any eyebrows.

Hon. Temporary Speaker (Hon. Peter Kaluma): Thank you very much. Hon. Julius Rutto is recognised to make his contributions.

Hon. Julius Rutto (Kesses, UDA): Thank you very much Hon. Temporary Speaker for taking cognisance of my interest to contribute to this particular proposed amendment.

Hon. Temporary Speaker (Hon. Peter Kaluma): Hon. Julius Rutto, before you proceed, my attention is drawn to the presence of Ruby Craft Adventist School, Karachuonyo Constituency - the constituency of Hon. Andrew Okuome Adipo - the great Homa Bay County. They are in the Public Gallery. The great students from my own county are welcome to the House to observe proceedings.

You may proceed.

Hon. Julius Rutto (Kesses, UDA): Thank you. Allow me, at the outset, to also follow suit, and welcome the students from the constituency of my great friend, Hon. Andrew Okuome Adipo. To your knowledge, Hon. Temporary Speaker, I sit with him in the Departmental Committee on Finance and National Planning. He is a diligent man and full of wisdom. I know the students here are following in his footsteps. I ask them to work hard and be diligent in school so that one day, some will join us in this House to make the laws that progress our nation.

Hon. Temporary Speaker, on this particular proposed amendment, as Kenyans, we have had several engagements and discussions surrounding elections. After the promulgation of the new Constitution, we are all aware it gave a new face on the way to conduct our electoral processes and thereafter, there have been several pronouncements and rulings by courts emanating from disputes, especially on presidential elections.

We are fully aware in 2007/2008 there were disputes after elections. We had several enquiries including the Kriegler Inquiry which gave a report. We have cases like the Maina

Kiai case which were ruled in court and most of them have been trying to answer the question as to where the final results are to be declared.

The other question is on transmission of the same results for the purpose of the national tally for the winner to be declared. The rulings of Maraga and the current Chief Justice, Martha Koome, have been seeking to answer questions or seek for solutions to grey areas or to the gaps that have been existing. Therefore, this amendment has come in at the right time so that we are able to reduce the challenges that we have been facing and in the long run, we can have a process that can be transparent, integral and meet the expectation of the law and are matters of facts as to the aspect of counting and actual voting. Therefore, I support this because it ensures we firm up more of our electoral laws so that we overcome the challenges we have been facing every now and then especially on issues that have been taking Kenyans to disputed elections and of course, we know the post-election challenges like *maandamano* and division among communities.

On this particular proposal, I agree that, indeed, it is high time we addressed the issues except some adverse proposals. I am looking at one proposal that is seeking to delete the role of the IEBC in sorting out disputes emanating from elections. Article 88(4)(e) of our Constitution has given that mandate fully to the IEBC, but this particular Bill is proposing to amend or to provide for deletion of that provision yet it is in the parent law which is the law of the land. My question is how this one will be practical even in the forthcoming election yet there is no proposal to amend that particular provision in the Constitution. I feel we need to be keen while approving or processing this particular piece of legislation, so that we do not contravene the Constitution and end up finding ourselves in a state where this law cannot be implemented.

Then there is the issue of increasing the number of voters in polling stations to a maximum of 1,000. I think it is a bit insensitive because we need to appreciate the fact that our society is unique in the way people live together and are mobilised. Sometimes it comes with a lot of other challenges maybe in terms of family setup, religious setup and community setup. There are many factors that determine a given population. Some of them are a question of the distance in terms of where they settle. We need to also accommodate the unique challenges in some of these provisions.

Lastly, I travelled to Australia the other day and I realised Kenyans are yearning to participate in contributing to governance matters of this nation despite the fact that they are outside there. If you listen and evaluate the number of immigrants from Kenya who have migrated outside the country, it is a critical mass that can contribute to the provision of the Constitution on determining the winner of 50 plus one. The biggest challenge we have is the preparedness of the IEBC to ensure that some Kenyans who have acquired dual citizenship and some who have just migrated due to the aspect of opportunities, college or school, but cannot have a moment of exercising their right to vote as provided by Article 1 of the Constitution, are able to vote. It is the right moment, as we resource the IEBC, let them also demonstrate that there should be a deliberate plan to conduct voter registration in diaspora like Australia where I came from. It is a vast country and also a continent on its own and there are critical numbers in every part of it. We need the IEBC to conduct voter registration in every part and also plan to ensure that elections are being carried out in that country. It should not be in Australia alone, but also in America, Europe and other countries like the United Arab Emirates (UAE) where Kenyans have shown interest in moving to look for opportunities.

I support this amendment, but let us be careful. As we look at it, let us not worsen it and go back to the problem, but rather let us fine-tune it and sort out the grey issues that have been mentioned severely by the courts like the Supreme Court, so that we sort out the problem. Lastly, we should ensure that the transmission of results, the question of national tallying and the outcome of the polling station should come out very clear. If we fail on this one, again, we

find ourselves in the problem we had in the Maraga ruling where the forms that were remitted and the actual forms that were carried to the tallying centre were varying.

I support the amendment.

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

Hon. Kuria Kimani (Molo, UDA): Thank you very much, Hon. Temporary Speaker. I thank the Committee for such a brilliant job on this particular Bill. I have two contributions to make. One of them is that I am looking at it from an accountant's perspective. When you look at it from a lawyer's perspective, how much does it cost to cast a vote in this country? I was trying to do a small analysis on how much it cost for a Kenyan to cast a vote in an election in 2022 and it was approximately Ksh2,600 per vote which is approximately US\$20 per vote. How does that compare with the cost of casting a vote in other jurisdictions? For example, if we compare that with South Africa, it costs four times more in Kenya than it does in South Africa, which means that if a Kenyan casts a vote, it will cost four votes in South Africa.

The Temporary Speaker (Hon. Peter Kaluma): The Chairman of the Departmental Committee on Justice and Legal Affairs is urged to listen very keenly to the contributions by Hon. Kuria Kimani on the cost of elections.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Speaker. I started by saying the lawyers are having their day on the legal issues. The accountants would want to give a fiscal side, the numbers side. I know CPA Mayaka is listening very keenly. Let me repeat for the sake of clarity. It cost Ksh2,600 in the last election to cast a vote, approximately US\$20. The cost of one vote cast in Kenya would have meant four votes in South Africa. That means South Africa's four votes are equal to the cost of one vote in Kenya. Better still, for Ghana, it is ten votes, which means that the cost of our elections is extremely high compared to global standards.

If I give an example of the United States of America, the cost of a vote in a State like Oregon is that one Kenyan vote costs 8 votes in Oregon. In the United States of America, the elections are held differently per State, but if you check the benchmark for the whole country, it is still four times cheaper than one vote in Kenya which means that even as we think about these elections, we must think as Kenyans what the actual cost of casting a vote is. Even when this is a very important democratic process, where does this money go? How do we make sure that we reduce this cost? I was sharing with the Chairman of JLAC and he informed me that this financial year, they allocated Ksh48.7 billion to the IEBC and the IEBC was asking for a lot more. According to the IEBC, this means that even the Ksh2,600 which is much more expensive than the global average is still not enough for them to run this election. That was point number one.

The other point is that if you look at Article 103 of our Constitution, on the matter of belonging to a political party, I am elected by the great people of Molo Constituency on a United Democratic Alliance (UDA) ticket. This means that when the people of Molo went to vote, there were two factors that were very important. One, there was a name. My name on the ballot paper was Francis Kuria Kimani. But number two, there was a party symbol and that was UDA. This means I am in this House because of my own campaigns or my own contribution as Francis Kuria Kimani. But also, importantly, I am here because of the party that sponsored me to this House, which is UDA. This means that UDA and I have a contract of five years, until I seek a different mandate in the next election. But then, at what point do you change your party?

Hon. Temporary Speaker, if you compare this with the Political Parties Act, it is very clear that there is no room for party-hopping. That is very clear under Article 103 of the Constitution and under our Political Parties Act. What we may want to look into in this particular amendment is what the consequences are if we do not adhere to Article 103 of our Constitution and the Political Parties Act in terms of party-hopping, so that you do not just

wake up tomorrow and decide: Now I have become clever all of a sudden. Hon. Temporary Speaker, for example, in this House, we are very few. Where are the rest of our Members? They are seeking a mandate in the next election in a different political formation from the one which sponsored them to be in this House.

Hon. Temporary Speaker, even more importantly, they are being paid. I saw one of my brothers, I think in Nyeri today or somewhere else, on top of a campaign vehicle, telling people how they need to think about voting for them in the next election. They are being paid to be in this House, but they are on top of vehicles in a different political formation from the one which sponsored them to be in this House. As we think about these particular amendments, this House may have to be keen. The Constitution is very clear about which political party you belong to. But we have not been keen on implementing what the consequences are of changing your party membership or partly loyalty within the term during which that particular party sponsored you.

Hon. Temporary Speaker, we have a very good example of the late, (may his soul continue to rest in peace), Rt. Hon. Raila Odinga. When he felt that his political formation was bearing different ideologies from what he believed in, he sought a re-election. He forced a by-election for him to be elected and have a mandate where he could belong to that particular political party formation. As we celebrate the great milestone that was made yesterday in terms of the oil refinery in Lamu... And I am happy because the people that we are competing with have now, all of a sudden, become very clever. Instead of saying *Tutam*, or saying that: We have seen the wisdom and the excellence of this particular administration, they are saying: God is using somebody there. They are beating around the bush. We should just tell them: Just say *Tutam*. It will not cost you. It will not harm you. You will not die by just admitting that this particular administration is putting into effect things that have been on the plan for so many years.

Hon. Temporary Speaker, one of them was saying the other day: Why is this Dangote investing in Kenya? Why is he so quick to invest so much money? Some of these fellows, if you check the handles and I will ask the people to just go and check consistency in terms of the leadership and the messages of these particular people... One of them, two weeks ago, I want you to listen to this, exactly two weeks ago, the Member for Kiharu, my good brother and college mate from Kenyatta University, was praising Dangote and saying how this great Pan-Africanist has invested and was giving lessons based on Dangote. In fact, if you check *The Hansard* and his contributions in this House, most of them have a reference to Dangote, how Dangote is a great person, how he is a great investor and all that. Then, all of a sudden, just because he seems to have joined the political formation, he is saying that maybe Dangote is not the right person to invest in Kenya.

We must make sure that we hold our leaders accountable and adhere to Article 103 of our Constitution and the Political Parties Act, so that there is consistency. If you are elected on the Orange Democratic Movement (ODM), be in ODM, like my good friend, Hon. Ngoto and congratulations. We tried to defeat you, but you defeated us. The way you are in the Democracy for Citizens Party (DCP), continue being in DCP from now onwards. The same way I am in UDA, I will continue being in UDA until the end. And I will defend my seat for the Member of Parliament for Molo Constituency under the UDA ticket and under this broad-based government.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Kimani, before you sit, Hon. Gitonga Murugara was seeking to inform you. Do you want to be informed?

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, Sir George Murugara, a qualified, competent, experienced lawyer, can inform me any time of the day.

Hon. George Murugara (Tharaka, UDA): Thank you very much. I have two points, Hon. Temporary Speaker. One, it is good to say why our election is that expensive. And this is fascinating because, in Africa, Kenya conducts one of the best, most verifiable elections. This

is purely because it is also very, very sensitive to the country. Elections in Kenya are emotive. They are very sensitive. To print one vote in Kenya is about Ksh49. You compare that with Tanzania, which is Ksh60. In Uganda, it is Ksh70. But the distinction is the security features on our vote. They are up to about 10 security features. I dare you to try and have only one security feature or no security feature at all. I can assure you that your ballot boxes will be full of votes printed ballot papers from River Road, Eastleigh and everywhere else, including Tharaka. They are just printed and stuffed.

So, to ensure that our election is fair and credible, as happened in 2022 and was upheld by the Supreme Court, we have to put in mechanisms that are expensive, but justify the election we are going to have. One is the cost of the ballot. Number two is the way to move around, from the date you register voters to the date they vote. The manpower, what happens at a polling station, which is the last place where you vote, we have to ensure that we have enough manpower. We have to ensure that we have enough electronic power and everything we need and this is why it is expensive.

Hon. Kuria Kimani (Molo, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Chairman, you are not yet done. You wanted to inform Hon. Kuria Kimani. Hon. Kimani, do not worry. You will have a rebuttal in my guillotined time for this purpose. Where are our ballot papers printed?

Hon. George Murugara (Tharaka, UDA): Some of them are printed out of the country, and it is purely because of security.

The Temporary Speaker (Hon. Peter Kaluma): And our currency?

Hon. George Murugara (Tharaka, UDA): Now it is out of the country. We used to have De La Rue here that did a good job. Remember, De La Rue does not need to be anywhere. To be frank and honest...

The Temporary Speaker (Hon. Peter Kaluma): Why can Government Printers here in Kenya not print the ballot papers?

Hon. George Murugara (Tharaka, UDA): They cannot because of the security features.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara, as the Chairman of the Departmental Committee on Justice and Legal Affairs, I want you to clarify. Before I give the Hon. Leader of the Majority Party time to also inform Hon. Kuria Kimani, if he agrees, there is a country we visited called Estonia, and people vote from their phones.

Hon. George Murugara (Tharaka, UDA): Oh, yes. We are moving towards that. In the United States of America, very little paperwork is done.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara, beyond the many security features in your ballot papers and your engendered lack of public trust in Government Printers, why should a single vote in Kenya cost more than Ksh2,000?

Hon. George Murugara (Tharaka, UDA): It is purely because of credibility. In the first instance, that ballot must be credible. However, because of our literacy levels, we cannot do much on telephones or in our houses. We still have to move physically to a polling station.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara, as the Chair of the Departmental Committee on Justice and Legal Affairs (JLAC), you know that at every polling station there are Independent Electoral and Boundaries Commission (IEBC) officials who are required by Article 88 of the Constitution to secure the sanctity of the electoral process. Each candidate also has an agent.

Hon. George Murugara (Tharaka, UDA): Absolutely.

The Temporary Speaker (Hon. Peter Kaluma): So, where is the problem?

Hon. George Murugara (Tharaka, UDA): The problem is that if you are not careful with the security features, especially in Kenya, your ballots will be stuffed.

The Temporary Speaker (Hon. Peter Kaluma): The Leader of the Majority Party is interjecting.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I have immense respect for Sir George, whom I know to be a believer in Kenya. He ought to also be a believer in Kenyan corporates.

First, De La Rue is not a government entity. It is a private corporate entity. It is also not true that our currency was being printed outside the country. For years since Independence, we have printed our currency locally. It is only in the last contract that De La Rue lost to a foreign competitor through a bidding process because it was an international tender. However, that is not to say that we do not have the capacity in this country to print with all the necessary security features, including watermarks and the metallic strip. It is sad that I do not have any currency on me; perhaps Sir George can help me in that respect. Our currency, as printed today, is also printable here. We have the capacity to print it. It is not that the country lacks capacity; it is our attitude as Kenyans. There is mistrust amongst us, and not among ordinary Kenyans. That mistrust is driven by politicians who tell Kenyans that if these ballot papers are printed in Kenya, their elections will be stolen.

Hon. Temporary Speaker, as you guide Sir George, I want to agree with you that the IEBC is obligated to ensure that the sanctity of the vote is protected. Besides having agents, you also have observers. I have been on observer missions in the United States of America (USA) and the United Kingdom (UK), and when you go to those countries, you realise that the most policed or prefected election you will find anywhere in the world is in Kenya. We have the most prefected election because we lack trust in each other. It is not Kenyans who are to blame, but politicians who mislead them, largely because we are unable to transact our politics on the basis of ideas and ideologies that we can propagate to the people of Kenya. We want to sell hot air and nonsense, ethnic bigotry and hatred, as you have seen in the recent past. If we developed an agenda to sell to the people so that we could compete on ideas, our politics would become a competition of ideas on how to move Kenya forward. Today, tribal bigots are competing over who can best mobilise their ethnic community against other ethnic communities. That is where the problem is.

I want to inform Hon. Sir George that we have the capacity in this country. Indeed, we should be leading the way in ensuring that our ballot papers are printed locally. In this day and age, with all the knowledge in information technology, there is no reason for us to print anything outside the country. It is possible to produce ballot papers with barcodes in this country, and that can bring down the cost of printing. I know Sir George listens a lot to the IEBC and other tenderpreneurs who appear before committees to justify the high cost of conducting elections. The Departmental Committee on Justice and Legal Affairs oversees the IEBC and they listen to them when they appear to justify the huge budgets. However, as responsible leaders, we must be in a position to moderate those costs.

When I looked at your body language, that is the direction you were prompting Sir George, as the Chairman of this Committee, to begin thinking about moderating the cost of our elections. It is true that democracy is expensive, but it should not be as expensive as it is in this country. In the Bill, we are separating the roles of the IEBC in terms of registration of candidates and party nominations. Which political party in this country prints ballot papers for its party nominations outside the country? Yet, we trust the party nomination process. The candidates who proceed to the election through the IEBC have been nominated through a process that does not meet the same threshold as the one we are putting in place for the IEBC.

(Laughter)

I told Sir George and I dare repeat it here that I had an occasion to engage with the IEBC Commissioners during the recent engagement we had with you and the Members of the Liaison Committee in Mombasa. There are huge tender wars at the IEBC. There is a problem with tender wars among the staff and commissioners. When we were in Mombasa, we told the IEBC, in no uncertain terms, that tender wars must come to an end because that is what drives the cost of elections up. Everybody is looking for something to take home. Let us first deliver a credible election to the people of Kenya and then think about business. If you want to do business, do not be in the IEBC. Go out and do other things in business. I can show you what business to do, even if it is the other small business I do here in Dagoretti. We must not take tender wars into our electioneering processes.

You saw politicians, the same ethnic bigots who have no agenda, no vision and nothing to sell to the people of Kenya, taking their own tender wars into the IEBC. Why did they do that? They had gone out there and negotiated things, and when the offices for which they were negotiating tenders for the next elections went up in blue smoke, all that was lost. They then started instigating fights over tender wars. There will be no tender wars. We must have a credible election at the cheapest cost possible.

As a House and as the JLAC Committee that oversees the IEBC, we have a duty to ensure that we spend our money prudently. It is one of the key principles under the Public Finance Act: prudent utilisation of public resources. It is this House that has that role, not even the Senate, as much as this is a Senate Bill. This House will appropriate resources to the IEBC and other Government agencies, such as the security agencies that will assist in ensuring that there is order and security during the electioneering period and the elections.

Therefore, I want to agree with your body language because I could read from the questions you were putting to Sir George. It is possible for us to have a credible election managed, overseen and observed by our friends from elsewhere, but at a prudent and rational cost to the people of Kenya. There is no reason to spend so much money and then end up with a country that cannot feed its people or educate its children because we have spent all our money on an election.

In the recent past, agriculture, education and the roads department in terms of infrastructure have been the heaviest spenders of public resources. In the next budget, the heaviest spender will be the IEBC because of the elections. What do we get out of it? What public good do we get out of it? Why should we go into a very expensive election and end up with very bad leaders?

(Laughter)

It is a fact of life that you can go into a very expensive election and still end up with leaders who are tribal bigots. You end up with leaders who just talk about shares and how some Kenyans are more important than others. It is too costly not just in terms of resources, but also in terms of the public psyche. I know that some may be hurting, but that is the way it is. So, let me leave it there because I can see the bearded young Member from Ol Kalou is getting uneasy. I heard him at a public function - I think at a funeral in Ol Kalou - saying, "Whenever I stand in Parliament, Hon. Ichung'wah fears me." My friend, how can I fear you? I do not fear beards. I fear intellect, and you have done nothing to bring intellect into this House. You have never moved any Motion that shows intellect. You have never articulated anything on behalf of the people of Ol Kalou that would show intellect. The only thing I have seen is beards and saying that you will come and urinate in the urinal in Parliament.

Hon. Douglas Kamau (Ol Kalou, DCP): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Member for Ol Kalou, you cannot be on a point of order against a point of order.

(Hon. Douglas Kamau spoke off the record)

No, he is on a point of order. You do not debate with the Speaker.

(Laughter)

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Speaker, the Member claims that he wants to inform me yet I am on a point of order. It is good that you are educating him. This is part of the learning process he should be going through. When a Member is on a point of order, you cannot be on another point of order. When you want to inform a Member, it is that Member’s prerogative to allow you to inform him, as Hon. KK allowed Hon. Murugara to inform him.

Having said so, the Member for Ol Kalou cannot inform me on any subject under the sun other than growing beards, and I do not desire to grow beards. Other than the AI-generated maiden speech he made in this House, I have nothing else I can get from him.

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Ichung’wah. You stood on a point of order. You cannot do anything other than the issue you are to address. Hon. George Murugara, the Leader of the Majority Party intervened when you were informing Hon. Kimani Kuria. Did you give all the information you were to give to Hon. Kimani Kuria? Please, conclude.

Hon. George Murugara (Tharaka, UDA): I was to conclude with De La Rue. As much as it had a foothold here, it was not a Kenyan company. It is a French company. It is the one that prints French Francs and other currencies for countries all over the world. The reason it lost...

The Temporary Speaker (Hon. Peter Kaluma): Hon. George Murugara, we do not want to lose the point being made by Hon. Kimani Kuria and Hon. Ichung’wah. The question is why the Government Printers cannot print the ballot papers considering that during voting, every candidate has an agent, and the votes are counted and the results are declared at the polling station. Also, according to the Kiai ruling, those results are final.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, the ballot must be sacrosanct, and we have done it before. Possibly, we have done it locally and had issues. That is the reason as to why we have developed the 10 security features. I do not know whether if we printed the ballots at the Government Printers I would have my reservations, but I leave that to myself. It is the 10 security features which are very important. The reason is that sometimes you can print the ballots out there and they are cheaper than when you do it here. An example is the currency we have been talking about. The reason as to why De La Rue lost the contract is that it became too expensive to print the money locally, and some other company out there said they would print the same money cheaply. We have to look at all the aspects, including whether printing the ballots locally is cheaper than printing them abroad. I leave it at that level.

The Temporary Speaker (Hon. Peter Kaluma): You have given the information you were to give. Hon. Kimani Kuria, have you been sufficiently informed?

Hon. Kuria Kimani (Molo, UDA): Yes.

The Temporary Speaker (Hon. Peter Kaluma): Can you then conclude your contribution? You only have two minutes to do so.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, there are two important facts that the Chairman seems to miss.

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

The Temporary Speaker (Hon. Peter Kaluma): Yes, Hon. Millie Odhiambo-Mabona.

Hon. Kuria Kimani (Molo, UDA): I cannot be out of order.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. I am just concerned that in this House, the issue of beards has taken a very prominent place. Are beards parliamentary? You need to make a ruling on this because the beard seems to be an issue of concern to Hon. Kimani Ichung'wah. I do not know if he is scared of them because he says the only thing that scares him is beards.

Are beards parliamentary? If they can scare Kimani Ichung'wah, what about the women? This is not only an issue of whether it is parliamentary, but also a gender issue. If you read the Bible in the Book of 2 Samuel...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Millie, what is your concern with the beards?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Yes, are beards parliamentary? In the Book of Samuel, when King David sent his emissaries to send condolences to another country, to embarrass them, they cut off their beards halfway. So, I do not know if maybe that is what Hon. Kimani Ichung'wah seeks to do here - to cut off those beards. That is why I feel the beard should not be allowed in Parliament. Everybody should come in uniform, with no beards in Parliament.

The Temporary Speaker (Hon. Peter Kaluma): Yes, my ruling has been requested in that regard. How we should appear in the House is prescribed in the Standing Orders. In terms of how we appear, we are required to be neat and dignified in our appearance, and the manner in which we should dress is also prescribed in the Standing Orders. For all our purposes, therefore, it is not unparliamentary to be bearded, save that the beard should be well kept like the beard of the Member for Ol Kalou, and not the other beard I see in our sister House.

Yes, Hon. Kimani Kuria, conclude.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, Hon. Millie Odhiambo might have missed the complete sentence of the Leader of the Majority Party. He said that he is only scared of intellect. Intellect is what matters in this House, nothing else.

In my conclusion and reaction to what Hon. Murugara has said, let us not lose track of the cost of printing a ballot paper in this country. I said it is the highest in the world at US\$20, or around Ksh2,600. The Chairman of the Departmental Committee on Justice and Legal Affairs is completely out of order because of what he claimed when informing me about the security features in a ballot paper. Let me inform him. The cost of printing a banknote in Kenya is Ksh6.84. We spend Ksh6.84 to print a Kenyan banknote. With all the security features that you see in the Ksh100, Ksh1,000, Ksh200 and Ksh500 notes, it costs only Ksh6.84.

The new notes issued by the Central Bank of Kenya were printed outside the country, in Germany. That was the first time it happened. If our notes can be printed at Ksh6.84 in Germany, there is no way you can tell us that because we have security features on a ballot paper, then it costs us Ksh2,000. Most importantly, what is the cost of printing the ATM card that you use—that Visa Card or MasterCard, which is even tailor-made? It has your name on it. Whether you have a Black Card or a Gold Card, it is tailor-made for you, with even your name. It costs between Ksh20 and Ksh60 to print that card. That includes printing, lamination, the chip incorporated in the card, whether it is MasterCard or Visa Card, cutting and personalisation. Even if you are now like Hon. Kaluma and your card reads “Hon. Kaluma”, if you wanted “Senior Counsel Kaluma”, even personalising that card costs between Ksh20 and Ksh60. How is it costing us Ksh2,000 to print an A4-sized paper for a ballot paper? It is incomprehensible. It is a waste of public funds, and there is no excuse for how much we spend on it.

The Committee must look at the cost and make sure that the cost of elections does not become too expensive, especially when we have many other priorities as a country; like education, healthcare, infrastructure development and electricity infrastructure development.

Let that money go to where Kenyans really need services and not to print one ballot paper for Kshs2,600 and...

(Technical hitch)

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Let us have Hon. (Dr) Gideon Ochanda. He will be followed by the Member for Ol Kalou.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Speaker. If you look keenly at the amendment Bill, it is largely the NADCO Report recommendations and the Judiciary resolutions. As we sometimes lament over the Presidential Memorandum, when memoranda are brought back to the House from the Executive, we need to lament similarly as we look into this issue, particularly the Judicial referrals when we have a legislation with unconstitutional provisions. For purposes of this amendment Bill, we have five or more amendments that are basically Judicial resolutions. These are things that our good friends, Hon. Kimani, the Leader of the Majority Party, and Hon. Murugara were debating.

On the cost, if you look at how we are going to implement this amendment Bill on issues around a polling station, you will realise that there will be additional costs even with this amendment Bill. That is where the Chairman, Hon. Murugara, should look at. What are the additional costs that this amendment Bill is placing on us per polling station? If you look at the Bill that way, you will realise that it is going to cost us much more. I will get back to that.

One thing that is very good and important in the amendment Bill is the issue of constant voter register inspection. The IEBC commissioners and their staff at the constituency offices are permanent. I have been wondering why inspection of voter register is done only twice or thrice within a five-year period. Therefore, this is a critical amendment. It is good that it remains a permanent feature until 60 days away from the date of election. In my view, that is a good amendment. Everybody will have space and the register will be open throughout in offices so that it can be inspected any time.

I want to connect what I was talking about previously and the burden that this amendment Bill will place on a presiding officer. There are administrative, logistical and financial burdens that are bound to be placed on a presiding officer with these proposed amendments that we have in the Bill. If you look at the electoral law critically, returning officers are only at two levels. We have a county returning officer and a constituency returning officer. In Nairobi at the tallying centre level, in real sense, we do not have a clear term for a returning officer. At the polling station level, we also do not have a clear term for a returning officer. We have a presiding officer.

However, if you look at this amendment Bill, there is a lot of work that is placed on the presiding officer that is much more than any other returning officer. Presiding officers are the people who work in the remotest parts of the country. They work at polling stations which, as we know, have all manner of challenges, including transport and communication networks. They are now going to be given such a huge role here. In the first two hours after the closure of a polling station, they are supposed to send in the election results, the first one being the presidential result which they must do as a first charge function. There is usually all manner of candidates at the polling stations. This legislation is proposing that the presiding officer must give the tally of voters individually to the candidates. If you look at the number of candidates that are usually at a polling station, you will understand the kind of burden we are placing on a presiding officer. Besides that, they are also supposed to give the results to observers at the level of the polling stations. So, if you look at the Bill critically, the administrative burden that will be placed on the presiding officer is so heavy. Their results for the Presidential election will be final. If you look at that hierarchy of electoral officers, they are the lowest officers yet they are the ones with the biggest responsibility in terms of the elections that we are talking about.

Overall, as we go through the Bill and as the Chairman of the Justice and Legal Affairs Committee looks at the Bill, we need to focus more on the presiding officer at the level of the polling station. So much burden will be shifted to them. There is nothing much that a constituency returning officer and a county returning officer will be doing because all the work will be done at the polling station level by the presiding officer, including tallying figures that will be tallied at the national tallying centre. So, as we look at the Bill, it is important that we look at the decisions that were made by the Judiciary in terms of the cost value related to where functions are placed. Functions are much more placed at the presiding officer level in a polling station where there is least infrastructure, least network, and many other things, including the least pay.

I rest my case.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ochanda, just on the point that you were making, can you look at Clause 20? Do you have the Bill? The clerk will pass to you the Bill. In Clause 20, there is the proposed New Clause 38A(b).

Hon. Members, I am insisting that we interact a bit more with the Bill because it concerns elections as well as their costs, verifiability, transparency and integrity.

The Chairperson of the Justice and Legal Affairs Committee has, again, stepped out. Hon. Ochanda, you do not have the Bill?

Hon. Gideon Ochanda (Bondo, ODM): It was erroneously carried away by my neighbour, Dr Nyikal, but I can look at yours, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Clerk, give him Clause 20. Hon. (Dr) Ochanda is so sharp. He did not carry his Bill, but he made very relevant contributions. Now, if you are looking at Clause 20, the proposed New Clause 38A(b), can you just read it to the House within your time?

Hon. Gideon Ochanda (Bondo, ODM): Hon. Temporary Speaker, New Clause 38A(b) reads as follows:

38A. The Commission shall—

(b) publish in the *Gazette* and publicise through electronic and print media of national circulation and other easily accessible medium, a notice specifying the polling stations established for each electoral area at least three months before the date of any election.

The Temporary Speaker (Hon. Peter Kaluma): You now see the point you were making in terms of costs. Before a polling station is designated as such, it is initially gazetted as a registration centre. The voters register there and it is populated to some number, then it is made a polling station. Why do you need to require by law the publication in media with national circulation as a mandatory requirement of the names of polling stations where people have already registered anyway? So, I was just urging the Chairman of the Justice and Legal Affairs Committee to, in line with your point, look at such provisions and see whether they are just increasing costs or they are really serving any more meaning.

Hon. Gideon Ochanda (Bondo, ODM): You are very right, Hon. Temporary Speaker because there is quite a bit of duplication if you look at the Bill critically, in terms of things that go back and forth.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. The Member for Ol Kalou is now recognised to make his contributions. Had you made your maiden speech?

Hon. Douglas Kamau (Ol Kalou, DCP): Yes, I did. Thank you, Hon. Temporary Speaker. First, I want to respond to the issue of whether a person holding an expired passport should be allowed to vote or not. As you are aware, a few months or years ago, they introduced a system where even identity cards would have expiry dates. Knowing the status of our economy right now, some people may not have renewed their passports. That is something that

is well thought out and as long as someone holds a passport, it shows that he is a Kenyan and should be allowed to vote.

I also wish to echo the words that were used by Mhe. Francis as he exits the House. Hon. Francis said that Article 103 states that when you are a member of a party, you should stick to that party. I wish to state here that what is good for the goose must always also be good for the gander. Going to 2022, the Member himself, who was a member of the Jubilee Party, had already joined the bandwagon that was the United Democratic Alliance (UDA) while he was still a member of the Jubilee Party. Now that he is in UDA, he insists that he will stick to UDA.

Hon. Fatuma Mohammed (Migori County, Independent): On a point of Order.

The Temporary Speaker (Hon. Peter Kaluma): What is out of order, Hon. Fatuma?

Hon. Fatuma Mohammed (Migori County, Independent): Hon. Temporary Speaker, I am not a member of the UDA Party, but I belong to the biggest party, namely the Orange Democratic Movement (ODM), which is followed by UDA in size. The issue that the Member is raising here—calling a political party a bandwagon and claiming that somebody had already joined that party—I do not think that is the matter we are discussing here. We are discussing a very important issue. This is not a political rally. Such statements are for political rallies. So, I am begging the Member to stick to the matter before the House. Although I am also a first-timer, I can give him a few lessons. I was in this House before him. We should stick to the matter we have at hand.

The Temporary Speaker (Hon. Peter Kaluma): Member for Ol Kalou, proceed.

Hon. Douglas Kamau (Ol Kalou, DCP): Thank you, Hon. Temporary Speaker. You know, the Member...

The Temporary Speaker (Hon. Peter Kaluma): Order!

Hon. Douglas Kamau (Ol Kalou, DCP): I am sorry, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Member, there is, within the Standing Orders, a rule on relevance. Therefore, just keep to the Bill. The Member will now make his contribution.

Hon. Douglas Kamau (Ol Kalou, DCP): I quite agree, but it is something that was addressed on the Floor. The Chairman of the Departmental Committee on Finance and National Planning, if you allow me...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Member, you are making contribution on the Bill.

Hon. Douglas Kamau (Ol Kalou, DCP): I am addressing Article 103.

The Temporary Speaker (Hon. Peter Kaluma): You are not allowed to revisit matters which are not on the Floor.

Hon. Douglas Kamau (Ol Kalou, DCP): Thank you, Hon. Temporary Speaker. I said Article 103 had been well deliberated upon by the Member and the Chairman of the Departmental Committee on Finance and National Planning. He said that Members must stick to the political house or the political—I said bandwagon. It is English. That is a vehicle that takes you wherever you want. You must stick to the bandwagon or the party that took you to office.

I wish to say here that the reason as to why the costs of elections are high is because of systemic reasons related to why people have had reasons not to trust the actual process. I believe you are a member of a political party where the party leader - may God rest his soul in peace - had to endure a systemic challenge. It was not even mistrust; he had been castigated by a process that people believed in. We say we must print our ballot papers outside the confines of our country because of situations where people believed that elections had been carried out in the wrong ways. So, if we can instil public trust, I believe the cost of holding elections will go down.

It is also good to state here that a tiger never announces its intention. It just pounces. Someone claiming how intellectual they are leaves so much to be desired. It should be seen on the Floor, or in whatever they do, not by declaring their tigritude.

(Hon. Kwenya Thuku spoke off the record)

Hon. Temporary Speaker, Hon. Kwenya should rise on a point of order rather than shout, my good friend.

As I end, we are moving towards the 2027 elections. It is something that we must all and sundry believe in. We should put all our personal interests aside, because Kenya belongs to all of us. It is not who wins what matters most. It is what is left of a country that is so divided right now. As we discuss the amendment Bill, we must look at what will help save this country from going to war come next year. What is it that we should do that will help our country not to burn?

The Temporary Speaker (Hon. Peter Kaluma): You have vindicated yourself very well for the entire world to see the intellect you have carried to the House.

Next is Hon. Thuku Kwenya.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Speaker, for this opportunity to add my voice to the debate on the amendment Bill. As many speakers have stated, elections in Kenya are very contested. They are contested because of the emotions that come with them. Therefore, the need to try and strengthen our electoral laws is not something that we can overstate.

As much as we do this, we must also be very cognisant that our country does not come to an end, and the elections are not an end in themselves, but a beginning of a journey of five years during which we are supposed to serve our people. Spending a whole Ksh50 billion on an electoral process is self-defeating and painful. I am saying this because I have listened to previous speakers trying to give an analogy of how much money we spend even in terms of printing some of the most sensitive documents that we hold. From a banker's background, I wonder how it is that we trust everything else but not our own processes in terms of electoral processes. You trust a system that you use every day to transact your money, yourself and your family. That is so dear to you. We trust a platform where we transact and trust that our money cannot be stolen; not even a shilling. However, we cannot trust that we can hold elections the same way, have an election that is moderately financed to an extent that we can reduce the Ksh50 billion budget allocated to it to just Ksh5 billion and conduct the election by the dint of having a phone, casting the vote and trusting that the process of voting can be verifiable because it is possible to audit a system.

We want to invest money to print an A4 paper. I have listened keenly to the Chairman of the Departmental Committee on Finance and National Planning enumerate how much it costs to print that single ballot paper. It cannot be. It is mind-boggling to even think that we are spending about Ksh2,000 to print a single ballot paper. It is not something we can allow to pass if we are a responsible Parliament. We must start bastardising the whole idea of mistrust so that we come back and start trusting our systems.

This Bill is trying to cure some issues, but is still introducing some very painful reality that would cause our elections to be very contested, especially on the issue that has been brought out about passports. The fact that you hold a passport that has an expiry date means there is a reason as to why you are required to renew your passport. It is possible to hold a dual citizenship. It is also possible to lose citizenship. If you lose citizenship and you are still a holder of an expired passport because you cannot renew it, because you lost your citizenship and you are allowed to vote, is that not an illegality?

Again, I want to draw a parallel here, a comparison. If it is true that I have to renew my driver's licence, and if I drive with an expired driver's licence, I can be arrested and arraigned in court to answer charges of using an expired driver's licence. Then the same measure should apply across the board. If your passport is expired, it is not a passport anymore. It is not an identity that you can use to claim that you are a citizen of Kenya because that document is conditional, or it has a stipulated time or has a lifespan. Once it has expired, it no longer gives you the right to claim that you are a citizen. Therefore, in our amendments, if nobody else is going to introduce this, as a law-abiding and responsible legislator, I will introduce an amendment to strike out the use of a passport as an identity document for voting purposes, especially if it is expired.

Hon. Temporary Speaker, there is also another issue that I do not know how Parliament will address. We must be cognisant that once an election is done, winners are declared and all the court processes are settled, there must be a period during which people who have been elected to offices must be allowed to work. We must define in law what constitutes a campaign period. That way, if you are caught campaigning ahead of time, then you are barred from contesting in any subsequent election. We have been treated to a situation where after an election, we get into an election campaign again. We have seen all sorts of branding in our cities and in our rural areas. There are writings everywhere yet we are treating this as a normal occurrence. As a country, we must be responsible and know that we have a duty to serve our people for a stipulated period of time. The IEBC must wake up to this reality. If they are mandated to come up with electoral regulations, let us see them criminalising and even heavily penalising those who campaign ahead of time.

I also wish to speak on the issue of party-hopping and nominations, especially where MCA are nominated by their parties and party leaders. It is unacceptable for someone to be nominated as an MCA of Assembly X yet they are not registered voters within that jurisdiction. It defeats the whole purpose of having that MCA sitting in that assembly. I therefore, support that every nominated MCA must be a registered voter within that jurisdiction. That will cause them to really represent the interests of that county as they are supposed to.

Finally, I think it is in order for this country to introduce a course for anybody who runs for any electoral position. It is unfortunate that no other paper is needed for you to run for any electoral office. We must have a set level of education to prevent electing people who do not understand even the basic procedures of the House. We need to have a level of academic qualification. But since our courts have ruled that you do not need an academic qualification to run, I think the IEBC or Parliament can introduce some basic education on national interest. That way, when you are elected to serve the people, the national interest comes first. We cannot have people who are so reckless to bastardise any form of progress that this country is making just because they want to be elected. We must wake up to the fact that elections come and go, but we have a country to run. If we do not change our attitude towards this country, we will be electing people and after an election cycle, we return where we were. I think the IEBC and Parliament have every mandate to introduce education on national interest before allowing anybody to run for a political position in this country.

With those remarks, I support the Bill, but of course, with some amendments that I will propose at the appropriate moment.

The Temporary Speaker (Hon. Peter Kaluma): Hon. David Ochieng' is recognised to make his contribution.

Hon. David Ochieng' (Ugenya, MDG): Thank you, Hon. Temporary Speaker. It is so unfortunate that since you and I have been in this House, the laws concerning elections are always brought at the tail-end of Parliament. I have been looking at what is being proposed here. There is nothing we did not know we would need to change in 2022, 2023, 2024 or 2025. Why must IEBC wait until the tail-end of a Parliament to bring amendments? You know, the

amendments may be good, but people may read sinister motives. Why so late in time? Where have they been? This happens all the time. I remember the election laws that we passed before the last elections that came after the Building Bridges Initiative (BBI) process, and we had to fight here with water bottles. I am happy that today we are debating election laws with such decorum and sanity.

As a country, we need to agree that our electoral laws should be certain and predictable so that people know what the law is. One year to elections, we were still changing election laws. It is just not right. It is not how you run an electoral system. This further erodes trust in our electoral process. People think there is something we are trying to fix that should have been done earlier. Are we trying to rig an election? In future, Parliament should introduce a law that prohibits the enactment of any election laws two years to an election. That will enable us to deal with these matters properly. Similarly, we cannot change our Standing Orders to favour ourselves in the current Parliament. We should also provide that election laws should not be changed two years to elections so that they are predictable. That way, the Commission will prepare for elections knowing that this law will not change.

Secondly, Hon. Temporary Speaker, to add to the previous speaker's contribution, not to degrade small menial jobs like guards and house managers, who we call house helps, but it bothers me a lot that we require them to speak some English and Swahili so that they can communicate with our children. Previously, to cure the issue of education, contestants were required by the ECK to take English proficiency tests. You were required to take a language test. We are now running a country where you are told that you can be elected to any position without having any basic level of education. It is a terrible situation.

In Uganda, to become a Member of Parliament, you must attain A-level or Form 6 certification and everyone knows. How you get it is your prerogative as long as on the day you are being registered as a candidate, you have attained a Form 6 certification. There is nothing wrong with that. There is nothing discriminatory about having at least some basic minimum level of education. That is why sometimes this House is empty. Members of Parliament come here to file and scan their finger because they have nothing to say. Some of them did not go to school. The truth is that they have nothing to say. It is not fair to the country. You cannot run a Parliament where anybody can walk in. It is just not fair. We suffer to attain quorum every now and then.

There are Members who walk into the House and sometimes I beg them to say a single thing. *Sema kitu*. They lack confidence and capacity. Sometimes the public judges this Parliament very harshly yet we are the ones saying we should have Members of Parliament who have not attained any level of education. How do you have a vibrant Parliament that can do things that need to be done when anybody can come to Parliament even if they did not go to school at all? It is wrong. Let us have a basic minimum requirement of Class 8 certification for anybody running for MCA and then introduce the English proficiency test so that they are able to communicate.

Today, Hon. Temporary Speaker, you cannot follow any county assembly proceedings. They do not happen. To add to this, we are talking about nominations. When you go to county assemblies, you find so many people, mostly ladies, who were brought in as a top up, who only speak at funerals. They are only sent for harambees at church functions. They cannot contribute to debate in the county assembly. You will never hear that there was a debate in a certain county assembly on a matter because MCAs have no capacity to debate. Speakers are negotiated and have no capacity to guide a debate. Thereafter, you hope that somehow, through having county assemblies, the counties will be run well. We must have some basic education requirement for elected leaders. In this case, I will be introducing the same. Let someone go to court again. This has to be done properly. A governor must have a degree yet the MCAs who are supposed to oversee him do not have any qualification. All the MCAs follow governors to funeral

gatherings because they are not seen as people who are supposed to do things that help the counties they run.

I agree with one proposed amendment that I thought was long overdue. You cannot lock out your best minds from elections or from Parliament simply because they lost an election. I recall the struggle we had with this in 2013 when we were beginning to implement this Constitution. There was a gentleman, perhaps you do not know, who told one party leader to go and climb a tree and fall so that he could become disabled before he could leave the seat for him. It reached a point where my friends were being asked to resign from their parliamentary seats to allow leaders to come to Parliament, as we had become overly activist in our approach to law-making.

The late Hon. Raila Odinga, may the Lord rest his soul in peace, would have been in this Parliament in 2013 if this law had not been in place. We locked out everyone; Hon. Raila Odinga, Hon. Kalonzo Musyoka, and Hon. Musalia Mudavadi could not come to Parliament because there was a law that barred their names from being included on a list after they contested elections. It is a bad law. Thus, there is a need to change it, as elections can be won or lost. If you are a party running against Hon. Kaluma, I apologise for using you as an example, in Homa Bay Town, circumstances prevent you from returning to Parliament through this method. I believe this list should, indeed, be changeable after the elections. If a party has left their leader or if someone wishes to change, they ought to do so. This is a welcome amendment that we should all support, in my opinion.

Regarding the procurement of IEBC materials, especially technology, we cannot continue to have a situation where every election year we allocate a budget of Ksh10 billion, Ksh5 billion, or Ksh18 billion for election technology. No. I urge Hon. Murugara, the sponsor of this Bill, co-sponsored by the Senate, that the funds we are allocating to the IEBC this year should not go to procuring technology, but to inventing technology. Technology can be easily managed. They should develop their own technology and stop purchasing it. They should acquire what they need and then upgrade it every single year, similar to how iPhones work. They use the iOS operating system, which they upgrade annually. The IEBC should determine which system they want and purchase it. Once they acquire it, they will own that system and all the rights related to it. Therefore, every election year, as new technology emerges, they can simply update their system. They should not be buying election kits like KIEMS kits, which are now obsolete. Technology rarely becomes obsolete; rather, it is upgraded or updated based on new developments. I believe the practice of allocating money to the IEBC every year for new technology is just wasteful and ingenious, as it implies that only Kenya does not understand this. Hon. Temporary Speaker, the last time you were in India, which has 1.4 billion people, its electoral commission comprises three commissioners. Elections there are conducted, and within 24 hours, results for the entire country are available and no one contests them.

Please, allow me two more minutes, if you will. We cannot treat elections as a business where individuals are simply preparing to procure. As we speak, individuals are in courts, embroiled in tender wars. The IEBC is not functioning as it should because we have turned our elections into a business, rather than a process that enables Kenyans to express themselves. We must remove this commercial aspect from the IEBC elections. In fact, I believe that another body should be established, even if it is the ICT Authority, to handle procurement. The notion that every year people must contend with the IEBC over ballot papers is unfounded. Ballot papers are merely papers. Why should Kenyans accept that the cost of an election is three or four times greater than what it costs in the United States, the country that invented democracy? It is just unfair.

The Temporary Speaker (Hon. Peter Kaluma): How many more minutes do you need to conclude?

Hon. David Ochieng' (Ugenya, MDG): Three more minutes. It is wasteful that every single year there are known vultures waiting for elections. If you go to court today, you will find that the vendors who were in court during the last election are back in court today. This occurs every single election year. I believe we should remove the idea of procuring from the IEBC. The IEBC should just use whatever technology it is given. If it is ballot papers, we can procure them through the ICT Authority so that they stop getting mired in tender wars and can focus on their core mandate of running elections.

The idea of 700 voters per polling station is a scientifically derived number based on the fact that every voter would take one-and-a-half to two minutes. Allowing a larger capacity of up to 1,000 people, in my opinion, opens up the polling stations. Our voting times are fixed. They open at 6.00 a.m. and close at 5.00 p.m. Therefore, you can estimate how long the process will take. In my opinion, this is not a well-thought-out amendment, and the IEBC should forget about it. We have polling stations, and we know they can accommodate 700 people. Let us leave it at that and ensure that this process happens in the right manner.

Further, I believe the IEBC has no business in party nominations. Parties are clubs. If they decide they want to give me a direct ticket, so be it. Why should the IEBC get involved? Parties should be allowed to run independently. They should not be inviting the IEBC into their local and internal affairs. The only thing that must be done is to ensure that the Office of the Registrar of Political Parties properly strengthens the parties and has systems that can assist them in managing their affairs independently.

Hon. Temporary Speaker, I am pleased that we are finally undertaking something that is standard practice in all countries. The process of submitting papers to the IEBC is called candidate registration, not nomination. We are changing that law to align ourselves with the rest of the region regarding the day when those who aspire to run submit their papers. I wish we were not debating any amendments at this point in time, but because they are here, we will support them. However, when they fall short, we will shoot them down. I yield and thank you so much for your time.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. David Ochieng', for those informative contributions, which can only come from a party leader. Yes, Hon. Fatuma Mohammed.

Hon. Fatuma Mohammed (Migori County, Independent): Thank you, Hon. Temporary Speaker, for this opportunity. I support the amendments, but I have an issue with Clause 8A. It introduces a restriction that is not expressly required by the Constitution. Being registered in a different area does not make one less Kenyan because of where one lives. If I am registered in area A and happen to be living in area B now, it does not make me a lesser person based on my current residence. During the election period, I can decide to get married in another constituency. Just on the day of the election, I may move to another constituency, but now, because I do not reside in the place where I was previously registered, it puts me at a disadvantage. This is very punitive.

Hon. Dorice Donya (Kisii County, WDM): Hon. Temporary Speaker, may I inform Hon. Fatuma?

The Temporary Speaker (Hon. Peter Kaluma): Hon. Fatuma, do you want to be informed?

Hon. Fatuma Mohammed (Migori County, Independent): I will allow my sister to inform me.

The Temporary Speaker (Hon. Peter Kaluma): Please, proceed.

Hon. Dorice Donya (Kisii County, WDM): Thank you, Hon. Temporary Speaker. If, for example, our election is on the 8th, Hon. Fatuma is saying that she moved from where she

had registered to a place where she is working. The IEBC registers people within the stipulated time. So, by the time you are getting married, although she is married, perhaps she is representing others, still she will have registered in that ward where she will be nominated by the IEBC. Hon. Fatuma, we have a stipulated time for voter registration and a deadline, so it will not affect her. You will still be a voter in that ward.

Hon. Fatuma Mohammed (Migori County, Independent): Hon. Temporary Speaker, I appreciate my sister informing me, but she moved too fast. She should have allowed me to finish my statement so that she understands where I am coming from. Right now, I am a registered voter in Nyatike, at Macalder Primary School. I can decide to move to Suna West and live there. When the registration period closes, I am registered at Macalder Primary, but for business purposes, marriage, or any other reason, I have moved to a different area. That was my place of birth. It does not make me a lesser person in that county or a lesser citizen within the country. That is what I am trying to convey. This is very punitive, especially to women. I am speaking as a woman because I know we can fall in love and get married at any time. And for the record, I am not married. I am looking for a husband. Hon. Dorice, you can give me one if you have a rich Kisii husband. This is very punitive. It will not be beneficial to Kenyans. I do not understand why we should bring such a restriction when we have other ways of solving the existing problem.

The Bill will undermine the freedom of political parties. For example, if I have been residing in Nyatike all my life and registered as a voter there, but later move to Nairobi and become active in politics here, that should not be a reason for the IEBC to punish me or question why I am involved in Nairobi politics. I may have chosen to stay in Nairobi because I understand the politics here or because I support a political figure such as the governor, senator or any other leader. The fact that I am registered in Nyatike should not mean that I must return there. I find it very punitive.

Article 24 of the Constitution provides that when legislation limits a constitutional right, the limitation must be reasonable and justifiable, considering factors including the purpose of the limitation, its extent and whether there are less restrictive ways of achieving the same objective. We should question the specific problem Clause 8(A) is trying to solve and whether we have to put in place a punitive Act that restricts and punishes Kenyans for moving around in their own country. We cannot deal with this situation by punishing others in that manner.

New sub-section 8(B) provides for equitable representation from all wards. Why does the new sub-subsection 8(A) propose to disqualify a Kenyan through the IEBC? I might not have moved from Migori to Nairobi because I do not like it; I might be looking for greener pastures. I should not be punished for that.

Another issue is that the Bill proposes that when one goes to vote, they produce the identification they used during registration. This means that if I registered using my ID and I lose it a few days before the election, I cannot use my passport to verify that I am Kenyan, even though it has my picture and the ID number. This shows that we are trying to make one form of identification more powerful than the other through the IEBC Act. If the proposal passes, the IEBC will have the power to decide whether your identity card is more important than your passport and vice versa. My take is that even if you registered using your ID and it happens that you do not have it when voting, one should be allowed to use their passport. I find that very punitive.

During the election period, a lot of things happen, and we know how goonism is going around in this country. Recently, during a by-election conducted a few months ago, IDs were bought for Ksh2,000 and Ksh5,000. So, if I were to be pushed by poverty to sell my ID and I decided that I still want to vote for my candidate of choice, I should be allowed to use my passport. I am not encouraging the selling of IDs; I am giving an example.

We have heard that during some by-elections in this country, people were forced to hand over their IDs to specific people, and they would be returned after the election as a way of punishment to make sure that a particular political party gets elected. Now, in a scenario where goons come to my house and demand my ID, and they are unaware that I have a passport, though this should not happen in a democratic country, I should be allowed to find another way of voting for my candidate. I am encouraging the use of a passport because it has one's picture, passport number, as well as the ID number.

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

*[The Temporary Speaker
(Hon. David Ochieng') in the Chair]*

I would also like to advise my fellow Kenyans. Voting in Kenya is a very expensive affair. One vote costs the Kenyan Government Ksh2,000. However, some Kenyans sell away the Ksh2,000 for Ksh50 or Ksh100. When somebody comes to your area, campaigns and gives you Ksh100, and you vote for that person without considering their agenda, you are selling yourself short. I am talking to my fellow Kenyans.

Voting is an expensive affair, and we should take it seriously. The Government spends Ksh2,000 per vote, yet some people sell that right for Ksh100 or vote out of propaganda or fear. Most Kenyans do not even earn Ksh2,000 in a day, yet that amount is spent to facilitate your right to choose a leader. Considering the number of votes I got in Migori, the Ksh2,000 spent on each vote could have been used for health, education, or other important sectors. I therefore, request the House to find ways of reducing the cost of voting in Kenya. This is unnecessary. It is not right at all.

*[The Temporary Speaker
(Hon. David Ochieng') left the Chair]*

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

Hon. Temporary Speaker, I thank you for giving me this opportunity.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Yusuf, do you want to contribute to this? Because of your rank, proceed. You have sat through, but I am not seeing your request. I think there is a problem with the technology.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Temporary Speaker. I rise to contribute to the electoral proposal by our brother, Hon. Murugara, the Chairman of the Departmental Committee on Justice and Legal Affairs. I want to address three points. First, every country is different and peculiar. I have lived in many countries, and when I come back to Kenya, I always wonder why we cannot do things the way they are done in other countries. However, we are different. Our mindset is different; our behaviour and political culture are different.

If you are in the United Kingdom (UK), you would not even know that an election is taking place. It is just an ordinary thing. People go about their business, vote and move on. Britain does not even have an electoral commission to do these things. Elections are conducted by the local authorities. However, we have established all these institutions to ensure that we have free and fair elections and protect the stability of our country so that everybody is satisfied with the results.

There is enormous mistrust in the way we conduct our politics. There is mistrust of the Government of the day, the ruling party, the opposition parties and in general, politicians. That is why it is very difficult to convince people to change their minds on certain issues. For example, we are discussing the printing of ballot papers. It is insane to pay that much money to print ballot papers, and there is no good reason why we should be printing our ballot papers abroad. However, our political mindset and culture are such that because of this mistrust, people believe that ballot papers printed here could be abused by the political elite and competitors in the political marketplace.

It may not be possible for us to bring about a behavioural change in the minds of our society and political elites within the short time we have to deal with this particular issue. I do not know whether we would resolve the issue of printing our ballot papers today or tomorrow, because unless we are able to lift and take our population with us, we cannot just decide that tomorrow we are going to print our ballot papers here. So, we need to look at that in the broader sense.

The other thing that has been discussed here and appears in the Bill is the issue of identification. Again, you really need identification. When you go to the polling station, the requirement is that you produce the same document that you registered your vote with. If it is an ID, it is an ID. But I think it would be very difficult to argue for using an expired passport. An expired passport is an expired passport. You cannot get a visa with an expired passport. You cannot travel with an expired passport. A passport is a travel document. We will open a Pandora's box if you say that you can go to a polling station and register and vote using an expired passport. It will affect the integrity of that particular vote. It would be logical if we said an expired document is an expired document and we looked for other ways in which the voter could have a right to vote using some form of identification that is valid at that particular moment.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Yusuf, I was not just bothered about expired passports, but you know our IDs now expire after some time.

Hon. Yusuf Hassan (Kamukunji, JP): Yes, I have noted.

The Temporary Speaker (Hon. Peter Kaluma): Currently most of the people are registering for the first time. Assume it is targeted that we will have 27 million voters up from 22 million in the last election. This means that largely, they will be new voters. These are the people reaching adulthood now. It means also that in some 10 years, you can imagine all those voters' IDs will expire. So, do we talk about expired passports not being valid for those who acquire citizenship by registration or for citizens by birth? Because for citizens by birth, for purposes of being registered as a voter, you just need a passport to confirm you are a citizen. Political right is for citizens. Now, if you are a citizen by birth and after 10 years your ID that you used to register as a voter expires, can you not vote using that ID? That is separate from a citizen by registration and application. Is it not?

Hon. Yusuf Hassan (Kamukunji, JP): Hon. Temporary Speaker, as legislators, we need to think out of the box and maybe bring about a new type of ID which also serves as a driving licence and a medical insurance. Digitalisation would help resolve some of those problems. Maybe we should move on from this single document like an ID. Also, the driving licence could also be a voter's registration card.

The Temporary Speaker (Hon. Peter Kaluma): In fact, you are right because the Constitution says 'it will be a citizen'. The Constitution does not specify passport or ID.

Hon. Yusuf Hassan (Kamukunji, JP): Exactly.

The Temporary Speaker (Hon. Peter Kaluma): These were only prescribed in the Elections Act because they are means of confirming you are a citizen. And that is why I am asking, if you are a citizen by birth, does the fact that your ID or passport has expired make you cease to be a citizen?

Hon. Yusuf Hassan (Kamukunji, JP): It does not, but it stops you from enjoying certain rights because there are regulations to those rights. Even with SHA, you cannot just go to a hospital and say, I am registered for SHA. You have to show that you are registered for it, but you know there are some countries that do not even have an ID at all. IDs were introduced to African countries through the colonial system to control populations. In the metropolitan areas, people do not have IDs yet they remain citizens. They have the powers to vote and enjoy all the rights of a citizenship.

The other issue that I would like to raise in addition to the passport issue is that representation is a local issue. If you will become a representative, that is, a Member of Parliament, an MCA or a nominated person, you have to be registered at a local point to identify with that particular population. Therefore, to say that you can be registered as a voter in Marsabit or in Turkana and you can be nominated in Nairobi is not good for democracy. This is because the people of Nairobi would feel like you are an outsider. You do not even live here; you are not even registered here. Therefore, you do not have the legitimacy that you would normally get if you were a locally registered person and you voted in the neighbourhood where you are and you are nominated from that local neighbourhood that you live in. That is the reason why many countries require that you live in the area where you want to be elected. For example, in the United States of America and in Britain, you are required to be registered and have an address in the constituency or location where you will run for office. It is because even though you are a citizen of the country, you cannot move from another location to run for election in another place. There has to be a rule in which we can say that you are registered in that local area and you would vote in that local area and you would run in that local area. That is the essence of democracy and we should protect that particular rule.

The Temporary Speaker (Hon. Peter Kaluma): Again, some good thoughts there for the Chairperson of the Departmental Committee on Justice and Legal Affairs to carry on board as we progress consideration of the Bill. Chairperson, why should the auditing of the voter register be contracted to an independent person or entity instead of the IEBC itself, which is independent and which is bound to a code of conduct and who can be overseen by Kenyans? Hon. Yusuf, why do we say that we have to send the register of voters, for instance, to PricewaterhouseCoopers (PwC), whom you pay billions of shillings, and then such provisions are in law? These are the things we want the Chairperson to think about in terms of necessary amendments to the Elections Act. Chairperson, would you like to say something? I cannot see such amendments in this Bill.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, it is purely manpower. One, the IEBC is not able to do some of these things itself. Two, it is for purposes of trust. When an independent person does the audit out there, the report has more confidence than when I do it on myself. People will say, sorry we do not know what it is you have cooked in between. So, they possibly trust PwC.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Yusuf, you hear the debate again. This is the Independent Electoral and Boundaries Commission. They are overseen by Parliament, the representatives of the people. But even in terms of just employing their CEO, they are told to engage PwC to do it. In terms of auditing the register, which they are mandated to establish under the Constitution, you delegate it to a third party who is not subject to parliamentary oversight. This is just the same mistrust you are talking about. We are paying entities to do work which we are already paying the IEBC and their staff to do.

Is Hon. Peter Kihungi in the House? He is recognised to make his contributions. He stepped out for other parliamentary duties.

Hon. Adan Haji, would you like to contribute to this Bill or you want to deal with the next Order? Yes, Hon. Jematiah Sergon, Member for Baringo County.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you so much, Hon. Temporary Speaker. I also want to contribute to this Bill. From my colleagues' contributions, we still have a long way and need to have more conversations on the IEBC matters. Kenya is a very political society. Sometimes, as politicians sitting in Parliament, we think we are the politicians until you meet the voters who are the real politicians and they give us most of the challenges we face today. Going through this Report, I will pick on a few areas of concern, particularly the literacy levels.

The Report says that the education requirement for registration as a candidate for election as an MCA is declared unconstitutional. This puts a rope around our necks and kills the importance of education in society. Honestly, we already have problems in the counties today. An example, literacy is a key component of leadership. It is one of the reasons why we have problems in executing policies, not only in counties, but also in the national Government. Even at the Executive level, people may be unable to comprehend and fully implement policies because of illiteracy. Illiteracy does not simply mean that you just need to go class and pass exams. It is also exercising and understanding once policies are put in place.

For instance, the IEBC may intend for us to elect a governor who is not literate or who has no capacity to manage county resources. In the first instance, we made a mistake by electing governors. These are people who are supposed to be managers; probably be appointees, responsible for sitting and organising a county's resources and delivering without prejudice. Today, for instance, if you go to Hon. Mohammed's county—and I say this with all due respect—the way they conduct their elections is interesting. They sit down and allow clans, or practise clannism, and agree that one clan should provide the governor, another the senator, another the woman representative, same for all other seats. When they do that, they are unlikely to give us the best-qualified governor.

They choose someone because of the clan. That is why, as Kenyans, we pay taxes and expect governors to address issues and manage resources, but end up with patronage. Someone may say, "I was given this position through my clan," or, "someone sponsored me as a governor," and so today, I am unable to do the work because I have to give back. There are many other related issues. This concern about illiteracy also extends to MCAs. My county governor receives up to Ksh10 billion from the Exchequer in a financial year, but look at the people we have given the opportunity to oversight the governor. Some of them have not gone to school. Many are in those positions because we have allowed people to elect them without scrutinising these things.

Education is very important. I am ready to debate this matter further and to allow Hon. Murugara, the Chairperson of the Departmental Committee on Justice and Legal Affairs, to look into it. We cannot allow this country to be run anyhow. That is the importance of going to school. Communication is another aspect. In addition to implementation, you have to communicate what you are legislating. You should provide proper information. When you are unable to do so, or are not literate enough, it becomes very difficult to deliver. That is why we have problems today, right from the county to the national level. Hon. Ochieng' said that some Members are unable to debate because they are not literate enough to understand many of the policies.

Secondly, in my opinion, I would not have a problem with the IEBC conducting party elections. The only problem I might have is that, if there is a dispute within my party, the same IEBC would be involved in arbitrating it and that is where confusion could arise. Given the opportunity, the IEBC should help parties conduct elections so that they are credible. There is no political party in Kenya today with the capacity to register voters and conduct an election in a single day credibly as an institution such as the United Democratic Alliance (UDA). The process is fragile and parties lack the capacity. The UDA may do so because it is the governing party while ODM may also do so because it is a seasoned party. Other parties may not, although

they would probably want to. The IEBC should perhaps be involved. The only concern is that this may not be possible because the IEBC will have the same people to arbitrate in case a dispute arose. I agree that this deserves good consideration.

There is no problem with registration during a by-election. If there is a by-election in my county and people want to register, let them exercise their rights and register. Even if it is during a by-election, it is okay given our technological capacity to register people. These are matters we can amend and upgrade our IEBC systems to allow people to register and exercise their right to vote, without creating animosity. An election is just that. It is a one-day exercise. People should elect without much emotions. We should accept the results that have come out and that not always will the person you have voted for win. Allowing such processes will ease the animosity that accompanies elections, which are marked by emotions, vitriol, and aggression. When we do these things without putting much restrictions, we will get better results. For me, I look forward to the next stage of this matter so that we can legislate properly, allow elections to be conducted fairly, debate better, and achieve better outcomes.

The IEBC also suggested that it would provide for a post-election evaluation process. That is good. They should sit down with us and provide that process. I should also be given my post-election evaluation. What have they done? What do they intend to do? What is the best approach? What lessons are there to be learnt? What were the pros and cons they encountered during the election process? This way, we will continue to improve our democracy which will benefit us all.

The Temporary Speaker (Hon. Peter Kaluma): Does Hon. TJ Kajwang', for any reason, wish to contribute or you had made your contribution to this critical matter? You are a Member whose wisdom will always influence us in this House.

Hon. TJ Kajwang' (Ruaraka, ODM): Well, Hon. Temporary Speaker, I considered this Bill in Committee. There are some clauses we will need to examine when we reach the Committee stage of the Third Reading. However, if you look at the reports of the Departmental Committee on Justice and Legal Affairs, you will see that we have set them out clearly.

Majorly, this is to conform to court decisions that have progressively made pronouncements over certain clauses or sections of the law to be unconstitutional, and to also implement the Constitution in different ways. There are one or two innovative clauses which we have brought. In the fullness of time, we will bring them to the House. However, this is a Bill which we need to support in its entirety, specifically because the election is coming in just a few months. When the IEBC was here, they gave us their timetable. That timetable really runs enhanced from January or February. Therefore, there is really no time. It is not helpful to make amendments in the election year. It is probably not wise.

I am sure the Chairman has captured these amendments. I saw something in Clause 29, I think, which says that the IEBC will determine, declare, and do something to the elections. If it is not considered, I will bring an amendment to it. This is because the word 'determine' as used supposes that the IEBC as a commission will overrule the presiding officer who had made the final and the only determination of the results. The IEBC can only declare – there are also some other words which have been used there. They cannot determine because that determination already had been done in the polling station. All they do is just to collate. If we allow them to do that, it will mean that they will congregate at Bomas and start changing and doing all sorts of things with the election results.

I thank you for the opportunity. We all must come here when this is being processed through the Third Reading.

The Temporary Speaker (Hon. Peter Kaluma): There is a concern that was being raised here when you stepped out, Hon. Kajwang. It was about the Report of the Kriegler Commission. Kriegler said, 'Do not touch laws concerning elections once you are one year to elections.' This is because they then engender suspicion. There has been the debate by previous

Members that unless these provisions are so critical, you do not need to jolt the electoral laws now because you create the suspicion. What is this you are bringing barely one year to elections? Look at the gamut of provisions here. For example, these things on recall of Members, how necessary are they for purposes of the elections now that we are already in an election year? What do I mean? There are so many provisions here.

I am encouraged that you are saying that the Committee will be proposing a number of amendments. Clause 40 of this Bill touches on evaluation of electoral processes and reviewing how the previous election took place by the IEBC. If you look at Article 88, do we need to spell out this or it is something that is naturally mandated to the IEBC by law? I agree with you that there are provisions here which are facilitative of a good election, but there are some which we may postpone for consideration in future. There are others which are just adding to costs.

Hon. TJ Kajwang' (Ruaraka, ODM): You are absolutely right, Hon. Temporary Speaker. I should inform you that I served as counsel in the Kriegler Commission. I am therefore, quite aware of the decisions that the Kriegler Report made. But doing the best we could, there are so many things which have fallen in place which we could not have done better because of time. For example, we were talking about the question of the delimitation. Because of exigencies that are beyond our control, some of those things have passed. I agree that we should not be too prescriptive.

In fact, Hon. Murugara, you and I, having both practised in election petitions, know very well that a petitioner will often simply claim that a specific procedure was not followed, arguing that the election results are, therefore, invalid just because the rules were too prescriptive. Yet, those details should have remained administrative. Because we encoded them into law, any failure to comply creates problems, such as when a presiding officer is legally required to liaise with the county coordinator but fails to do so. There are a lot of things that that gentleman is supposed to do, which can be done administratively. However, if it is written into law and goes undone, that single failure can become the sole ground for an election petition, leaving you to face a gruelling two-year legal battle. We will clean up some of these things.

There are important issues which we could not avoid; for example, aligning with the court's decisions and implementing some of the constitutional provisions. There are also lessons we learned from the previous elections that we must now act upon to bring about necessary changes. We must never lose sight of the fact that these are a series of NADCO Bills. We should step back and think how the NADCO Bills came about. It was at a point when we almost tore this nation apart. These Bills were compromise propositions that began in the Senate. Now that they have come down to us, we have to process them in good faith. If we are going to flag anything down and the Chairperson brings amendments, we will do so on the Floor. We could not have done anything other than bring this to the plenary for debate.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Kajwang'. There being no more interest, the Mover will now reply.

(Hon. Jackson Lekumontare spoke off the record)

Oh, sorry. That is the Member for Samburu East. You are recognised to make your contribution.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Temporary Speaker for this opportunity. People are always suspicious when it comes to elections. People want to have free and fair elections. Just like what other Members have said, there are lessons learnt from the previous elections. New polling stations emerged as a result of what we experienced in other places a few weeks before the elections because some people were

planning things. It is not possible for one person to be registered elsewhere then vote elsewhere because of rigging. If there is anything that people can try to do so that they can win the election, it is rigging.

Hon. Temporary Speaker, at times we need to look at these laws to see whether they can prevent rigging. Look at the series of elections that we have had. There is no election that people would say it was not rigged. They are not only saying it, but it is true there is a lot of rigging going on. If we do not address this, people will continually attempt to introduce laws to manipulate the system.

We can get many lessons from the nominations done in the previous election. Some people who may be registered in Nairobi were nominated as MCAs in Samburu. We had those cases in our county. Party people are messing with the processes of elections. I remember a party took some clerks who were working in their offices in Nairobi and nominated them as MCAs in Samburu County. That is a terrible thing. Because of what we have learned, I really appreciate it. We are victims of the same. People are not registered anywhere in Samburu County, yet they are nominated as MCAs in that county. It is a bad practice. We have to look at these things.

I just want to mention something about the qualifications for elective positions. If you look at what is going on in the counties and even here, people who do not have any educational background are interviewing people with degrees. I do not know who is supposed to interview the other. By the way, even in Parliament, Members who do not have qualifications are the ones going to court. It is a high time we look at the qualifications required for the various positions that people contest in this country. You cannot be experts if there is no qualification. I am very happy because a number of you here are lawyers, the same people who go to court to nullify this requirement. In the previous Parliament, a large number could not meet the education requirement to contest. This is a dangerous country and the requirement is necessary. People can make laws that can even turn against them. After elections, the chances of coming back are 50-50. You can come back or not. However, if a Member does not get re-elected, they would get another job opportunity considering the knowledge they may have attained before and when here.

Looking ahead at the next five years, I wonder what crime we committed by being elected to this House. It feels as though some individuals simply prepare these laws behind closed doors, expecting us to passively pass them. Because while we may sit here today in high spirits, we must remember that none of us are guaranteed to be back here tomorrow. These are very important issues when it comes to electoral processes and therefore, we need to look at them soberly. We do not know why people keep changing the elections laws. Why should we bring many changes every time, a few months to election? We need to look at them carefully and see what we can do without, and leave it to be brought back for amendment in the future.

Otherwise, thank you, Hon. Temporary Speaker, for giving me a chance to contribute to this Bill.

The Temporary Speaker (Hon. Peter Kaluma): The Chairperson, Departmental Committee on Justice and Legal Affairs Committee, the Mover of this Motion will now reply.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. Allow me to thank every person who contributed to the Bill. It goes without saying that this is a very important piece of legislation, and most important, is its origin. It is a National Dialogue Committee (NADCO) Bill. I know we should not be debating NADCO Bills now, but unfortunately, we have to do it because this is the time it has reached this House. The NADCO Bills ought to have been concluded in 2024 and 2025. But now that it is with us, we cannot shelve it. It originated from the Senate. It appears that the Senate took a bit of time with it, but we have had everything, including proposals on where to amend the Bill.

The Departmental Committee on Justice and Legal Affairs has prepared elaborate amendments in respect to most clauses to make them feasible. We are not introducing anything new, including recall, apart from trying to justify what the courts have said. Where they have declared sections unconstitutional, we are either removing those sections or we are amending to comply with the recommendations made by the courts. Hon. Members, I repeat what Hon. TJ Kajwang' said to the effect that, at the Committee of the whole House, let us all be here to contribute and make whatever proposals we may have. I know that will not be debate, but would be important to make submissions on the proposals that will be made.

I thank all the Members. We hope the Bill will see the light of day, not such a long time from now. I agree with Krigler that we should not actually amend elections laws later than 12 months to elections. After 12 months to the general election, we should stop that because what has worked before can also work a preceding time.

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

The Temporary Speaker (Hon. Peter Kaluma): Mover, you do not need to apologise. I note it is a 2024 Bill. So, it was actually initiated about two years to the elections. Is it two or three years? We need to make the public understand that it was started three years to the elections. It is a Bill that has to be handled by both Houses because of the matter it treats.

Hon. Members, so that we can move consideration of this Bill to the next stage, allow me now to put the Question.

(Question put and agreed to)

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

The Temporary Speaker (Hon. Peter Kaluma): Next Order.

THE SACCO SOCIETIES (AMENDMENT) BILL
(National Assembly Bill No. 32 of 2025)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, for the convenience of the House, I order that the Order Paper be reorganised. I will, therefore, defer consideration of the matter under Order No. 10. Order No. 11 will follow consideration of the matter under Order No. 12. Please call Order No. 12.

(Bill deferred)

MOTION

ADOPTION OF REPORT ON INSPECTION VISIT TO KENYA
DIPLOMATIC MISSIONS IN ZIMBABWE AND BOTSWANA

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

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

THAT, this House adopts the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its inspection visit to Kenyan diplomatic missions in the Republic of Zimbabwe and the Republic of Botswana from 24th to 28th November 2025 laid on the Table on Thursday, 2nd July 2026.

This inspection was undertaken pursuant to the Committee's oversight mandate under Standing Order 216 and formed part of the Committee's work of assessing the effectiveness of Kenyan diplomatic missions, delivery of consular services, promotion of trade and investment, management of public resources and the welfare of Kenyans abroad. The delegation engaged mission officials and representatives of the Kenyan diaspora and inspected the chanceries, residences, assets and operational arrangements of the two missions.

The Committee found that both missions provide important platforms for advancing Kenya's foreign policy, protecting the interests of Kenyans abroad and promoting economic diplomacy. Kenya has signed various memoranda of understanding and agreements with both countries. However, the Committee noted that implementation and follow-up mechanisms remain inadequate, limiting progress in labour, migration, trade, facilitation and investment cooperation.

The Committee also noted that Kenya's trade position remains favourable, but Kenyan businesses continue to face market access challenges arising from regional block policies, transport constraints and limited access to capital. There is therefore a need for stronger and more coordinated economic diplomacy. In Harare, the Committee found that the Embassy continues to provide important consular and legal assistance to Kenyans, including emergency travel documentation and support to Kenyans facing immigration, incarceration and other challenges.

The mission also has contributed to advancing bilateral relations and trade between Kenya and Zimbabwe. However, the chancellery acquired in 1980 is old and dilapidated. Its asbestos-containing roof and worn-out gutters require urgent attention, while the premises also require repairs to the floors, access roads, car park and other facilities. The four Government-owned residences similarly require refurbishment, improvement, improved water supply and reliable power backup. The operational capacity of the Embassy is further constrained by staffing gaps, including the absence of a foreign relations officer and a trade attaché, as well as inadequate office equipment, ICT infrastructure and outdated furniture. The representational vehicle acquired in 2015 also requires replacement.

The Committee further observed significant foreign exchange losses affecting the mission's finances. In addition, the absence of a structured system for documenting Kenyan residents in Zimbabwe hampers effective diaspora engagement and service delivery. The Committee also noted concerns relating to residence permits and citizenship for some Kenyans who are married to Zimbabweans or have lived in Zimbabwe for long periods. There are key findings in Gaborone. Hon. Yusuf taught me to pronounce this word as 'Gaborane'. I keep saying Gaborone. The Committee established that the High Commission operates entirely from leased premises and does not own a chancery or official residence.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Yusuf has worked in the foreign and diplomatic circles for a long time.

Hon. Kwenya Thuku (Kinangop, JP): Indeed.

The Temporary Speaker (Hon. Peter Kaluma): Do you trust his pronunciation?

Hon. Kwenya Thuku (Kinangop, JP): Yes. I am struggling to even pronounce it. I might end up biting my tongue. I come from the mountain where some of these words turn out to be tongue twisters. The mission's representational vehicle, acquired in 2014, is grounded, while the mission also faces challenges arising from outdated furniture, office equipment and limited functional vehicles.

Botswana hosts an estimated 1,200 Kenyan nationals. The Committee was informed that the number has declined due to stricter immigration controls, particularly concerning work and residence permits. The lack of mutual recognition of Kenyan qualifications in fields such as nursing and law also restricts employment opportunities for Kenyan professionals.

The Committee noted that Kenya has opportunities to expand exports of tea, coffee, fruits and vegetables to Botswana. However, access to the market is affected by Southern African Development Community (SADC) and Southern African Customs Union (SACU)-related barriers. The absence of direct flights between Kenya and Botswana also increases the cost and difficulty in movement of people and goods. The Committee, therefore, considers the review of the Bilateral Air Services Agreement important to facilitate additional frequencies and access to Francistown, Maun and Kasane. The mission also faces financial pressure because rental costs have exceeded the approved ceiling while annual rental increments are not adequately reflected in the budget.

The Committee has proposed measures aimed at strengthening both missions and ensuring that they are adequately equipped to advance Kenya's interests. The Committee recommends that the mission's budget framework be revised to account for foreign exchange losses, improve the timeliness of disbursements and establish mechanisms to mitigate foreign exchange conversion losses. It further recommends that adequate resources be provided for modern chancery facilities, diaspora engagement and trade promotion, that outdated representational vehicles, office and household furniture and ICT equipment be replaced.

The Committee also recommends the deployment of trade attachés, foreign relations officers and the establishment of a joint bilateral agreements monitoring unit to track the implementation of signed agreements. It further recommends strengthening the recognition of Kenyan professional qualifications in Botswana through mutual recognition agreements and facilitating improved access to employment opportunities for Kenyan professionals. I must say that this came out as a very strong issue because I was part of the delegation. It is hampering the free movement of our people and even their access to the opportunities that are there. Fast-tracking some of these agreements would be advantageous to Kenyans living in Botswana.

The Committee further recommends the development of a Kenya-Zimbabwe-Botswana trade expansion strategy, including trade exhibitions, business networking and promotion of Kenyan products such as tea and coffee.

Hon. Temporary Speaker, there are specific recommendations. For Zimbabwe, the Committee recommends the construction of modern chancery outside Harare Central Business District, adequate funding for refurbishment and solar installations, and urgent removal of asbestos-containing roofing materials. In Kenya, we do not have buildings that have asbestos-containing roofing covers because they have been condemned and classified as carcinogenic. It is, therefore, inappropriate to have them in our chanceries and diplomatic missions. Another recommendation is the need for an agreement with Zimbabwean authorities on residence and citizenship matters.

For Botswana, the Committee recommends acquisition of Government-owned diplomatic premises, urgent replacement of the grounded representation of vehicle, engagement with the Botswana authorities on work and residence permits, fast-tracking the review of the Bilateral Air Services Agreement, alignment of rental expenditure with approved ceilings, deployment of NTSA attaches and harmonisation of document certification and other authentication charges.

These recommendations are intended to improve the operational capacity of the missions, strengthen services to Kenyans abroad, expand market access for Kenyan products and ensure prudent management of public resources. They will also provide a more structured basis of advancing Kenya's bilateral relations with Zimbabwe and Botswana. I, therefore, urge the House to Adopt this Report and call upon the relevant ministries, departments and agencies to implement the recommendation in order to strengthen Kenya's diplomatic presence and advance the country's interests in the southern African region. I respectfully take this opportunity to request Hon. Hassan Yusuf to second this Motion.

Thank you, Hon. Temporary Speaker, for the opportunity.

The Temporary Speaker (Hon. Peter Kaluma): No, first move by saying, “I beg to move.”

Hon. Kwenya Thuku (Kinangop, JP): I beg to move, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): And do now request Hon...

Hon. Kwenya Thuku (Kinangop, JP): I beg to move and request Hon. Yusuf Hassan, the ranking Member for Kamukunji, to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Yusuf Hassan.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Temporary Speaker. I rise to Second the Motion for the adoption of the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on the inspection visits to the Kenyan Embassy in Harare, Zimbabwe and the High Commission in Gaborone, Botswana, undertaken from 24th to 28th November 2025.

I had the honour of leading the delegation that undertook this inspection visit. The visit enabled us to engage directly with missions, inspect their facilities, appreciate firsthand opportunities and the challenges affecting Kenya's diplomatic representation in the southern Africa region. Zimbabwe and Botswana are important partners for Kenya. Our relations extend to trade, investment, agriculture, education, tourism, transport, defence and regional cooperation. The two missions, therefore, have an important role in advancing Kenya's foreign policy, supporting Kenyans abroad and promoting Kenya as a destination for investment and as a source of competitive products.

However, the Committee was concerned that both missions are operating below the level required to fully discharge these responsibilities. Financial constraints, delayed disbursement, foreign exchange losses, inadequate infrastructure, staffing gaps and outdated equipment continue to affect their effectiveness. The Embassy in Harare continues to provide valuable counselling and legal assistance to Kenyans including emergency travel documents and support to Kenyans facing immigration and legal difficulties. However, the Chancery is old and requires major rehabilitation. Of particular concern is the asbestos-containing roofing, which requires urgent action. The staff residences are also in bad shape and require refurbishment, reliable water and power supply and improved security. The Embassy also requires additional staffing, including a foreign relations officer and a trade attaché, together with modern information and communication technology (ICT) equipment, furniture and a suitable representational vehicle. The mission has also incurred substantial foreign exchange losses which continue to affect its financial position.

The High Commission in Gaborone operates entirely from rented premises and does not own a chancery or official residences. Its representational vehicle is grounded, while outdated equipment and limited functional vehicles constrain operations. The Committee was also informed of challenges facing approximately 1,200 Kenyans residing in Botswana, particularly in relation to work and residency permits and recognition of Kenyan professional qualifications. I, therefore, support the recommendation for engagement with the Botswana authorities and the establishment of mutual recognition agreements for Kenyan qualifications. There are significant opportunities for Kenyan tea, coffee, fruits and vegetables in Botswana. However, market access restrictions exist, and the absence of direct flights between Gaborone and Nairobi continues to constrain that trade. The review of the bilateral air services agreement should, therefore, be pursued to improve connectivity and facilitate movement of people and goods.

I support the Committee's recommendations particularly those aimed at strengthening the financial and operational capacity of the two missions. This includes addressing foreign exchange losses, ensuring timely reimbursement of funds, providing modern premises and equipment, and deploying trade attachés and foreign relations officers. Most importantly, the acquisition of Government-owned chancery and residences, particularly for the High

Commission in Gaborone; urgent rehabilitation of the Harare Chancery and compliance with the directive on the removal of asbestos-containing roofing materials. The resolution of work and residency permit challenges affecting Kenyans in Botswana should be addressed; establishment of mutual recognition agreements for professional qualifications is absolutely necessary; the review of the bilateral air services agreement between Kenya and Botswana to facilitate additional frequencies and access to Francistown, Maun and Kasane; and development of a Kenya-Zimbabwe and Kenya-Botswana trade expansion strategy and stronger promotion of Kenyan products in the southern African market.

In conclusion, the inspection visit demonstrated that our missions in Harare and Gaborone remain important platforms for advancing Kenya's interests. But their effectiveness is dependent on adequate resources, appropriate infrastructure and strong institutional support. The recommendations contained in the Report provide practical measures for improving service delivery, protecting the interests of Kenyans abroad, strengthening economic diplomacy and ensuring prudent use of public resources.

I, therefore, urge the House to adopt the Report and support its recommendations.

Hon. Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Major Bashir.

Hon. Major (Rtd) Abdullahi Sheikh (Mandera North, UDM): Thank you very much, Hon. Temporary Speaker. I just want to support the Committee's Report. I am also a Member and the Vice-Chairperson of the said Committee. I want to thank the two Members who were part of the delegation that visited these two missions. I do not want to go into detail. One key thing that has been mentioned over and over in all missions is the issue of foreign exchange losses. Whenever money is sent to these missions, the National Treasury and Economic Planning does not consider or take into account the issue of foreign exchange losses. For example, if it gives these missions Ksh20 million and that is their budget, by the time it reaches the other end for their usage, you can imagine how much money they will lose in terms of foreign exchange.

These are issues that we have taken up with the Ministry, even with the National Treasury and Economic Planning, to tell them to come up with a certain percentage, a certain factor, to consider foreign exchange losses. It has not been done and I think the National Treasury and Economic Planning, every now and then, knows what is happening and they do not take this matter seriously. I urge the National Treasury and Economic Planning that these missions are out there and not here in the country. They are out there buying goods and services using currencies of those countries and the exchange rate at that time applies. So, it is important that the issue of foreign exchange losses is taken care of in almost all the missions.

This term of Parliament is coming to an end. We have over 64 missions across the world. You can imagine, when I looked at the data and the reports, this Committee only visited 15 missions out of the over 64 and remember these missions have been provided money through this House. Therefore, they need to be overseen. However, whenever this Committee wants to go out, we are faced with the fact that there is no money for committees. I am sure you sit in that Committee. They came up with the idea that all committees are equal. Therefore, this Committee, despite the fact that they have over 65 missions out there to oversight, is put in the same category, for example, with the Catering Committee, hence we are unable to oversight properly.

We have visited 15 missions in the whole of this term of Parliament out of over 64 missions. That is something this House probably needs to reconsider. Just like in the budgetary system, there are certain ministries or departments that are not equal. They get the size of their

coat. Therefore, for us to effectively oversight some of these missions, I urge this House to consider the fact that much of the work of the Departmental Committee on Defence, Intelligence and Foreign Relations, almost 70 per cent, is missions out there, but we are unable to oversight because of lack of resources by this House.

As it has been said, a number of agreements are pending in almost all of these countries, and as you know, Africa is so large that we can do business among ourselves. We all know the operation of Africa. If we can trade among ourselves as Africa, probably, we will not even require other people outside Africa. However, what is hindering us is the fact that some of these MOUs and agreements that are pending, have not been ratified or agreed upon. For example, there is the bilateral air service agreements. Movement of goods, people and services cannot go on between certain countries because we have not signed or agreed on these kinds of agreements. A number of them are still pending.

Most countries say we have nothing in writing on labour migration and so they cannot agree for people to move from point A to point B. That Report articulates the same, but over 15 reports that have come to this House have talked about pending agreements, pending MOUs, issues of forex and those kinds of things. I urge this House to take some of the reports that we bring to the House seriously more so, by the parent Ministry and the National Treasury and Economic Planning.

With those few remarks, I support the Report of the Committee.

The Temporary Speaker (Hon. Peter Kaluma): There being no more interest, the Mover will reply.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Speaker for the opportunity to reply to this Motion. You realise from the content of our Report that we have visited several missions. I must say that they are frustrated, just as the Vice-Chairman of our Committee has stated, because Members cannot travel to as many missions as required under our mandate to undertake oversight because of financial limitations. Time has come for us to sit down and have a conversation as a House on where money should be allocated. We have not witnessed this before because I served in this Committee in the last Parliament, and I can say it was one of the well-funded ones because of the many travels it had to undertake to different missions. There are 64 missions, and the Committee did quite some work. You realise that a lot of considerations came out of those visits.

Hon. Temporary Speaker, let me just speak about the two missions that we visited, Botswana and Zimbabwe. It is not something we would be proud of as a country, and it is only right that all our recommendations be taken into consideration by the relevant agencies, including the National Treasury and Economic Planning and the Ministry of Foreign and Diaspora Affairs, as well as the people who are supposed to follow through on the agreements we have with our counterparts.

Therefore, without much ado, I beg to reply.

The Temporary Speaker (Hon. Peter Kaluma): We are attended to by our missions abroad, and I agree with your recommendation. I was in Ghana recently and despite the great work that our Head of Mission, Colonel (Rtd) Shem Amadi and his staff are doing, as is the case in other foreign missions, the issue of how they can be better facilitated to give us the maximum benefit as a country kept arising. The recommendations in your Committee's Report will go straight into implementation. Hon. Members, I will now put the Question.

(Question put and agreed to)

Hon. Members, for the convenience of the House, I want to give directions on matters appearing under Orders No. 10, 11, 13, 14, 15, 16, 17, 18, 19 and 20. The House has dealt with heavy matters today including the proposed amendments to the election laws in preparation for

the next elections. We have also dealt with the one concerning how we can properly facilitate our missions abroad especially the ones in Botswana and Zimbabwe to operate effectively for the benefit of the country. The matters appearing under the Orders that I have mentioned will stand deferred for the House's future consideration as and when the House Business Committee will schedule them to be dealt with again. For the convenience of the House, it is so ordered.

That being the order, Hon. members, I want to order you to be up standing.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 18.51 p.m., this House stands adjourned until Tuesday, 6th October 2026 at 2.30 p.m.

(The House rose at 18.51 p.m.)

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