



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

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**THE HANSARD**

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## THE HANSARD

Friday, 18<sup>th</sup> October 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**The Temporary Speaker** (Hon. David Ochieng'): The Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

Order, Members. Resume your seats. I can confirm that we have quorum. Therefore, we can proceed.

PETITION

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Kawayia, Member for Mwala, you have a petition.

### GAZETTEMMENT OF MWALA AND KALAMA SUB-COUNTIES AS HARDSHIP AREAS

**Hon. Vincent Musau** (Mwala, UDA): Hon. Temporary Speaker, I rise to present a public petition on the gazettement of Mwala and Kalama sub-counties of Machakos County as hardship areas.

I, the undersigned, on behalf of Kenya Union of Post-Primary Education Teachers (KUPPET) Machakos Branch, represented by Mr Musembi Kutuku and Mr Ibrahim Ngunga of P.O. Box 159-90100, Machakos, draw the attention of the House to the following:

THAT, KUPPET is a registered union with a mandate of representing teachers in negotiating for fair solutions to members' grievances through lawful activities, affiliations and research in labour practices;

THAT, Mwala Sub-County is geographically located in the midst of Yatta, Kitui Rural and Mbooni East, all of which are hardship zones, but only Mwala has not been categorised as a hardship zone despite a recommendation made by the Sub-County Director of the Teachers Service Commission (TSC);

THAT, Kalama Sub-County, which lies between Mbooni West and Kilungu that are categorised as hardship areas, is not placed in the same category yet it has similar climatic conditions, and that while teachers in 33 public secondary schools located in the former Kola and Muumandu zones are entitled to hardship allowance, nine schools have been left out;

THAT, the plight of teachers within Mwala and Kalama sub-counties is worsened by water shortage due to reliance on limited rain-harvested water, which they supplement through purchase of unclean water scooped from the seasonal Thwake

River; poor transport network due to bad roads in Matulani, Miseleni, Mutula, Kasengela and Kwamwonga areas, resulting in high transport charges by public vehicles necessitated by increased frequency of maintenance of vehicles; harsh climatic conditions, leading to famine; limited telephone network and internet connectivity, hampering access to critical services; and limited access to medical care and other social amenities.

THAT, consequently, there is inadequate teacher staffing as teachers posted to the two sub-counties constantly apply for transfers. Statistics available indicate that 40 principals, 95 head teachers and 512 teachers sought transfer from the area between January 2023 and March 2024, and that as of August 2024, nine secondary schools have no principals while 11 have no deputy head teachers, which is a worrying trend;

THAT, efforts to address the matter directly through TSC have not been fruitful;

THAT, the issues in respect of which this Petition is raised are not pending before any court of law or any constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Public Petitions Committee—

1. Engages the TSC to gazette Mwala and Kalama sub-counties as hardship areas in order to improve educational standards through the provision of adequate teachers in the area; and,
2. Makes any other recommendation it deems fit.

And your Petitioner will ever pray.

Thank you, Hon. Temporary Speaker.

**Hon. Temporary Speaker** (Hon. David Ochieng’): Thank you. Petitions are usually committed to the Public Petitions Committee. I can see the Chairman, Hon. Mbai, is smiling. I hope you do justice to this particular Petition. I see no interventions on it.

Let us move to the next Order.

## PAPERS

**Hon. Temporary Speaker** (Hon. David Ochieng’): Leader of the Majority Party.

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Temporary Speaker, I beg to lay the following papers on the Table:

1. Report of the Auditor General Financial Statements of Butula Boys High School, Busia County for the year ended 30<sup>th</sup> June 2023; and,
2. Report of the Auditor-General and Financial Statements of Kenya-European Union Partnership for the Implementation of the National Strategy to Counter Violent Extremism in Kenya for the year ended 30<sup>th</sup> June 2024 (National Counter-Terrorism Centre).

I thank you, Hon. Temporary Speaker. I beg to lay.

**Hon. Temporary Speaker** (Hon. David Ochieng’): Thank you. Well done.

Next Order.

## QUESTIONS AND STATEMENTS

### REQUESTS FOR STATEMENTS

**Hon. Temporary Speaker** (Hon. David Ochieng’): Is Hon. Cecilia, the Member for Turkana County in the House? Go ahead.

### URGENT INTERVENTIONS FOR RESIDENTS AFFECTED BY CROCODILE

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## ATTACKS ALONG LAKE TURKANA

**Hon. Cecilia A. Ngitit** (Turkana County, UDA): Hon. Temporary Speaker, pursuant to Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Regional Development regarding the alarming crocodile attacks that have tragically resulted in the loss of lives among residents living along the shores of Lake Turkana.

The water levels of Lake Turkana have risen dramatically, submerging several areas along the shores of the Lake. The affected areas include: Nangitony, Ekwar, Nalukat, Ngimuriae, Naangolpus, Merier, Achukut, Elelea, and Mugur in Kerio Delta Ward. As a result, residents have been displaced, forced to abandon their homes and seek refuge in makeshift shelters. Tragically, this displacement has also exposed them to deadly dangers, as crocodiles, now thriving in the submerged areas, have attacked and killed 12 individuals, leaving many more injured. The displaced community now lives in constant fear of further attacks.

The swelling of Lake Turkana has pushed these residents into areas with no access to essential services, such as food, proper shelter, healthcare and education. Despite the logistical capability demonstrated during elections, where helicopters are deployed to transport election materials, these areas have been left neglected when urgent assistance as such is needed.

It is against this background that I seek for a statement from the Chairperson of the Departmental Committee on Regional Development on the following:

1. The immediate and long-term interventions from relevant Ministries, Departments and Agencies regarding the provision of clean water, food, temporary shelters and healthcare services for the affected residents; and,
2. Any compensation for the families who have been injured and tragically lost their loved ones due to crocodile attacks.

I thank you Hon. Temporary Speaker.

**Hon. Temporary Speaker** (Hon. David Ochieng’): Is Hon. Lochakapong in the House? The Chairperson of the Departmental Committee on Regional Development, the request for a Statement is accordingly committed to that Committee.

I can see the Member for Turkana Central. I cannot see your card. Please press the intervention button.

**Hon. Joseph Emathe** (Turkana Central, UDA): Turkana Central.

**Hon. Temporary Speaker** (Hon. David Ochieng’): Yes, Hon. Emathe. Go ahead.

**Hon. Joseph Emathe** (Turkana Central, UDA): Hon. Temporary Speaker, what has been raised in that Statement also happens in my Constituency. It cuts across many issues. It is not only about potable water.

Firstly, the Kenya Wildlife Services (KWS) should address the frequent crocodile attacks. Secondly, those who have been attacked and killed by crocodiles are also supposed to be compensated.

Thirdly, this issue also affects education. Children have resolved to be fishermen instead of being in school because most of their schools have been submerged. This issue cuts across different things. When we talk about regional development, they will only bring water but children will keep missing school because the schools are still submerged. Again, the crocodile attacks will continue to happen because crocodiles are now close to where the residents live. It is serious because sometimes you cannot even trace the bodies. Some crocodiles eat and finish everything. There is nothing to present as an exhibit. When you go to KWS, they claim that there is no evidence. It is very strange. This is an emergency in itself.

I thank Hon. Cecilia for bringing up this issue.

**Hon. Temporary Speaker** (Hon. David Ochieng’): Hon. Mbai.

**Hon. Nimrod Mbai** (Kitui East, UDA): Thank you, Hon. Temporary Speaker. I want to comment on the Statement that has been sought by the Member for Turkana County. We have had several petitions about human-wildlife conflict in areas where we have wildlife, the ocean, lakes and forests. We have listened to several stakeholders and I have observed one pattern. The civilian staff of KWS are concerned and empathise with the public on the issue of human-wildlife conflict, but the uniformed staff do not. Too many Kenyans are suffering, but the uniformed Kenyans who are supposed to protect the public are more protective of the wildlife than the people around those areas.

We have brought several reports on issues touching on wildlife. I know the Committee on Implementation is on it, but I believe it is time that this House pronounced itself on how the uniformed KWS should treat people affected by wildlife conflict.

Thank you, Hon. Temporary Speaker.

**Hon. Temporary Speaker** (Hon. David Ochieng’): Thank you. Is Hon. Mbiuki or any Member of the Departmental Committee on Tourism and Wildlife in the House? I would like to order that this Statement be processed jointly by the Departmental Committee on Regional Development and the Departmental Committee on Tourism and Wildlife and bring a response to the House in two weeks.

Let us have the Member for Malava.

#### SHOOTING OF MS SALOME MAKANDA

**Hon. Malulu Injendi** (Malava, ANC): Hon. Temporary Speaker, pursuant to the provisions of Standing Order 44 (2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding the alleged shooting of Ms Salome Makanda by a Kenya Police Service officer.

On 8<sup>th</sup> October 2024, Ms Salome Makanda, a second-year student at Bungoma National Polytechnic of ID No.41681904 was tragically shot and killed during demonstrations by Polytechnic students. The demonstrations were sparked by grievances against the administration requesting the transfer of the principal, Ms Rosebella Chukwu, on allegations of misconduct and harassment of students.

It is against this background that I request for a statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. Explain the circumstances that led to the shooting and killing of Ms Salome Makanda, a resident of Malava Constituency;
2. Provide a status of the investigations into the shooting, including action taken against the police officer allegedly responsible; and,
3. Give a status report on measures the Government has put in place to offset the hospital bills for the family of the deceased.

Thank you, Hon. Temporary Speaker.

**Hon. Temporary Speaker** (Hon. David Ochieng’): The Chairman of the Departmental Committee on Administration and Internal Affairs, this is a very straightforward request. I am sure you have listened to it. How soon can you respond?

**Hon. Gabriel Tongoyo** (Narok West, UDA): Hon. Temporary Speaker, considering that the House is proceeding for recess, please give us two weeks. Should I get a response before then, I can as well furnish the concerned Member.

**Hon. Temporary Speaker** (Hon. David Ochieng’): Liaise with the Member.

Hon. Chairman, you were to respond to a request by Hon. Chonga. I am told he is now in the House. Is that the case? Go ahead.

#### STATEMENT

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STATUS OF EVICTION OF GONA FAMILY FROM LAND REGISTERED  
LR NO.MN11783 BY MAHMOUD ON 11<sup>TH</sup> OCTOBER 2024

**Hon. Gabriel Tongoyo** (Narok West, UDA): I would like to respond as directed by the Speaker yesterday. The Member for Kilifi South, Hon. Ken Chonga had requested a Statement regarding the eviction of Mr Kea Rimba Gona family from land registered LR No.MN11783 by Mahmoud on 11<sup>th</sup> October 2024. The Member, specifically, wanted to be informed on the following:

1. Why the family of Kea Rimba was evicted from the disputed plot which they had stayed for over 60 years;
2. When the family will be allowed to access their home until the court resolves the dispute;
3. Why police officers from Ndongya and Mtwapa have assisted Mr Mahmoud in frustrating the Kea Rimba family by denying them access to land;
4. The step taken to ensure Mohamed Abdalla does not acquire possession of land in dispute; and,
5. If there is compensation from the Ministry.

I want to state as follows. Mr Mohammed Abdalla bought the land in question in 1982; that is 42 years ago. He subsequently hired Mr Kea Rimba Gona to work for him on the farm. The land measuring 4.27 hectares is a freehold and is registered under Abdulla Mohamed Abdulla as per the search dated 15<sup>th</sup> August 2024, but several subdivisions are registered against the title.

The land has a farmhouse belonging to the landowner which Mr Kea Rimba Gona moved in after the death of Mr Mohammed Abdalla in 2002. Before his death, Mzee Mohammed instructed his family to apportion two acres of land to Mr Kea Rimba acknowledging the long period he had worked for him. I wish to table another copy of the agreement attached. However, Gona Rimba refused to take his two acres. He demanded an additional one acre, to which the family agreed. Instead of taking three acres, he moved to court and filed an adverse possession case claiming the entire land. The matter is alive in the High Court.

On 29<sup>th</sup> July 2024, at around 11:00 a.m., a distress call was received at the Ndongya Police Station that there was a dead body in the compound of Mr Mzee Mohammed, which the kins wanted to bury. Police officers rushed to the scene and established that, upon the demise of Mzee Rimba, the family wanted to bury him there. However, Mr. Abdulla denied them access. Later, the family went to court, and the verdict was awarded in favour of Mr Abdulla. Therefore, the police just intervened due to the disturbance and commotion. No evictions were done at all.

Mr Lucky Kalemba Rimba, a son of the deceased Mr Kea Rimba Gona, filed an application dated 6<sup>th</sup> August 2024 before the court for determination seeking the following principal orders:

1. An order of temporary injunction restraining Mahmoud Abdulahi Mohamed and his agents from stopping and/or preventing the burial of the remains of Kea Rimba Gona pending the hearing and determination of the application.
2. An order of temporary injunction restraining Mahmoud Abdulahi Mohamed and his agents from stopping and preventing the burial.
3. An order compelling Mahmoud Abdulahi Mohamed and his agents to open and create a passage through the wall for the entrance and exits of the applicants and others intending to enter or visit their homestead.

However, the application was dismissed with costs.

After the above judgement, Mr Abdala Mushin, one of the successors of the late Mzee, hired private security guards to guard his property. He feared the family might sneak and bury the body on his compound. The late Mzee Mohammed Abdala family lives in Mombasa, further away from this property, necessitating private security.

National Government Administration Officers have been reconciling the parties for a win-win situation. However, Mzee Rimba Gona's family has never been satisfied, hence the option to file the case in court, forcing the dependent to incur costs and hire lawyers to represent them. Despite all that, we have managed to convince the Abdulla family to honour the agreement of 2001. They have requested the Kea Rimba Gona's family to find an alternative land of their choice that the Abdulla family is committed to purchasing for the family. This is due to the bad blood that now exists between the two families, making it difficult to live harmoniously as neighbours. The Ministry will endeavour to ensure that the family maintains peace. However, the Ministry has no vote head to compensate evicted families.

Hon. Kindiki Kithure, the immediate Cabinet Secretary for Interior and National Administration and the current Deputy President of the Republic of Kenya, signs this.

I submit.

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Chonga, you have heard the response? Go ahead.

**Hon. Ken Chonga** (Kilifi South, ODM): Thank you, Hon. Temporary Speaker.

I am aware about all that has been presented. I want this House to know that this is a family which has lived there for over 60 years, and they have been burying their dead on the two acres they had been allocated by the old Mohamed Abdulla Mohamed. As I stand here now, it is already on record that they have a four-month-old dead body at the Coast General Teaching and Referral Hospital mortuary awaiting burial. The court has neither issued orders on whether they should bury or not. All along, the family has been burying their dead on this piece of land. As much as there is a dispute in court, I do not know whether there is a lacuna in law to direct that the family still holds on to the land they were awarded until the matter is decided. Is it going to stay as it is, and will they be left out and remain with the dead body until the matter is determined by the court? We have heard clearly from the Chairman that the matter is still active in court.

Thank you.

**The Temporary Speaker** (Hon. David Ochieng'): That is very well said. This is a straightforward matter. It would be okay if the Chairman could help Hon. Chonga and his constituents get the body buried. As for now, I do not know what you would want to say about that as Parliament.

**Hon. Gabriel Tongoyo** (Narok West, UDA): Firstly, I appreciate and acknowledge that the Member of Parliament is in agreement with the response. You, being a lawyer, and to a bigger extent, this is a land issue, as indicated, it is a live case in court. The role of the Ministry of Interior and National Administration is very minimal. The bigger thing is that it is a land question. This scope can go beyond the Ministry's scope, possibly involving the Ministry of Lands, Housing and Urban Development. Nevertheless, as you guided, we need an issue to negotiate as...

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Chairman, the Ministry of Interior and National Administration will have a role to play if there is no order barring the burial and someone stopping the burial. Hon. Chonga says that there is no court order barring the burial. You need to get the facts there clearly, such as if someone may be using the police to stop a burial that has not been stopped. The Committee will have to come in and help in that situation. This matter is settled. Hon. Chonga, you can approach the Hon. Chairman and see how you can help each other to make this happen.

## STATE OF AFFAIRS AT MOI UNIVERSITY

**The Temporary Speaker** (Hon. David Ochieng’): A response was deferred in the morning regarding Moi University. Hon. Jack Wamboka is in the House. We can proceed.

**Hon. Julius Melly** (Tinderet, UDA): Thank you. I have two responses, but I will start with the response on Moi University, which we had deferred in the morning because of an inadequate response from the Ministry.

I also want to thank Hon. Wamboka and the Members of this House who showed much interest in the problems facing Moi University. As we speak today, it is affecting thousands of students, lecturers, and members of the public who, in one way or another, depend on the university. The Statement I have here details the background under which these problems started and their genesis. It goes on to explain how the problems came up, what the university is doing in the long-term, and what the Government is doing. More importantly, it shows what they are doing to ensure the university re-opens. You will allow me to take some time to give a detailed response because this is of national importance.

Moi University has been facing difficulties meeting its wage bill and other operational obligations over the years. The university's wage bill has continued to increase. It is currently at 88 per cent of total revenue as opposed to 35 per cent in most institutions. The challenges facing the university link to historical issues of ever expansion. Between early 1991 and 2024, the university suffered the loss of its critical infrastructure, assets and financial resources by establishing over nine fully-fledged universities. These include, among others, Masinde Muliro University of Science and Technology, University of Eldoret, Karatina University, University of Kabianga, Masai Mara University, Alupe University, and currently one constituent college that is in Bomet.

It is noteworthy that, in 1988, Moi University established the privately sponsored students' programme. It eventually grew, and the privately sponsored students' programme was supposed to serve the following reasons:

1. The growing demand for higher education.
2. Limited admission capacities for Government-sponsored students.
3. The need to accommodate students who had failed to secure university placements.

This is what happened across all other universities. That is what the privately sponsored students' programme was supposed to do.

Hon. Temporary Speaker, because of this, the university established satellite campuses across the country. We had what we call the Matiang’i effect in 2014 or 2015. The Government reined in on students who cheated in high schools. Therefore, there was a drop in the number of students going to universities. There was a decline in the number of students who passed the Kenya Certificate of Secondary Education (KCSE). This resulted in changes in the university admission policy by the Government. There was a decline in the admission of self-sponsored students, as shown in the table. This led to reduced income and the eventual closure of a number of campuses and teaching centres in Nakuru, Kericho, Kitale, Odera Akang’o, Mogotio, Marigat and others.

Staff from all these campuses and some from the constituent colleges that became fully-fledged universities were retained at Moi University. This was the misnomer that affected it. As much as the campuses were supposed to close down with the staff, they offloaded them to the main campus. This means that they have a lot of staff on their payroll. There is a table here showing that in the academic year 2014/2015, the student population at the university was 37,125. In the academic year 2023/2024, we have 19,460 Government-sponsored students and 1,097 self-sponsored students. The population now stands at 20,557. The reduction in student numbers from over 20,000 privately sponsored students to 1,097 in the academic year



2023/2024 has resulted in a decline in revenue against a static payroll cost. The number of teaching staff has been rationalised due to the expansion of academic programmes, retirements, resignations and natural attrition.

We have the figures showing how the population of teaching staff has been increasing, yet the student population has been reducing. This means that the university's income has been declining. However, the number of teaching and non-teaching staff has almost remained static. As a result of the sharp decline in revenue, the university is unable to sustain its payroll operations and maintenance expenses.

Currently, the payroll constitutes 88 per cent of the revenue against an ideal of 35 per cent. This situation is not tenable to the university's sustainability. Reports from the Office of the Auditor-General on the university's financial statements show that it has been technically insolvent since 2016. The liabilities exceed the assets.

We have a table indicating what the university owes creditors, statutory payments, Pay As You Earn (PAYE), Housing Levy, bank loans *et cetera*. The pending bills stand at Ksh7,900,871,465. Therefore, the university's council and management sat down to create a recovery plan. This was a directive from the Government. Therefore, in their plan, the financial crisis triggered a strike that eventually led to the university's closure on 3<sup>rd</sup> October 2024.

*(An Hon. Member stood on the aisle)*

**The Temporary Speaker** (Hon. David Ochieng'): The Member on the aisle, take a seat.

**Hon. Julius Melly** (Tinderet, UDA): Hon. Temporary Speaker, the university requested funding from the National Treasury through the State Department for Higher Education and Research to address the crisis. In particular, it requested the following for funding:

1. Additional financial support of Ksh315 million per month for a period of two years.
2. One-off financial support of Ksh2.4 billion to clear outstanding debts and stem the accumulation of pending bills, and penalties and interest that accrue.
3. Salary arrears for diagonal implementation of the 2017 to 2021 Collective Bargaining Agreement (CBA) ruled by the court in 2021. They require Ksh1,051,874,000.
4. Funding and support to undertake staff rightsizing. They want to reduce the number of staff. To do this, they require Ksh1.3 billion. The university said it would raise Ksh700 million through the sale of a property.

The long-term sustainability plans for the university are the second item they are supposed to consider. They were a result of a meeting which was directed by the Chief of Staff and Head of Public Service. They constituted a Committee to develop a recovery plan for the university. It comprises representatives from the executive office of the President, the National Treasury and the Ministry of Education. The Committee on Recovery Plan for Moi University is working with the University Council and management to develop a long-term sustainability plan.

I am aware that this Committee met. Some recommendations are immediate and will ensure that the university statistics are documented. It analysed the request for funds submitted by the university. Additional payroll support requires Ksh315 million shillings per month. Current pending bills as at 1<sup>st</sup> July 2022 to date are Ksh2.4 billion. The actionable body is the payment plan to be negotiated with creditors.

Thirdly, it is the salary arrears from 2017 to 2021 CBA. They require Ksh1,051,000,000 submitted to the Pending Bills Committee. All these are long-term plans. The Committee noted that the financial request submitted by Moi University is not sustainable and cannot be fully

accommodated within the present fiscal space. Therefore, they demanded what could be easily implemented, and the university opened. They gave the following opportunities for increasing revenue for income-generating activities. That is what the Committee asked Moi University to do. They need to ensure that they increase revenue from the farm's idle assets, short-term training, consultancies, domain funds, and research. The university was directed to project the revenue expected from the income-generating activities over the next three years, from 2024 up to 2027.

The university was directed to augment Exchequer resources with enhanced own revenue to increase its revenue. It was directed to negotiate a priority payment plan with staff and creditors and progressively pay the current pending bills. Exchequer resources will be prioritised for the payment of salaries. The payroll stands at Ksh403,936,046 each month.

There are immediate actions for re-opening the university. They have five steps to make sure that the university is re-opened by 4<sup>th</sup> November 2024. The National Treasury released Ksh609 million in October 2024 to Moi University. Ksh300 million will be disbursed for scholarships in October 2024. This is in addition to Ksh217 million disbursed in August 2024. Ksh219.9 million will be disbursed for tuition in October 2024. This is in addition to Ksh127.2 million disbursed in August 2024. Ksh89 million will be disbursed as capitation for ongoing students in October 2024. This is in addition to Ksh269 million disbursed in August 2024.

The disbursement of Ksh609 million will enable the university to pay pending staff salaries for September and October which is a total of Ksh807 million. The university was directed to meet the difference of Ksh198 million through its revenue, projected at Ksh206 million each month. The fourth action is that the National Treasury will avail an additional Ksh500 million to Moi University by 15<sup>th</sup> November 2024. The fifth action is that a Caretaker Committee will be constituted to strengthen the management of Moi University during the recovery period. I remember one of the issues that was raised was management. The Committee said that it would have a Caretaker Committee. However, there is a major risk that the university faces.

The major risk against disbursement of funds for loans and scholarships is the order issued by the High Court of Kenya at Nairobi on 3<sup>rd</sup> October 2024 in Petition No.412 of 2023 Kenya Human Rights Commission and three others versus the Attorney-General and four others. I think this is the issue of the new funding model, which they want to use the funds to disburse scholarship and loans. But through the Ministry, they have gone to court. To mitigate against the risk, the Ministry, through the Office of the Attorney-General, has filed an application to set aside and discharge the order to facilitate the release of funds to students and universities.

Hon. Temporary Speaker, the Committee has recommended that Moi University should re-open on 4<sup>th</sup> November 2024. It is to be noted that staff unions will need to sign a return-to-work formula to promote consensus and set the stage for re-opening. An inter-ministerial committee, comprising the Ministry of Education, the National Treasury and the Ministry of Labour and Social Protection, is negotiating with the staff unions on the issues raised regarding the implementation of the Collective Bargaining Agreement (CBA) 2017/2021. This Statement is signed by the Principal Secretary, Higher Education Loans Board.

As you remember in the morning, they had given about a two sentence Statement which I, as the Chairperson of the Departmental Committee on Education and Research, rejected because it did not respond to the Statement raised by Hon. Wamboka. When I talked to the Ministry, they said that the actionable areas that they have detailed here will be implemented. The university will re-open. My committee is also seized of most the teething issues that are affecting the university which we will visit. One of the things that we have discussed, between my Committee and the Ministry of Education, is to make sure that we have a robust and efficient management that is able to run the university and bring it back to its feet.

Thank you.

**The Temporary Speaker** (Hon. David Ochieng’): Let Hon. Wanami have the first bite because it was his Statement.

Thank you.

**Hon. Wanami Wamboka** (Bumula, DAP-K): Thank you, Hon. Temporary Speaker. I take this opportunity to thank my brother, the Chairman of the Departmental Committee on Education and Research. At least, we are headed somewhere. My committee already ordered a forensic audit on this university through the Office of the Auditor-General.

**The Temporary Speaker** (Hon. David Ochieng’): You do not have a committee.

**Hon. Wanami Wamboka** (Bumula, DAP-K): National Assembly PIC on Education and Governance.

**The Temporary Speaker** (Hon. David Ochieng’): You know Kenyans do not... When you put abbreviations and say ‘my committee’...

**Hon. Wanami Wamboka** (Bumula, DAP-K): The Committee I chair ordered a forensic audit on this university. I am sure at the end of the day we are going to get somewhere. But as we do that, the student is fundamental in this entire matrix. Students are complaining that this university has not held a graduation for about three years. It is unfair for a student to go to school, finish the degree and not graduate. The university should facilitate that and ensure that that is done with urgency.

Workers, lecturers and non-teaching staff are really suffering in this university. Let us prioritise these people because most of them are even dying of blood pressure and stress-related illnesses. Most of them have loans and they cannot survive. Let the Chairperson, as he prioritises this, please, bear in mind ... I am looking at the finances that have been released by the National Treasury and they are insufficient. These people are in a very big hole. The National Treasury needs to go out of its way to give something big to this university. I had a discussion with the Vice-Chancellor and the money they need immediately is in excess of Ksh2.5 billion just to keep them afloat for about two months. We must continue pushing the National Treasury. We need a commitment from it. No one understands why the National Treasury does not release money that this House has budgeted for universities.

We budget for these monies which are supposed to be released to universities, without which universities cannot operate. It is my desire that as we engage the Ministry of Education, the monster in the House is the National Treasury. This cuts across almost all universities.

I think Multimedia University of Kenya is going on strike next week. This is the situation in many other universities because the National Treasury is not releasing money which this House has appropriated to the universities. As we continue to work together, Hon. Melly, let us ensure that the student, who is at the centre of all this thing, does not suffer and that lecturers, teaching and non-teaching staff are taken care of.

Another big issue is the statutory payments. The retirees' money is missing at Moi University. They have been deducting monies from people who have worked for years, but when the time for retire comes, these people do not get their money. Where did these monies go to? Much as we want the National Treasury to come in and bail out this institution, we must also go down and ask ourselves very serious questions. Who took the retiree's money? I thank, Hon. Melly. Let us continue pushing and ensure that we have sanity at the end of the day.

We need to be very clear regarding the issue of management. As we set up a caretaker committee, we need to be very clear with the terms of reference and how we are going to move forward. If we are not careful, we are just duplicating the same people who have made the situation in this university worse by bringing another committee to work with the same people. In our considered opinion, we need an overhaul in the management of Moi University. Let us not fear. I also thank Hon. Rutto. This university is located in his constituency. He has been attending all the meetings that we have had with this university.

**The Temporary Speaker** (Hon. David Ochieng’): Proceed to wind up.

**Hon. Wanami Wamboka** (Bumula, DAP-K): Thank you, Hon. Temporary Speaker and the Chairman. May God bless you. Give one of the Hon. Members of the Public Investment Committee on Education and Governance, Hon. Kakai, just one minute.

**The Temporary Speaker** (Hon. David Ochieng’): That is not your role at all. You know that very well. Next is the Member for Uasin Gishu.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon. Temporary Speaker. We have seen the report that has been tabled by Hon. Melly, but there are still some issues that have not been spelt out. One of the biggest challenges in Moi University is not just the salary arrears for the members of staff. The problem is, even for those months that they have been paid, unfortunately they were getting the net pay. All their deductions, like NSSF, NHIF, and their loan repayments were not being submitted. Therefore, many lecturers and staff members will tell you that one time they were driving their car in town when it was repossessed and towed away. When they ask why, they are told that the money has not been remitted by the university yet their payslip shows that the money is deducted. The university has been paying net income but not remitting the statutory deductions which has led to a crisis. So, even if they are paid salary arrears, if you do not resolve the deductions from their salary, which you have not forwarded to the relevant institutions, that will still cause a problem. In fact, currently, since the banks cannot pressure the university, they have decided to go for the individual staff members. Some of them had mortgages and now their houses are being auctioned because they have not been paid, although it shows that it has been deducted from their salary. There is a much bigger problem if we need a formula to bring employees back to work so as to re-open the university.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Kakai.

**Hon. Bisau Kakai** (Kimini, DAP-K): Thank you, Hon. Temporary Speaker. I am also a Member of the Public Investment Committee on Governance and Education. Truly, as the Chairperson of the Departmental Committee on Education and Research has said, this is like prescribing aspirin to a patient who requires proper surgery. Looking at Moi University, this is purely a governance and management issue.

If you look at the staffing levels, Moi University opened many campuses. For example, Kabiana and Karatina Universities. During our last Committee meeting, we asked Karatina University what they are doing because their books are very clean. When they opened other campuses, there was a gap in staff rationalisation. There is also the issue of staff who are retiring and discontinuation of the parallel programmes. Why has the management been unable to rationalise so that they have staff that matches? For example, if staff are retiring or there is natural attrition, how comes the management is unable to rationalise?

The other critical issue is that this university has a lot of assets like land. I asked the Vice-Chancellor why they teach entrepreneurship, but they are unable to come up with projects that will generate income. They also teach livestock management and do not generate money from dairy farming. If they teach entrepreneurship courses, have land, assets and brains, why are they unable to generate income? They said that the National Treasury does not avail money on time. We expect that if you are the Vice-Chancellor, you should think outside the box and generate income.

As I wind up there is also the issue of maintaining proper records yet they offer a Bachelor in records management. Students have to graduate as we sort out the issue of salaries amounting to Ksh800 million. We can sort out the September and October salaries. What about those of November and December? We need to do a proper surgery, starting with getting a new management that will turn around this university to where it used to be. It has potential, infrastructure and resources in terms of land. It is just a matter of coming up with a committee.

Lastly, we need to ensure that our institutions with a lot of capacity in terms of land... For example, the United States International University (USIU) hardly has 200 acres of land yet it is not in the red. It is paying salaries, investing and getting research funds. Where do the research funds for Moi University go?

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Hon. Oundo, two minutes.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker. When I hear the story of Moi University, my heart bleeds. I left the University of Nairobi to come here. We had challenges but we managed to weather the storm. It also happens that my second born graduated from Moi University before it got into this mess. Most of the challenges we have in the universities are a question of governance. All these other stories like the National Treasury are just by the way.

A university should not be a cost centre but a revenue-generating centre. Moi University has assets and brains. Why can they not generate income? This is an indictment on the education system of this country. We need to be realistic. The Committee needs to get hard on the Vice-Chancellor and Council Members. They should get out of their comfort zone of forever depending on the National Treasury. They should look for money. The new funding model system assumes the cost for each programme has been adequately calculated. If a student is paid for the university, they should ensure things run smoothly, there is teaching materials and lecturers are paid.

As I conclude, I want to urge all the universities to pay the statutory payments they deduct. You can imagine if one wants to get a government job they cannot get a tax clearance certificate because the university did not submit their taxes. You want to take a loan from your Sacco, but you cannot get it because your shares are not up to date. As we speak now, the same malady is affecting the Technical University of Kenya, across here. Very soon, you will also see the same shutdown we are witnessing at Moi University.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Member for Kesses, two minutes also.

**Hon. Julius Rutto** (Kesses, UDA): Thank you very much, Hon. Temporary Speaker. I stand to congratulate the Chairperson of the Departmental Committee on Education and Research, Hon. Julius Melly. The real problem in Moi University that is also affecting other universities, requires immediate attention.

I also want to call out the National Treasury. I am aware it is preparing a supplementary budget. I plead with this House to consider Moi University. It should be given priority and adequate resources. The Ministry of Investments, Trade and Industry took over Rivatex after Moi University had injected a colossal amount of money. There were no discussions as to how that money would be refunded by the Ministry.

I want to agree with Hon. Wamboka that this is a governance issue. I wish Hon. Melly can clarify the terms of reference for the caretaker committee. All of us, including the staff of Moi University, would like to know what they bring on board so as to sort out the issues affecting this university.

When the Departmental Committee on Education and Research visits Moi University, even before they enter the boardroom, I want them to tour the university and its environs, including the students living quarters. They are in a deplorable condition. None of the students would want to go there because of the bad situation they are in. As we look at the salaries, let us also look at the operations so that we can save the university.

Lastly, this goes to the people who committed theft in this university like those who participated in constructing a gate which looks like a scarecrow. I want to ask the Committee

to look beyond the current management especially the people who participated in spending resources on projects which add no value to the university such as the gate which the huge university buses cannot pass through. We want to know what they were thinking when putting a lot of money in such a project instead of prioritising it.

Thank you, Hon. Temporary Speaker. I support that the National Treasury should give Moi University priority in the supplementary budget.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Emathe you have one minute.

**Hon. Joseph Emathe** (Turkana Central, UDA): Thank you very much, Hon. Temporary Speaker. This is a hopeless situation. If giants like Moi University are struggling then what will happen to counties that are planning to open new universities, for example, Turkana University College, which was opened by the President? What is the indicator? This means universities that are newly established will struggle because the giants are already falling. We need to do something about our education sector.

This is not a small matter. A committee should be formed by Members of Parliament to see how this can be expedited. We are pumping in a lot of money in terms of capitation but nothing is happening.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you, Hon. Member. Hon. Mogaka.

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Temporary Speaker, for allowing me to also add my lamentations on the manner in which one of the jewels in tertiary education has been run down. I pity Moi University. I am particularly concerned because the Gusii region has Moi Teaching and Referral Hospital as their only solution when they have medical challenges. So, when Moi University is not functioning, the entire Nyanza and Western regions are extremely challenged. I urge the Chairman, Hon. Melly, to go beyond the call of duty to make sure that Moi University is sorted out. It is not just Moi University, this problem is contagious and replicated in other universities. Kisii University should as well be put on the priority list.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Hon. Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Temporary Speaker, I join my colleagues in expressing my disappointment with the management of Moi University. When they raise issues like overstaffing, it begs the question why the management continued with recruitment of more staff and opening more campus while not looking at possible ways to manage the university. Last week, my Committee was at the Moi Teaching and Referral Hospital. The hospital is next to the Moi University Medical School, which is closed. That closure has ramifications because even the post-graduate university students and lecturers have gone home. They are not productive...

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Pukose, I will add you 30 seconds to wind up your point.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Temporary Speaker, these university lecturers also offer key services at the hospital. Therefore, the closure of the university affects other areas. It has a wide ramification. I ask the Chairman and the Committee to save Moi University so that we can save other functions.

**The Temporary Speaker** (Hon. David Ochieng’): Member for Chesumei.

**Hon. Paul Biego** (Chesumei, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. From the outset, I take this opportunity to thank the Chairman and his Committee for trying to bring sanity to Moi University. It is a pity that such a big institution is undergoing such challenges. Moi University is an institution that has brought up too many people. It is unacceptable for us to see it going down. So, we urge and make an appeal to the National Treasury so that Moi University gets up and running. We know for sure that the lecturers who were there are suffering a lot because the monies that are being deducted...

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Caroli Omondi.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you, Hon. Temporary Speaker. I will be very brief.

*(Hon. Esther Passaris consulted loudly)*

You are distracting me, Hon. Passaris.

Moi University has had very many scandals. At one point in time, the entire Faculty of Law was closed because majority of the teaching staff were found to be unqualified. The problems facing Moi University are purely of mismanagement and corruption in nature. If we are to make any intervention, it should be preceded by a very specific plan on how to restructure the entire organisation. We should also figure out how to deal with all the past and present issues so that we can help the students. Most importantly, I suggest that we use the money we allocate to political parties as funding. Political parties are private members’ clubs. There is no difference between a political party and Gor Mahia Football Club.

*(Laughter)*

**The Temporary Speaker** (Hon. David Ochieng’): Order, Hon. Caroli. Can you withdraw what you just said? What did you say?

**Hon. Caroli Omondi** (Suba South, ODM): Hon. Temporary Speaker, I know you are a party leader. I am suggesting....

**The Temporary Speaker** (Hon. David Ochieng’): Order, Hon. Caroli. This chance goes to the Member for Nairobi.

**Hon. Esther Passaris** (Nairobi City County, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to the debate on issues of financial mismanagement at Moi University. I believe we have a problem with remittances of all deductions in payrolls. National Hospital Insurance Fund (NHIF) was literally strangled because remittances were deducted from employees, even in Government institutions, but not remitted to NHIF. We need to audit that because when you have a vote for payroll, you cannot use it for something else. I feel that all those people who are culpable be investigated. I heard there was a Governor who had four of his family members employed by Moi University yet they are not even in Kenya! It is important that we handle this properly. We need to put more money into Ethics and Anti-Corruption Commission (EACC) so that it can effectively deal with corruption. If we do not deal with corruption, we will never deliver prosperity to this country.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Melly. You will have the last word on this.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. The issues raised are very pertinent. I would like to inform the House what the caretaker committee will do. It should be a very efficient and proper caretaker committee. My Committee shall visit the university in the next two weeks. One of the things we would like to see, and we are asking the Ministry to do, is to make sure that these funds, including the Ksh2.4 billion for the earlier money which was deducted and they were not paid, are remitted. The National Treasury needs to pay them so that their payroll is in tandem with the current financial system.

Lastly, I thank the Members because they have raised very pertinent issues, not only on Moi University but many universities which are in this problem. As at now, the major crisis is Moi University. I urge the House that when we look at Supplementary Budget II, we make sure that we bail out Moi University so that we save our children and the community.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Members, your presiding Chair for today went to Moi University. As I sit here listening to the Report by Hon. Melly, I can tell you for sure that the Report is so underwhelming. There is nothing you will achieve with that Report. What you have just read to the House today, even if you implement it to the letter, you will not achieve much with it. As Members have said, let us have a proper focus on that university. Hon. Kakai is the one who talked about management and governance. Let us not try to cover people or bring ethnicity into it. Go in there. You can pump Ksh10 million into Moi University today but it will not rise. If you do not deal with it clinically, they will be back here shortly.

Before we allow that matter to rest, I will give Hon. Onchoke and Hon. Donya 30 seconds each to contribute. Hon. Onchoke, you have the microphone next to you.

**Hon. Charles Onchoke** (Bonchari, UPA): Thank you, Hon. Temporary Speaker. My frustration and disappointment, like everybody else here, is that institutions are appropriated funds yet year in, year out there is stealing going on. Where is our oversight? Do we wait until all the money is stolen and all assets are not appropriated well by persons managing these institutions then we take action? We need to get in and see how our oversight is working when we receive these reports with the same story from the Auditor-General year in, year out. What do we have these institutions for? Parliament does its final stage of oversight. How about the Auditor-General and inspectors from the ministries? They need to up their game so that we do not have this stealing happening and Parliament coming in at the tail end when the money has been siphoned.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Donya.

**Hon. Dorice Donya** (Kisii County, WDM): Thank you, Hon. Temporary Speaker. As much as they are proposing the addition of resources to the university, there is a time I read in the newspaper that they wanted to have their tribesmen to manage the institution. Somehow, that could be the problem. Let people consider capability and not their tribal lines. That would have affected the university, not management. Check on that part of tribalism.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): I think so much has been said about Moi University so far. Hon. Chairman, you have your work cut out and I wish you all the best.

Before we go to the next Order, I want to give the Hon. Member for Kisii County a chance regarding a matter of the loss of a former Member of Parliament.

DEMISE OF HON. ZEBEDEO OPORE, FORMER MEMBER OF  
PARLIAMENT FOR BONCHARI CONSTITUENCY

**Hon. Dorice Donya** (Kisii County, WDM): Thank you, Hon. Temporary Speaker. I rise to make a Statement regarding the demise of the former Member of Parliament for Bonchari Constituency, Hon Zebedeo Opre.

Hon. Temporary Speaker, pursuant to the Provision of Standing Order 25(9d)(2a) I rise to pay tribute to the former Member of Parliament for Bonchari Constituency, the late Zebedeo John Opre, who passed away this morning at the age of 77 years.

The late Hon. John Opre was born on 8<sup>th</sup> January 1947. He pursued higher education with great dedication, obtaining a degree in economics from the University of Nairobi and later, a Master of Science in Economics from the University of Bradford in the UK in 1982. The late Hon. Opre began his illustrious political career in 1997 when he was first elected to represent the people of Bonchari in the National Assembly, on a Ford People ticket. Throughout his



political journey, he demonstrated unshakeable commitment to his constituents, by championing their interests both in and out of Parliament.

He was an astute legislator whose contributions to Parliament and its committees were invaluable. He served as an Assistant Minister in the Ministry of Information and Broadcasting, showcasing his expertise and dedication in public service. In recent years, he was a member of the Departmental Committee on Communication, Information and Innovation, where his insights were highly valued. Hon. Opopo's political acumen was evident in his resilience and adaptability. His unwavering commitment to the people of Bonchari, further demonstrated his leadership and development skills. The late Hon. Opopo was known for his deep respect for both young and the old. His ability to connect with the people across generations made him a true champion for the people of Bonchari and a voice of reason in our national discourse.

On behalf of the people of Kisii County and the entire National Assembly, I wish to express my heartfelt condolences to the family of the late Hon. Zebedeo John Opopo, his relatives, friends, and the people of Bonchari Constituency (I am married in Bonchari Constituency). The people of Bonchari have lost a true champion and Kenya has lost a voice of reason with the passing on of Hon. Opopo. His legacy of dedicated service will remain a guiding example for all of us in leadership. May his soul rest in eternal peace. Thank you.

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Osoro.

**Hon. Silvanus Osoro** (South Mugirango, UDA): Thank you very much, Hon. Temporary Speaker. I join the people of Bonchari Constituency, the larger Gusii region, Hon. Donya and Hon. Onchoke, in condoling with the family of the Hon. Zebedeo Opopo.

Just about 30 years or so ago, Bonchari Constituency and South Mugirango was one Constituency which used to be called Wanjare South Mugirango. Then, because of the expansive nature of the Constituency of South Mugirango and the huge population, it was only led by people who by then were from South Mugirango. Among the people who really fought for the review of boundaries so that people manage themselves, is the late Hon. Zebedeo Opopo. He led that constituency for three consecutive terms, that is, from 1997, 2002, and 2007. He left this House in 2013. It is a great loss.

**The Temporary Speaker** (Hon. David Ochieng'): Is it true that he left in 2013?

**Hon. Silvanus Osoro** (South Mugirango, UDA): No. Sorry, he left in 2017, making it three terms.

It is a great loss for Kisii. If you remember about a month ago, we were again in this House mourning another great son of the soil, the Hon. Ogari, who passed-on almost in similar circumstances. Gusii nation is mourning. Losing such great sons of the soil, people that we used to garner wisdom from, is something that is very devastating. To me in particular, I have lost a friend because in the yester-years, I used to be very close to his daughter, but no problem. I do not know why Hon. Stephen Mogaka is...

**The Temporary Speaker** (Hon. David Ochieng'): The daughter is not dead.

**Hon. Silvanus Osoro** (South Mugirango, UDA): No, I am just saying this because I have talked to her and she is really down. That is why I am saying there is such connection of emotional transfer, which is very magnetic. To the family, the great people of Bonchari Constituency, Hon. Onchoke and Hon. Donya who comes from Bonchari Constituency, we join you in mourning *Mzee* and may his soul rest in eternal peace.

Thank you.

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Members, I will give three Members two minutes each, for a chance to speak. Hon. Onchoke!

**Hon. Charles Onchoke** (Bonchari, UPA): Thank you, Hon. Temporary Speaker, for the opportunity you have given me to mourn the death of Hon. Zebedeo Opopo. It is so personal to me, that I am lost for words. The late Hon. Opopo is my uncle and I was there the very first time we met in Parliament.

He is somebody I have worked with for many years. As young people, he was a big inspiration to us, as one of the first people from our community to go to university. Many of us wanted to grow and become like Hon. Opopo. He suffered for many days in the last past years. He had this illness that finally caused his death. It made him to be taken to India for treatment and then he came back. He was taken to Kenyatta Hospital, but he succumbed to death early this morning.

It is a big loss to all of us in Bonchari and this is a dark cloud that has cast upon us. We mourn him. We mourn a great person. He was not only a leader as it has been said by my colleagues here, Hon. Donya and Hon. Osoro, but he was also a very committed family person. He just lost his wife about two years ago and so we say *pole* to his family, his sons, Frank and others, his daughter Stella and others. We also say *pole* to his brothers, sisters, neighbours, cousins and grandchildren who feel the loss as well. We pray that God gives the family solace and peace to be able to give him a decent burial. The whole of Kisii has lost a great leader and we mourn him.

Thank you.

**The Temporary Speaker** (Hon. David Ochieng’): Hon Melly, you wanted to say something on this subject.

**Hon Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. I join my fellow Members of Parliament in mourning the late Hon. Opopo, whom we served together in the 12<sup>th</sup> Parliament and in the Public Accounts Committee. He was a great debater and a very calm Member. More importantly as said, he had a lot of concern for his family and his people of Bonchari. As the Members who served with him, we pay tribute to the Bonchari people and to fellow Members of Parliament. Majority of us who are in the House worked with him. He actually came up with a number of issues affecting his people and he was an able representative of his people of Bonchari. May the good Lord rest his soul in eternal peace. Thank you.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Mogaka.

**Hon. Stephen Mogaka** (West Mugirago, JP): Thank you so much, Hon. Temporary Speaker, for allowing me to also shed my tears in honour of Hon. Zebedeo John Opopo. Hon. Opopo was one seasoned politician who helped Bonchari secede from the then Bonchari South Mugurango. He was my friend and I was one of those who participated in his first entry into Parliament. I also remember his major contributions when he was one of the top managers at the African Retail Traders (ART), as it was then popularly known, under the able leadership of our very own Hon. Tom Murwabe Sawe. Until his death, Hon. Opopo had been battling with sickness.

I thank and celebrate all those who stood with the family and supported his treatment, both locally and abroad. I also thank Hon. (Dr) Charles Onchoke, the current Member of Parliament for Bonchari Constituency, for the mobilisation he did in assisting the family as they battled with this illness. May the good soul of Hon. Zebedeo John Opopo rest in peace.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Hon. Temporary Speaker, I want to join the Kisii fraternity, and specifically the constituents of Bonchari, in sending my condolences to the family, friends, and neighbours of Hon. Zebedeo Opopo. I served with him in the 11<sup>th</sup> Parliament. *Poleni sana* for the loss of Hon. Zebedeo Opopo this morning. I am informed that he had been sick for quite some time. Unfortunately, this has happened.

May his soul rest in eternal peace.

**The Temporary Speaker** (Hon. David Ochieng’): I knew Hon. Opopo. He was a gentleman and an old man of the House. Let us observe a moment of silence.

*(The House observed a moment of silence)*

May the Lord rest his soul in eternal peace. Next Order.

## BILLS

### *Second Readings*

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL  
(National Assembly Bill No.66 of 2023)

*(Bill deferred)*

Next Order.

THE LAND CONTROL BILL  
(National Assembly Bill No.39 of 2023)

Member for Funyula.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Speaker, I beg to move that the Land Control Bill (National Assembly Bill No.39 of 2023) be now read a Second Time.

For the record, this Bill was published in 2022. It was first read in February 2022, but as was the case, it lapsed due to the end of the term of the 12<sup>th</sup> Parliament. I want to take this opportunity to sincerely thank the two Committee Chairpersons, both in the 12<sup>th</sup> and the 13<sup>th</sup> Parliaments. Hon. (Dr) Nyamai was the Chairperson in the 12<sup>th</sup> Parliament. The Committee is currently headed by my good friend, Hon. Nyamoko. We have journeyed together to get to where we are today. In the two engagements that I had with the Committee, we discussed and agreed on a few things. Let me highlight the same today.

I want it to go on record that the Land Control Bill is part of the land laws that were supposed to be reviewed, as contemplated in the Constitution of Kenya, 2010, to align them with the provisions of the new Constitution. Currently, there is a Land Control Act CAP.302 that was enacted in 1967, with piecemeal amendments made in 2017. This left the architecture of land control as it is, to the detriment of the land sector.

Let me put it into perspective so that we can understand the entire framework of the land administration system in this country. At Independence, it was necessary to control land transactions in agricultural areas – what they call agricultural land. Consequently, it was agreed that before any transaction is done, be it transfer, subdivision, mortgaging, or leasing of land, there must be a body that reviews those transactions before they are approved. They consequently formed the district land control boards, which were later split into divisional land control boards that currently look like the land control boards at the sub-county or divisional levels. Those land control boards approve land transactions in agricultural areas. They must give a stamp of approval before any transactions in the agricultural land sector can happen.

There have been many discussions about the performance of the current structure of the land control boards. Those discussions have been ongoing for some time. Do you remember the Njonjo Commission of Inquiry Report? It was explicitly clear. I want members of the public to understand that the Njonjo Report observed that the membership of the land control boards, corruption, failure to impose restrictions on economic subdivisions, manipulation of the boards by politicians, interference by the provincial administration, miserable allowances, lack of agenda, and the failure to announce sitting dates, all affected the proper functioning of the land control boards.

In hindsight, Parliament set up the Land and Environment Court, where a number of cases under consideration emanated from decisions or actions of the land control boards. As of 28<sup>th</sup> April 2016, the Cabinet Secretary for Lands, Public Works, Housing and Urban Development, responding to complaints by the general public with regard to widespread corruption in the land sector and abuse of issuance of consent of the land control areas, dissolved all the land control boards in the country. They were all dissolved. This action eroded the little remaining confidence in the current system of the land control boards.

The recent data report of 2020 by the World Bank on the ease of doing business ranked Kenya at No.134. Tellingly, Kenya scored 25 per cent with regard to procedures of land transfer and transactions, indicating a system that compares unfavourably with the other economies that were included in the survey. Looking at it from that point of view, the intentions could have been good, but over time, as the Njonjo Commission of Inquiry reported, there has been abuse of the land control system.

There are also challenges in the informal sector. We see very many demolitions and contestations where land control boards approve subdivisions even of illegally acquired land. They even approve subdivisions of Government land. We end up with a process where those who buy those pieces of land end up losing money.

Hon. Temporary Speaker, it was necessary, as was proposed in the Land Policy, the Njonjo Commission of Inquiry Report, and the new Constitution, that it is time we looked at that particular aspect of land administration. The land control boards as contemplated in the old Land Control Act had some element of dispute resolution. If you had a boundary dispute, either at the time of transfer or at the point of succession, they would listen to you and probably offer some kind of assistance to the courts. Unfortunately, over time, land control boards have literally remained for purposes of conveying decisions to approve transactions. Many a time, you are involved in the purchase of land in rural areas, but hardly do you ever appear before a land control board to argue your case. Hardly does the seller appear to argue the case. Many a time, it is the so-called brokers and agents who move around with documentations up to conclusion. In case there is any dispute, you are not even seized of the proceedings of the land control board to enable you to defend yourself in a court of law. Therefore, the overarching objective of the new Bill is to reaffirm, reorganise and bring this particular process into order.

In the Memorandum of Objects and Reasons, the object of this Bill is to repeal and replace the Land Control Act (Cap. 302) to align the law governing dealings in agricultural land with the provisions of the Constitution of Kenya, the Environment and Land Court Act, 2011, the Land Registration Act, 2012 and the Land Bill, 2012. In line with the progressive nature of our Constitution and law making, the Bill contains six parts. One of the key elements is the creation of a Land Control Committee instead of a Land Control Board. A board looks so oppressive and authoritarian to a point that many people fear to appear before it. So, we propose a land control committee that can adequately review an application for disposition.

Part I of the Bill is preliminary. Clauses 1 and 2 are the typical ones. In Part II, Clause 4 establishes land control committees, which shall be appointed in each constituency. We are proposing, therefore, to have 290 land control committees. We have had robust discussions with the Departmental Committee on Lands on the provisions in this Bill. There are some provisions we have agreed to amend. There are other areas that, with engagement with the Institution of Surveyors of Kenya (ISK) and other land sector players, are going to be changed.

I want to move the Bill in the form it is, so that if there is any amendment, the Chair of the Committee will follow accordingly. The Bill proposes a chairman of the land control committee, who shall be qualified for appointment if he is a holder of a degree from a university recognised in Kenya, demonstrates knowledge of the culture, traditions and disputed resolution mechanisms of the people living in the geographical area under the jurisdiction of the Land control committee. The Bill intends to retain the Deputy County Commissioner as a member

of the Committee. We have had a discussion at length with the Departmental Committee on Lands and, therefore, the proposal to include the sub-county administrator has been dropped for purposes of increasing local representation.

The Committee will have two persons, one being a man and one a woman, aged 60 years and above, for purposes of institutional memory. Many of us have grown up in rural areas on cultural land. Whenever there is any dispute of any nature, you do not call a 14-year-old boy or girl to arbitrate, more so where land matters involve adjudication or where there are general boundaries as opposed to fixed boundaries. That is why the thinking is that a person who is 60 years and above has got adequate historical knowledge about the issues at hand. There will be two other persons, one being a youth, with demonstrated knowledge and experience in land law, survey, land administration or dispute resolution.

Other than the chairman, all other members to be appointed to sit on the Committee ought to hold a secondary school certificate and must demonstrate knowledge of the culture, traditions and dispute resolution mechanisms of the people living in the geographical area. The thinking is, for you to sit and resolve land disputes, you need local understanding. How the Borana community resolve their disputes could be completely different from how the Samia of the Luhya community resolve their disputes. That is why we are saying it would be foolhardy to pick a Maasai to resolve land disputes in Tarbaj. That is why there is insistence one must understand the culture and traditional knowledge of those people. The members must meet the requirements of Chapter 6 of the Constitution.

Unlike in the past where the Cabinet Secretary, the Registrar, Personal Assistants, Sub-County Commissioner or County Commissioner had unfettered authority to appoint members to Land Control Boards, this new Bill proposes a paradigm shift. The paradigm shift is to form a selection committee comprising DCC, a person nominated by the constituency office, a person representing persons with disabilities and two persons, one being a woman and one man, representing the business community. The selection committee shall advertise the vacancies within seven days of its constitution, shortlist applicants on the basis of merit, interview the shortlisted applicants in an open forum, and submit the results of the interview to the Chief Land Registrar for appointment. In appointing members of the Land Control Committee, gender balance must be achieved. We say so because in many rural areas, men might own the land, the title might be registered in the man—but it is the women who cultivate the land. In the event of any death, it is women who suffer the most in terms of disinheritance and being disengaged from their property. The rest of the provisions concern how to retire.

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

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

Clause 9 of the Bill lays down the functions of the Land Control Committee. To avoid wasting time, I will just pick a few, probably the ones carried over from the old Bill and reorganised to meet the provision of the Constitution. One is to review and grant consent to any sale, charge, transfer, grant, exchange for value or no value, lease, assignment, grant of easement, or right of way in relation to agricultural land. We are also proposing the committee to review any dealings in land referred to it by the Chief Registrar. It will also settle any land dispute referred to it by willing parties, pursuant to Article 60 and 159(2) of the Constitution of Kenya. If you go to any court registry, there are so many pending court cases because of land issues. We are saying it is possible to resolve the cases with local knowledge. Many of the disputes could be so mundane that they require local solutions. That is why we are saying before parties to any dispute over land go to court they could easily walk to the Committee and

ask the members to listen to their case and arbitrate, so that they do not have to waste a lot of time and money going to courts.

I am also proposing that the Committee be granted powers to undertake fact finding and evidence gathering in matters covered under the Law of Succession, the Environment and Land Court Act, the Land Registration Act, the National Land Commission Act, and the Land Act upon request parties or respective courts.

Hon. Temporary Speaker, Part III simply deals with the procedures. These procedures are the biggest improvement on the old archaic law. We are now modernising and matching up with the requirements of the constitution. We are saying that a party to any transaction shall file the documentation with the Land Control Committee. There shall be necessary and mandatory documentations when filing, including a copy of the agreement of the controlled transaction for which the consent is sought. Currently, we have a prototype agreement. You can find it in many places. It is inadequately drafted, and does not protect the rights of the parties.

Going forward, we will request the Land Control Committees to develop a more binding agreement that will safeguard the interests of the parties. One will also need a copy of the cadastral map of the land affected by the transaction so that the question of forged titles and mismatched location of the land becomes a thing of the past. A certified copy of the title document of the land affected by the transaction will also be required. The Registrar of Lands shall certify either a certified copy or a certificate of an official search.

Another mandatory document is the spousal consent to the transaction. That is already provided for but we are reinforcing it. There should also be details of the acreage held by each party within the geographical area under the jurisdiction of the committee. Even though the Departmental Committee on Lands was a bit uncomfortable with that particular requirement, it is a matter that we shall deliberate.

The Land Control Committee shall maintain a register of all the applications in the prescribed form – physically and electronically – and at any given time, any interested party can go over and pick. That is why we are saying they should avail the register for inspection by members of the public, subject to any prescribed fee upon application and any other condition that may be set by the Cabinet Secretary.

Another introduction to the spectrum is transparency and accountability. Under Clause 12, we are saying that the secretary of the Land Control Committee shall publish, at least 14 days before the date of a review hearing, a list of all applications. As we stand today, those of you who go to the villages know that there are too many disputes. For instance, the Land Control Board would give consent whereas a party to the transaction would not be aware that a request for consent had been filed. So, we are saying that the notice must be published at the office of the Chief Land Registrar or representative of that office at the county level, or at the constituency office of the area Member of Parliament or chief's office within the constituency as well as in the sub-county website. I know the issue of website will be progressive but that is the thinking as we go along.

The Bill proposes that any member of the public, whether interested or not, may file an objection to any application before the Land Control Committee in the prescribed form. We further propose that it must be open. The hearing of the grant must be done in broad daylight. So, at the end of the process, the secretary will forward the resolution of the committee to the Registrar for purposes of dealing with it. Obviously, disputes of any nature will always give rise to disagreements. Under Clause 15, we are proposing that the Cabinet Secretary shall, through a competitive process, appoint such Land Control Appeals Committees as per the gazette notice. An Appeals Committee shall comprise of a chairperson who shall be qualified to be appointed as a Judge of the High Court and four other persons who must possess degrees from universities recognised in Kenya. They must also have knowledge and expertise in

matters relating to land management, law, community service, dispute resolution or physical planning.

We are now putting a capping on the length of time the Land Control Appeals Committee shall dispose of an appeal. An Appeals Committee shall hear and determine an appeal within 30 days of its lodging.

Part IV is on miscellaneous provisions. The same applies to Part V, which relates to provision of delegated powers. Part VI is on transition, saving and repeal clauses. Under the transition and saving clauses, we are saying that the Cabinet Secretary shall, as far as it is practical, appoint members of the land control boards existing before the commencement of this Act as members of the land control committees established under this Act. We are further proposing that any consent or direction given under the Land Control Act before the commencement of this Act shall be deemed as a consent or direction given under this Act.

I am proposing that the Land Control Act (Cap.302 of 1967) be repealed and replaced by this Bill. As I conclude, I know there has been a lot of interest in this Bill. There has been a lot of delay. I am aware that the Ministry had proposed Land Law (Amendment) Bill which spoke to the provisions I have here, but it was again entrenching Government bureaucracy in the Land Control Boards instead of opening up and professionalising the same.

I want to urge my colleagues to pass this Bill. It is going to revolutionise, operationalise and bring sanity in the Land Control Boards, including transactions in the rural areas. We have been treated to too many cases of people being disinherited, including widows losing their property and children losing their inheritance simply because there has been no procedural way of approving those transactions.

The Cabinet Secretary can as well declare any area as a controlled transaction area and bring it to the ambit of this particular Bill. If the Cabinet Secretary finds out that a certain zone for agricultural area is not required to be under this Bill, he can as well gazette to exempt the same. The most important thing is to professionalise the Land Control Boards to make them open and transparent. There should be no secret in land transactions. We are still grappling with the issue of minimum and maximum land sizes that was proposed in the Constitution. We have been unable to get a workable formula to implement the same.

Hon. Temporary Speaker, however good you are, if you are based in Nairobi, you cannot set minimum and maximum land holding in Mandera because the land holding capacity is completely different. The productivity is completely diverse in different areas. It might be necessary to enhance the powers of these Land Control Committees to generate some kind of formula for an area based on the local circumstances. We are also amending the Land Act by introducing the land indices. I urge my colleagues that this is a progressive Bill. Let us give it a serious thought. Let it go through to revolutionise land rights, remove quacks, and remove underhanded deals to save our constituents headache and pain.

With those few remarks, I move and request my neighbour, Professor Guyo, to second.

**The Temporary Speaker** (Hon. Farah Maalim): Professor Jaldesa.

**Hon. (Prof) Guyo Jaldesa** (Moyale, UPIA): Thank you, Hon. Temporary Speaker. This is a very important Bill. Land is a very emotive matter. We would have made a breakthrough the moment we decide to support putting management of land issues in the hands of locals.

For that reason, I support the Bill.

**The Temporary Speaker** (Hon. Farah Maalim): Fair enough.

*(Question proposed)*

Member for Westlands, Hon. Tim Wanyonyi.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Temporary Speaker. I want to add my voice on this debate. We all remember the land control boards. They are the genesis of many land ownership disputes in this country. Families have been disinherited. Land has been taken away or sold without families being aware. Creating these committees at the constituency level will provide local solutions right at the grassroots-level. They will be very close to people. Carefully selected people will sit in these committees. They will be people from within the locality, who understand land issues. They have the knowledge and history of any land in the locality. Therefore, they will not go into matters that will bring conflict in the community or families.

Sometimes people take land matters very lightly. When you read cases about land, some have been in existence in court for a long time. People who started the cases may be in their 40s or 50s. The cases are still there because somebody messed up that issue. Once we have land committees established at the constituency-level, we will have appeal committees to handle land matters. This is a very critical Bill as it seeks to establish very robust committees at the constituency level. This is seeking home-grown solutions to land issues. I am sure that it will help to minimise the disputes.

The Bill also provides that the committees will explore alternative dispute resolution mechanisms. This is a good development because it will reduce the number of cases that will be going to court. The backlog of cases in our courts lead to delays in getting solutions. When we have cases referred to alternative land dispute resolution jurisdictions within the locality, there will be quick solutions. Disputes will be resolved quickly because the people dealing with the cases understand the historical land issues in the area.

As regards land ownership, our agricultural land in the villages is being split into small land parcels that cannot be economically used. People have taken agricultural land, split it into small plots and sold it out. Our food security will be endangered if we do not control and manage land well.

With those remarks, I support and thank the Mover, Professor Oundo, for bringing this very critical Bill. It will revolutionise land dealings in this country.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Eve Obara.

**Hon. Eve Obara** (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Speaker.

At the outset, let me thank Hon. Oundo for his very elaborate explanation on this Bill. Of course, we all know that this is his area of specialisation. He has mentioned the principal object of the Bill. It is to repeal and replace the Land Control Act, Cap 302 to align it with the Constitution of Kenya 2010 and the provisions that govern dealings in agricultural land. I understand that the main issue that has come out clearly is on the Land Control Boards. We are proposing to replace the Land Control Boards with Land Control Committees.

The most important thing is the composition of the proposed committees. In our own community setups, land has been an emotive issue. People have been killed because of land issues. We are proposing that the Land Control Committees must comprise people from the localities. Since these are people who understand the languages and cultures of the communities. Thus, they will very easily be able to resolve issues or disputes when they come up.

The Mover has also proposed an appeal mechanism in the Bill. That is a good thing. There is a procedure to follow in the appeals mechanism. He has also come up with the critical idea of ensuring gender balance when constituting the proposed committees. This has been missing in many District Land Boards as constituted today. He says that the principle of gender balance must be adhered to when constituting the land committees. That is a good thing because we know that only men are mostly in these committees. Women have very different perspectives when it comes to land issues. They are mostly family-focused. They are able to



save situations that disinherit families. This Bill will take care of all previous ills without promoting favouritism.

Previously, we have seen blatant theft of land in communities. Land has been stolen from families. Heads of families have probably sold land without the knowledge of their families, wives and children. Without mentioning names, an issue arose recently in the House. A family appeared to have been disinherited by people who were expected to take care of them.

With those remarks, I support.

**The Temporary Speaker** (Hon. Farah Maalim): Member for Nairobi City County.

### QUORUM

**Hon. Esther Passaris** (Nairobi City County, ODM): Thank you, Hon. Temporary Speaker. First, as a Member of the Departmental Committee on Lands, I congratulate Hon. Oundo for moving the Land Control Bill, 2023.

Hon. Temporary Speaker, I rise under Standing Order 35 to bring to your attention the fact that the House has no quorum. We do not have enough Members in the House yet we are dealing with weighty matters. This debate deserves the presence of Members in the House so that we do justice to the Bill. Therefore, Members should be whipped to come back to the House.

Thank you.

**The Temporary Speaker** (Hon. Farah Maalim): Indeed, as you put it, there seems to be no quorum. Therefore, I can only direct that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

**The Temporary Speaker** (Hon. Farah Maalim): If there are Whips in the House, please, go out and whip Members to come back to the House.

### ADJOURNMENT

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Members, there being no quorum, the House stands adjourned until Tuesday, 5<sup>th</sup> November 2024, at 2.30 p.m.

The House rose at 4.50 p.m.

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