

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 31<sup>st</sup> May, 2017

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon.  
(Dr.) Laboso) in the Chair]*

### PRAYERS

**Hon. Deputy Speaker:** Can we have the Quorum Bell rung?

*(The Quorum Bell was rung)*

Order Members! Settle down. We can now begin business.

### PAPER LAID

**Hon. Deputy Speaker:** We have a Paper from the Departmental Committee on Administration and National Security.

**Hon. Abongotum:** Thank you, Hon. Deputy Speaker.

I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Administration and National Security on its consideration of the Petition by concerned citizens, regarding recognition of persons with gender disorder conditions.

I thank you.

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Deputy Speaker (Hon.  
(Dr.) Laboso) left the Chair]*

### IN THE COMMITTEE

*[The Chairlady (Hon.  
(Dr.) Laboso) took the Chair]*

### THE TRAFFIC (AMENDMENT) BILL

**Hon. Chairlady:** Order Members! We are now in the Committee of the whole House. The Mover of the first Bill, Hon. Lekuton is not in. So, we will not consider that. We will move to the Refugees Bill (National Assembly Bill No. 29 of 2016) by Hon. Agostinho Neto.

*(Consideration of Bill at Committee  
of the whole House deferred)*

### THE REFUGEES BILL

#### Clause 3

**Hon. Chairlady:** There is an amendment by Hon. Asman Kamama.

**Hon. Abongotum:** Hon. Chairlady, I beg to move:

THAT, the long title of the Bill be amended by inserting the words---

**Hon. Chairlady:** Order, Hon. Kamama! We are going systematically. I have talked about Clause 3; you have an amendment to Clause 3. Just sort out your papers properly.

**Hon. Abongotum:** Hon. Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended by-

- (a) inserting the expression "(1)" immediately before the words "A person";
- (b) inserting the expression "(a)" immediately before the words "owing to a well-founded";
- (c) inserting the expression "(b)" immediately before the words "not having nationality";
- (d) inserting the expression "(c)" immediately before the words "owing to external aggression";
- (e) inserting the expression "(d)" immediately before the words "the person is a member"; and,
- (f) deleting the word "Commission" wherever it appears and substituting therefor with the word "Committee".

*(Question of the amendment proposed)*

**Hon. Chairlady:** Maybe, just to save time in future, you can just say "as it appears on the Order Paper".

Do these Members want to contribute on the same, like Hon. Onyura? Are you saying no?

**Hon. Onyura:** I am saying yes, Hon. Chairlady, but I would wish to hear from the sponsor of the Bill before I respond.

**Hon. Chairlady:** Is it from the sponsor of the Bill or of the amendments?

**Hon. Onyura:** I am really trying to understand the justification.

**Hon. Abongotum:** That is a good observation, Hon. Chairlady.

The rationale behind these amendments is basically to introduce correct numbering of Sub-Clause 1 as well as to align the Clause with the administrative structure established in Clause 6. Basically, it is numbering and realignment.

**Hon. Chairlady:** Okay. Is the sponsor of the Bill fine with the amendments by the Chairman of the Departmental Committee on Administration and National Security?

**Hon. Oyugi:** Thank you, Hon. Chairlady. I agree with the amendments by the Committee.

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

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

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

*(Clause 3 as amended agreed to)*

*Clause 4*

**Hon. Chairlady:** Help us to make it faster, Hon. Kamama.

**Hon. Abongotum:** Hon. Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 4 and substituting therefor the following new clause—

- |   |  |
|---|--|
| Exclusion and disqualification of refugees. | 4.(1) A person shall be excluded from being considered for refugee status if there exists serious reason to believe that the person—   |
| No. 16 of 20018.                            | (a) has committed a crime against peace, a war crime or a crime against humanity as defined in the International Crimes Act;   |
|   | (b) has committed a serious non-political crime outside Kenya prior to his or her admission to Kenya as a refugee;   |
|   | (c) has been guilty of acts contrary to the purposes and principles of the United Nations and the African Union; or  |
|   | (d) has sought asylum in another country.  |
|   | (2) A person shall be disqualified from being a refugee if the person—   |
|   | (a) having more than one nationality, has not availed himself or herself for protection of one of the countries which he or she is a national and has no valid fear based on well-founded fear of persecution;   |
|   | (b) has been granted refugee status in another country prior to entry in Kenya and can be re-admitted to that country and benefit currently and in the future in that country from effective protection;   |
|   | (c) is recognised by competent authorities of the country he or she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country, can be re-admitted into that country in the same condition and has no valid reasons based on a well-founded fear of persecution to have left that country. |

The justification is that this amendment seeks to clearly state the grounds on who is excluded from being defined as a refugee as well as an outline of grounds for disqualification of a refugee. So, it actually gives us clarity or defines who is supposed to be a refugee and gives the conditions and the grounds for disqualifying somebody from being a refugee.

*(Question of the amendment proposed)*

*(Question, that the words to be left out*

*be left out, put and agreed to)*

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

*(Clause 4 as amended agreed to)*

*Clause 5*

**Hon. Chairlady:** Hon. Kamama, now that we have almost got amendments to every single clause, let us move faster.

**Hon. Abongotum:** Hon. Chairlady, before I read this, I want to call upon Members to really pay a lot of attention because we have had several complaints about refugees in this country. Of course you know we have the highest number of refugees in this country. So, I want Members to contribute on these amendments.

Hon. Chairlady, I beg to move:

THAT, Clause 5 of the Bill be amended—

- (a) by deleting the expression “(i)” and substituting therefor the expression “(a)”;
- (b) by deleting the expression “(ii)” and substituting therefor the expression “(b)”;
- (c) by deleting the expression “(iii)” and substituting therefor the expression “(c)”;
- (d) by deleting the expression “(iv)” and substituting therefor the expression “(d)”;
- (e) by deleting the expression “(v)” and substituting therefor the expression “(e)”;
- (f) by deleting the expression “(vi)” and substituting therefor the expression “(f)”;
- (g) in the proviso by deleting the expression “(3(a))” and substituting therefor the expression “3(1)(a)”.

These amendments are for the purposes of correct numbering of paragraphs in the clause as well as for correct referencing.

**Hon. Chairlady:** Okay.

*(Question of the amendment proposed)*

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

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

*(Clause 5 as amended agreed to)*

*Clause 6*

**Hon. Abongotum:** Hon. Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new clause—

Administrative  
institutions.

6. There is established—
- (a) the Refugee Advisory Committee;
  - (b) the Refugee Affairs Secretariat; and
  - (c) the Refugee Status Appeal Board.

The rationale or the justification is that the amendment seeks to harmonise the terms used to refer to the administrative institutions dealing with refugee matters. The Refugee Affairs Secretariat is a new Government structure that has already been put in place. It is operational as we speak.

That is the justification, Hon. Chairlady.

*(Question of the amendment proposed)*

**Hon. Chairlady:** Hon. Richard Tong’i.

**Hon. Tong’i:** Hon. Chairlady, whereas I support the proposal, we also need to take into account the many changes that have emanated due to the county functions which have affected many boundaries, especially educational boundaries. You cannot have political and educational boundaries in different zones because it causes confusion. What cannot be measured therefore becomes a nullity and an environment for chaos. I propose that in future we make a further amendment to take into account the county functions and hence the educational functions, which have been affected by this kind of a provision.

Thank you.

**Hon. Chairlady:** Hon. Ken Okoth.

**Hon. Okoth:** Thank you, Hon. Chairlady. Part (a) of the Bill says that we have the Kenya Refugee Repatriation and Resettlement Commission; part (b) talks about the Secretariat for Refugee Affairs and part (c) the Refugee Status Appeals Board. The amendment that the Committee has proposed seeks to change to “Refugee Repatriation and Resettlement Commission”, which sounds more robust and clearer. “Refugee Advisory Committee’ is a weaker body yet we know the challenges involved in dealing with issues, especially when Kenya is a host country for so many refugees. There is need for a bigger structure.

In his argument, the Departmental Committee Chair has made it clear that the structure already exists, and that it was recently gazetted by the Cabinet Secretary for Interior and Coordination of National Government. However, this House is an independent organ of the Government mandated to make laws to improve existing policy frameworks that require interventions of this nature. Therefore, the law we are making takes precedence over any administrative structures that may have been put in place by the Ministry.

I support the Departmental Committee’s amendment to the Secretariat for Refugee Affairs in (b) because they are simply reorganising the words to call it “Refugee Affairs Secretariat.” However, as we look through the rest of the amendments that have been proposed, amendment number six is a warning on the conflict that is coming regarding the rest of the amendments contained in this Bill, whether we are thinking about a proper refugee administration structure that will take care of human rights, emerging needs of refugee communities and durable solutions or we are simply trying to stay with the old Refugee Act.

With these issues, we realise that it had gaps and it has to be revamped. The Committee did not bring these issues on board in their initial Bill, and they are now working on a Private Member's Bill – which has virtually changed everything. I think this caught your eyes.

With those remarks, I oppose.

**Hon. Chairlady:** Can Hon. Ababu and the owner of this Bill, please, say something? I am also concerned about the number of changes proposed through this Bill. Is the spirit of that Bill still upheld with almost every clause having amendments?

**Hon. Ababu:** Hon. Chairlady, that is exactly my point. The rules of this House, backed by customs, traditions and usages, say that you cannot alter a Bill or a Motion as it were to an extent that it alters substantively the original intent and character of that proposed legislation. I have a lot of respect for the Chair of the Departmental Committee. However, I am perturbed by the litany of amendments; there are many of them. They are actually threatening to turn the Bill into a purely administrative instrument and robbing it of the punch and the effect that motivated the Bill. I have been fortunate to be part of the previous deliberations on this Bill. I know that the proposed Bill by my brother, Hon. Neto, is a brilliant attempt to introduce a human rights angle to the manner in which we deal with refugees. Some of these amendments will rob the ultimate piece of legislation of its original intent. We may need some guidance from you on this one, Hon. Chairlady.

**Hon. Chairlady:** I would like to hear from the sponsor of the Bill. Do I give the Floor to one or two other Members to intervene before we hear from the sponsor of the Bill? Really, you cannot have a Bill which has got every single Clause amended.

Hon. Hassan, say something.

**Hon. Abdi:** Thank you, Hon. Chairlady. I would like to also add my voice to the concern expressed by other Members. I also speak as someone who has worked in various countries for refugees. I was hoping that this Bill would bring Kenya to the global standard so that we can also meet the big challenges of hosting refugees in our country. For example, almost all the big refugee hosting countries in the world have refugee commissions that not only give them strong bodies that help them do the job better, but which also allow burden sharing.

Our refugee problem is so huge that we should not make it purely administrative. Even if you leave the human rights aspects alone, purely on the management of refugees, we should be able to share it with the rest of the world. We simply cannot host thousands of refugees on our own. That is why having an independent commissionable body rather than administrative unit in the Government is the best option for us. That way, we will be able to go out and share our problems with the rest of the world. If we pass this Bill as it is, it will be an administrative paper. It is unfortunate that the Chair, for whom I also have a lot of respect, is thrashing it to a point that it will be meaningless. It is probably better to not pass a law than to pass such a deformed law in this Century.

Our refugee law must borrow from the experiences of other countries as well, in terms of how those countries have handled refugees. So far, we have not done very well. That is why we need to change and have a legislation that can make a difference in our refugee policies and approach.

Thank you.

**Hon. Chairlady:** Hon. Kang'ata.

**Hon. Kang'ata:** Thank you, Hon. Chairlady. I rise to support the recommendations by the Departmental Committee. Firstly, that proposal has financial implications in that the former commission needs to pay salaries and make several other payments to suppliers of goods and

services. I probably need to seek your direction as to whether that proposal has the approval of the Budget and Appropriations Committee as required by our Standing Orders.

Secondly, even if that happened, I do not belong to the school of thought that believes in expanding government. We have so many commissions and agencies that are gobbling Government resources. Those resources can be better employed to, for instance, help refugees directly.

Thirdly, I do not see anything wrong with the *status quo*. I have not seen anything negative that the current arrangement has done with regard to the rights and interests of refugees. We have a department handling the issue of refugees. That department has been able to do a lot of work since 1963 to date. Kenya has been hosting refugees from several countries over the years. Creating a commission is really creating another government bureaucratic agency whose main bottom line will be to commit Government resources and waste them.

I propose that we support the proposal by the Departmental Committee to avoid expanding government. Let us proceed in that manner as opposed to creating more commissions; otherwise we will end up with a bloated government. Even the constituents of the proposer of these amendments will benefit from the money that we will save.

**Hon. Chairlady:** I now want to hear from the sponsor of the Bill.

**Hon. Oyugi:** Thank you, Hon. Chairlady. Let me concede that we had many conversations with the Departmental Committee on Administration and National Security. A couple of things happened by the time we were discussing this Bill. For instance, the refugee issue in Kenya was hot and the country was bearing the brunt of many things. The Hon. Member for Kamukunji has spoken well with regard to what we want done in terms of management of refugees. The amendments he has proposed are good. The only problem is that they seek to reduce the management of refugees to an appendage of the Government. In my view, that is peripherally dangerous for us. The refuge burden in Kenya is such a huge thing that we need to give it consideration. Our proposal is threefold. Our initial view was that clauses 6 and 8 are not harmful because they just propose to give the Commission a bit of space and legitimacy. I think there is nothing that is harmful in having the Commission. However, if you make it an advisory committee, there will be a problem because you will be narrowing the sphere in which the Commission can operate.

There is no extra cost that is incurred in the manner that Hon. Kang'ata has said. It is not harmful to have clauses 6, 7 and 8 as they are in the Bill. I was hoping that we agree with the Chairman. I do not want to look like I am changing things that we already discussed in the Committee. It is only better that we have a Refugee Commission in place. However, the Committee's wisdom is that we should concede ground and agree to move forward. I think that will be the best direction for Kenya to take. Anything else we propose will be harmonizing the other amendments based on clauses 6, 7 and 8. I request the Chairman that he agrees with me.

**Hon. Chairlady:** (*Inaudible*)

**Hon. Abongotum:** Thank you, Hon. Deputy Chairlady. The issue of refugees is a sensitive one in this country. I remember when we brought the Report on the attack on West Gate by terrorists there was a recommendation that we close all the refugee camps so that all the refugees go back to their mother countries. That was the feeling of the Joint Parliamentary Committee that was mandated to come up with the Report.

So, I oppose the idea of having a commission because we have discovered that it is normally hijacked by peripheral forces that have no Government interest at heart. I support the

idea of having a refugee affairs secretariat so that the Government is given muscle to deal with this heavy matter of refugees.

I also take cognizance of the sentiments by my good friend Hon. Namwamba, who is the leader of the Labour Party. I urge that the amendments that were drafted after a lot of consultations with the Ministry, UNHCR, refugees and other stakeholders be upheld. We also consulted my good friend, Hon. Neto, for whom I have a lot of respect and we agreed to have this done. The Committee already exists in the Act. So, let us maintain it because it strengthens the management of refugees. Widening it would make Government big and we want to make it lean so that it is efficient, effective and operational.

**Hon. Chairlady:** Hon. Neto, there is a question that has been asked. With all these amendments does it change the spirit of your Bill? You had said that you discussed this Bill with your colleagues and you have even gone through it again and found out that most of the amendments are just typographical and grammatical errors.

**Hon. Oyugi:** It is true that clauses 4 and 5 that we were amending had typographical errors. We were only seeking to correct those errors. The problem begins in clauses 6, 7 and 8 which change the way to administrate refugee issues in Kenya. That is where the problem is. Once you deal with clauses 6, 7 and 8, the rest of the things can go the way the Committee is proposing and I have no problem with that absolutely.

I would like to draw Hon. Kamama's attention to Clause 6 of this Bill. The changes he is making in Clause 6 are fairly harmless. In 6(a) we have proposed the creation of the Kenya Refugee Repatriation Resettlement Commission. The Committee would like us to call it "Refugee Advisory Committee." That is the substantial change he is proposing here. I have no problem with 6(b) because it already exists, that is, the Refugee Affairs Secretariat. It is the administrative arm of the Commission.

I have nothing against the Refugee Status Appeal Board. So, the only problem we have is in the first one which is being referred to as the Refugee Advisory Committee – We are calling it the Refugee Repatriation Commission. There is no problem with the Secretariat and the Board as they already exist. The only problem is the Advisory Committee. If you stay with the first one as a committee, you narrow down the strength, mandate and sphere of that particular committee. There is nothing about giving extra money. In fact, his listing takes the same people that we have. The only problem is in the name and mandate. I do not want us to spoil the spirit of the negotiations that we had. I was only hoping that he understands that what we are proposing is not harmful to what is contained in the Bill. The mandate is going to be narrowed and that is where the problem begins in refugee issues.

**Hon. Chairlady:** Hon. Members, you know we dispose of matters in the way that we do.

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

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

*(Clause 6 as amended agreed to)*

**Hon. Chairlady:** Hon. Members, before we continue, I wish to recognise the presence of Tabaka Girls Primary School from South Mugirango Constituency, Kisii County; and Riomego



Seventh Day Adventist (SDA) Mixed Boarding Primary School, North Mugirango Constituency, Nyamira County. You are welcome to observe proceedings in the National Assembly. In the Speaker's Gallery, we have Nairobi Academy Preparatory School from Langata Constituency, Nairobi County; St Francis Misyani Girls, Kangundo Constituency, Machakos County; and Bunks and Biddles School Lang'ata Constituency, Nairobi County. You are all welcome to observe proceedings of Parliament.

*Clause 7*

**Hon. Abongotum:** Hon. Chairlady, I beg to move:

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

The Refugee  
Advisory Committee

7. (1) The Committee shall consist of—

- (a) the chairperson who has knowledge and experience in public affairs for a period of not less than ten years appointed by the Cabinet Secretary;
- (b) the Principal Secretary or their representative from the Ministry responsible for refugee affairs ;
- (c) the Principal Secretary or their representative from the ministry responsible for foreign affairs;
- (d) the Principal Secretary or their representative from the Ministry responsible for devolution affairs;
- (e) the Principal Secretary or their representative from the Ministry responsible for health;
- (f) the Principal Secretary or their representative from the Ministry responsible for finance;
- (g) the Principal Secretary or their representative from the Ministry responsible for education;
- (h) the Attorney-General or their representative;
- (i) the Director of the Department of Immigration or their representative;
- (j) the Inspector-General or their representative; and
- (k) the Director, who shall be the Secretary to the Committee.

(2) The Committee may when necessary co-opt for a specified period of time a representative from the host communities, a representative from Kenya National Commission for Human Rights and a representative from the United Nations High Commissioner for Refugees on an advisory role only and who shall have no right to vote.

(3) The quorum for a meeting of the Committee shall be five members.

(4) Each member of the Committee shall have one vote but in case of a tie in votes, the Chairperson shall have a casting vote.

(5) The chairperson shall convene at least four meetings in every year.

(6) Except as expressly provided in this Act, the Committee shall regulate its own procedure as it deems fit.

The rationale behind this amendment is that the Refugee Affairs Committee already exists under the current Refugee Act and this amendment seeks to change the name of the Committee to the Refugee Advisory Committee while retaining its membership as representatives of institutions charged with the policy making mandate.

Thank you, Hon. Chairlady.

*(Question of the amendment proposed)*

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

*(Clause 7 agreed to)*

**Hon. Chairlady:** Can the Noes stand? Okay, it is defeated.

*Clause 8*

**Hon. Abongotum:** Before I move the amendment to Clause 8, I want to call upon Members to be very keen and not vote without having read the Bill because the consequences will be lethal. They should not oppose when they have not read the Bill.

Hon. Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 8 and substituting therefor the following new clause-

- Functions of the Committee.
8. The functions of the Committee shall be to—
- (a) formulate national policies on matters relating to refugees in accordance with international standards;
  - (b) advise the Cabinet Secretary on matters relating to refugees;
  - (c) make a recommendation for declaration of prima facie status in respect of large scale influxes of refugees; and
  - (d) propose and ensure the provision of durable solutions for refugees.

In the interest of time, and for those who want to oppose for the sake of it, I will justify it so that people can understand the gist of this amendment. It seeks to strengthen the current policy-making organ which is the Refugee Affairs Committee by clearly spelling out its functions. The functions proposed in the amendment are broader and better articulated than in the Refugees Act of 2006 and that is the essence of this repeal.

Thank you, Hon. Chairlady.

*(Question of the amendment proposed)*

**Hon. Chairlady:** Hon. Ken Okoth, do you want to say something on this?

**Hon. Okoth:** Thank you, Hon. Chairlady. I think it is a little bit unfortunate that the Chair thinks some of us are contributing without having read the Bill. To show him we have read the Bill, I support him on this. If he wants us to oppose or support, he should persuade us rather than simply say we have not read the Bill or fake things like the consequences will be fatal. The previous clause had substantial input on who the membership would be and his list was separate and different. Instead of persuading us through an explanation on the differences and why his are better, he said we have not read the Bill. On Clause 8, he has made an improvement and I am happy to support.

**Hon. Chairlady:** Hon. Members, I can remember Hon. Aghostinho Neto talked about Clauses 6, 7 and 8. We may have to recommit Clause 7 because it no longer exists. Just be aware we are now talking about a Commission which we have already deleted in Clause 6. Therefore, we cannot have it in Clause 7.

**Hon. Okoth:** On a point of order.

**Hon. Chairlady:** What is your point of order, Hon. Okoth?

**Hon. Okoth:** Thank you, Hon. Chairlady. I think you have touched on a very critical point which is taking us back to Clause 6. The record will bear that Hon. Aghostinho and the Chair of the Committee agreed on Clause 6(b) and (c). The only thing in question was the definition and naming in (a). At that point we did not get an opportunity to do a further amendment in which we would agree but we just discussed Clause 6(a). We have deleted Clause 7 and this has created a quagmire. As we proceed, what are we doing to the rest of the Bill? I beg we go back and start with Clauses 6 and 7 on the substantial and philosophical differences.

**Hon. Chairlady:** We usually do re-committals at the end and not now.

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

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

*(Clause 8 as amended agreed to)*

#### Clause 9

**Hon. Abongotum:** Hon. Chairlady. I beg to move:

THAT, the Bill be amended by deleting Clause 9 and substituting therefor the following new clause—

The Refugee Affairs Secretariat. 9.(1) The Refugee Affairs Secretariat shall be an office in the Public Service.  
(2)The Secretariat shall be responsible for all administrative matters concerning refugees and asylum seekers in Kenya, and shall, in that capacity, co-ordinate activities and programmes relating to refugees and asylum seekers and provide them with assistance and protection.

The rationale behind this is that the amendment seeks to align the Bill to the use of the term “Refugee Affairs Secretariat” which is already operational and it further seeks to harmonise the functions of the Secretariat with those of the Director for Refugee Affairs.

Thank you, Hon. Chairlady.

*(Question of the amendment proposed)*

**Hon. Chairlady:** Hon. Aghostinho Neto.

**Hon. Oyugi:** Thank you, Hon. Chairlady. I would like to oppose this particular amendment. We spoke with the Chair of the Committee and this clause is not harmful but what he is trying to do now is harmful.

Looking at the nature of Clause 9, it streamlines and outlines both the work of the Refugee Affairs Secretariat - which is now established - and the work of the Director of Refugee Affairs, which is the problem in refugee management right now in Kenya. To fuse the functions of the Refugee Affairs Secretariat and the Director of Refugee Secretariat is a small problem. I ask him to consider this. We did not have a problem with this particular clause. I do not know why he feels that there should be a change.

I would also like to explain to the Chair of the Committee that we are not trying to sort out the problem of refugee management in Kenya as it is right now. We are trying to see how best to improve it. How best to improve it would be in the manner of trying to isolate and distil the various functions as we tried to do in this particular Bill. That is why I request the Chair that we have a general working arrangement. I will support it where I think our philosophy is fine, but in this particular one, it does not make a lot of sense to delete and fuse the functions as you propose in Clause 9. Please, look at what you are trying to do and then we agree on it.

I oppose the amendment.

**Hon. Chairlady:** Hon. Ken, do you want to contribute to this?

**Hon. Okoth:** Yes, I just want to elaborate. Looking at it carefully, I have read two of these things. Clause 9, as the Chair and the Committee are proposing, is not the way to make law. They say that the Refugee Affairs Secretariat shall be an office in the public service. If you look at the proposal of the Bill Hon. Aghostinho gave us, it states that the Refugee Affairs Secretariat shall comprise of the office of the Commissioner for Refugee Affairs whose office shall be an office in the public service, and such staff as may be necessary to perform the implementation functions of the Commission. Hon. Aghostinho's proposal is clearer than this vague and unclear manner that has been presented by the Committee.

We go back to the issue of refugees in this country. It is a security issue. It is our international obligation and a human rights issue. It is an administrative and practical issue. You cannot say that there will just be a Refugee Affairs Secretariat whose mandate is not clearly stated. The function of the Refugee Affairs Secretariat, as Hon. Aghostinho has proposed in the Bill, is very clear. It clearly shows what the secretariat shall do. The secretariat is not just the commission. It also shows the duties and the powers of the commissioner. Those are clear. When a Member has gone through the Bill, done the work and engaged and dialogued with the Committee, to turn around, kill it and simply say the secretariat shall be responsible for all administrative matters, it is not right. This is very sensitive.

Looking at what Hon. Aghostinho has proposed, the key issue about refugee status determination is accepting asylum seekers. It is also about determining who is a bonafide refugee and granting them the status and protecting them. Those are very clear things that come out of our Constitution and are international obligations. We need a law to effect them. Leaving it merely as "The Secretariat shall be responsible for all administrative matters concerning refugees and asylum seekers in Kenya and shall, in that capacity, co-ordinate activities and programmes relating to refugees and asylum seekers and provide them with assistance and protection" is very vague. Yet, Hon. Aghostinho has outlined everything step by step.

The problem with the refugee status determination and management of refugee affairs is that the Government agency, the Ministry of Interior and Coordination of National Government and Department of Refugee Affairs and now the secretariat have been relegated to being junior implementing partners. It is the big international NGOs who make these decisions. The United Nations High Commissioner for Refugees (UNHCR) did the refugee status determination for us in the beginning when we were overwhelmed. This is a matter of sovereignty. Kenya is over 50 years old. We know what the complications are with the refugees. Let us determine for ourselves and set up a competent commission and secretariat with the staff and funding. If the UNHCR and international partners want to help us, let us not give away our sovereignty.

It looks like just a bunch of words are being deleted, but when you read the meaning of those words against the green paper that has been proposed by Hon. Aghostinho and the amendment here, we will end up with the same *status quo* where the Department is not funded. It

is not clear who the commissioner, what is the mandate, tenure and full authority. Then they will sublet the work and give it back to refugee affairs of other NGOs and the UNHCR. Refugee status determination is a sovereignty issue. Hon. Kamama is experienced in security and, respectfully, should let the proposal by Hon. Aghostinho to stand rather than kill it as he has proposed.

**Hon. Chairlady:** Hon. Kamama, did you want to make a contribution?

**Hon. Abongotum:** Yes.

**Hon. Chairlady:** We are almost putting ourselves into a quagmire. You agree in one clause then the next clause you disagree. The amendments you made in Clause 6 will be consequential. We need to recommit Clause 7, so that you can make a firm decision on it. The more we move on, at one point there is a commission and at another, there is a secretariat. You are complicating this Bill to a point where I feel we are not making progress yet you have said you spent a lot of time and met with the Committee and everybody. Right now, we are having a bit of a problem. It is getting difficult to move when we do not know if we are dealing with a commission or a secretariat.

**Hon. Abongotum:** Hon. Chairlady, I totally agree with you. We are not making substantial progress because the sponsor of the Bill, my good friend, Hon. Neto, is changing goalposts. We agreed with him. We had over 10 engagements with Hon. Neto, but he comes and changes position.

I want to oppose this because when you look at it critically, Clause 9(1) says: "The Refugee Affairs Secretariat shall be an office in the Public Service." Clause 9(2) says: "The Secretariat shall be responsible for all administrative matters concerning refugees and asylum seekers in Kenya and shall, in that capacity, co-ordinate activities and programmes relating to refugees and asylum seekers and provide them with assistance and protection."

I oppose what has been suggested and maintain what we agreed on in over 10 forums with Hon. Neto and other agencies including the UNHCR, the Ministry and other institutions dealing with refugee matters.

I propose that we maintain this amendment because it serves the Government well. The refugee issue is a security issue as well. As you know, most of the challenges we get from terrorists emanate from some of the refugee camps. I oppose that and I want to call upon Members to vote for this.

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

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

*(Clause 9 as amended agreed to)*

*(Hon. Oyugi consulted with Hon. Abongotum)*

**Hon. Chairlady:** If you sit together, shall we continue or do you want us to give you time to consult? We can adjourn debate so that you can agree. Should we continue? Let us proceed.

*Clause 10*

**Hon. Abongotum:** Hon. Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 10 and substituting therefor the following new clause—

Director for  
Refugee  
Affairs.

**10.**(1) There shall be a Director for Refugee Affairs whose office shall be an office in the Public Service and who shall be the head of the Secretariat.

(2) The functions of the Director shall be to—

- a) be the Secretary to the Committee.
  - (b) co-ordinate all measures necessary for promoting the welfare and protection of refugees and asylum seekers and advise the Committee thereon;
  - (c) ensure in liaison with other relevant agencies the provision of adequate facilities and services for the protection, reception and care of asylum seekers and refugees within Kenya;
  - (d) promote as far as possible durable solutions for refugees granted asylum in Kenya;
  - (e) receive and process applications for refugee status determination;
  - (f) keep, register and maintain a record of all asylum seekers and refugees in Kenya;
  - (g) issue refugee identification documents and facilitate the issuance of civil registration and other relevant documents;
  - (h) be the liaison between the department, state actors and relevant stakeholders and shall in that capacity, sensitise and inform on new developments and policy;
  - (i) in liaison with Director of Immigration, process and issue conventional travel documents;
  - (j) in liaison with the police, arrest any person suspected of committing an offence under this Act;
  - (k) manage refugee designated areas and other related facilities;
  - (l) form sub-committees and assign to such sub-committees functions to be exercised in relation to the reception, treatment and welfare of asylum seekers and refugees;
  - (m) co-ordinate the provision of overall security, protection and assistance for asylum seekers and refugees in the designated areas;
  - (n) ensure the civilian and humanitarian character of the designated areas is maintained;
  - (o) issue movement passes to refugees and asylum seekers wishing to travel outside the designated areas and within Kenya;
  - (p) exempt asylum seekers and refugees from residing in designated areas where there are compelling reasons to do so;
  - (q) protect and assist vulnerable groups, women, children and persons with disabilities;
  - (r) ensure treatment of all asylum seekers and refugees in compliance

- with national law;
- (s) authorise access of visitors to designated areas;
  - (t) facilitate refugees to access work permits and business permits;
  - (u) in consultation with the Cabinet Secretary, establish structures and mechanisms for management of refugee humanitarian emergencies;
  - (v) initiate, in collaboration with the development partners, projects that promote peaceful and harmonious co-existence between the host communities and refugees;
  - (w) advise the Committee on the soliciting of funds for refugee assistance programmes which have a positive impact on host communities;
  - (x) ensure that refugee economic and productive activities do not have a negative impact on host communities, natural resources or the local environment; and
  - (y) ensure sustainable use of resources in designated refugee hosting areas.

The justification is that the amendment seeks to harmonise the functions of the director with those of the secretariat and it further seeks to incorporate provisions on host communities as part of the functions of the director. The host community is also being taken on board in this amendment.

*(Question of the amendment proposed)*

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

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

*(Clause 10 as amended agreed to)*

### *Clause 11*

**Hon. Abongotum:** Hon. Chairlady, I beg to move:

THAT, Clause 11 of the Bill be amended—

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

“(1) The Refugee Status Appeal Board shall consist of—

- (a) a chairperson, who shall be an advocate of not less than ten years’ standing; and
- (b) eight members appointed from among persons having knowledge of and experience in matters relating to—
  - (i) refugee affairs;
  - (ii) immigration;
  - (iii) foreign affairs;
  - (iv) national security; and
  - (v) public administration.

(1A) The members of the Board shall be appointed by the Cabinet Secretary by notice in the Gazette.

(1B) A member of the Appeal Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of four years.

(1C) The Board may, where necessary, co-opt to invite a person with specialized knowledge and skill to attend the sittings of the Board, but such person shall not have the right to vote.”

(a) by deleting sub-clause (5) and substituting therefor the following new sub-clause—  
“(5) The function of the Appeal Board shall be to hear and determine appeals against any decision of the Director with regard to refugee status determination.”

The justification is that the amendment seeks to state the composition of the Appeals Board as currently contained in the Bill. The Appeals Board may not effectively deal with matters of refugees’ status. It will also be ideal to have professionals with experience in refugees, foreign affairs, national security and immigration matters as members of the board so as to effectively handle the functions of the Refugee Status Appeals Board.

The amendment also provides for the tenure of office of the board members. So, it is about the tenure of the board members. It also broadens the committee or the professionals who are going to handle refugee matters.

Thank you.

*(Question of the amendment proposed)*

**Hon. Chairlady:** Hon. Aghostinho Neto.

**Hon. Oyugi:** Thank you, Hon. Chairlady. I made the decision to sit next to Hon. Kamama, so that we can oppose each other from close quarters.

On this one, I really think he missed the point absolutely. We are establishing an appeals board. If you look at what he is trying to delete, he is trying to create an appeals board that is omnibus, for everyone else. But if you look at the representation that we had in the initial appeals board, there are reasons we put them there. We have a representative from the KNCHR and a representative from the National Cohesion and Integration Commission (NCIC). Issues of refugees and host communities are centrally very volatile. A representative of the Immigration Department was part of our appeals board. These are people who determine issues as to whether people are legitimately asylum seekers or not. The other representative was someone from the UNHCR. These are people with international knowledge of refugee issues.

So, we are just not having an appeals board for the sake of the appeals board. The Committee is trying to create an appeals board of people with various knowledge whereas we are looking at institutional issues with regard to appeals.

I request the Chair to find sense in what we had as our appeals board as opposed to just having an omnibus one. It is good to have an omnibus appeals board, but it is also good to see that we were trying to create an institutional appeals board where there is really experience drawn on.

I oppose.

**Hon. Chairlady:** Hon. Ken Okoth.

**Hon. Okoth:** Thank you, Hon. Chairlady. I will go with Hon. Aghostinho on this again. Clause 11 of the Bill tells us that there shall be an appeals board and it tells us who the members shall be. Clearly, it will be a judge of a superior court appointed by the Chief Justice, and he shall be the chairperson. If you listen to the amendment on the other hand proposed by the Committee, they are saying that the chairperson shall be an advocate of not less than 10 years standing. We do not know what their experience is. That is important. When you go to the proposed amendment, it says that the members of the appeals board shall be appointed by the CS by notice



in the gazette. That is a much dangerous way to go. Putting all these powers in the hands of an appeals board that will basically be appointed purely by the CS versus an appeals board that is more independent and more varied is dangerous. Look at an appeals board that has a representative from the KNCHR, NCIC, it is more specific. It even includes, although they cannot vote, a representative of the UNHCR. Remember I mentioned in my point before that for a long time, the UNHCR has been doing refugee status determination for Kenya which was fine when we did not have capacity, but as a matter of sovereignty, let us make sure that we are determining refugee status and when it comes to appeals and protecting rights and meeting our international obligations, let us put a member of the UNHCR who cannot vote, but advises that appeals board.

Again, I kindly beg, hope, appeal and persuade the Chairman to let us have, from a human rights angle, this appeals board to be a real independent one rather than a committee simply constituted by the CS through a simple notice in the gazette and its membership being very vague. Among persons having knowledge of and experience in matters relating to refugee affairs, immigration, foreign affairs, national security and public administration, these could be all people from one branch of the Government or even from one department. The proposal from Hon. Aghostinho helps us to take Kenya to the next level of countries that are really serious about proper management of refugee affairs.

**Hon. Chairlady:** Hon. Kamama.

**Hon. Abongotum:** Of course, it is very paradoxical that the sponsor of the Bill, who is my friend, is opposing his amendments. So, I oppose the proposal by the sponsor, Hon. Neto. We need an appeals board that takes care of all professionals. He called it omnibus. We need an omnibus in this context, this being a sensitive issue. We need as many participants as possible.

I also want to inform Hon. Members that it was a collective decision that we have this appeals board or omnibus of over 20 stakeholders. So, I oppose the sponsor and propose that we maintain the amendment to Clause 11.

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

*(Clause 11 agreed to)*

*Clause 12*

**Hon. Chairlady:** Hon. Kamama, you are not supposed to have an amendment to Clause 12.

*(Clause 12 agreed to)*

*(The Chairlady consulted the Clerk-at-the Table)*

Hon. Members, upon consultations, and given the importance of this Bill, I would like to ask the Chair, the Departmental Committee, Hon. Kamama, to report progress to the House.

**PROGRESS REPORTED**

## THE REFUGEES BILL

**Hon. Abongotum:** Thank you, Hon. Chairlady. I beg to move that the Committee do report to the House its consideration of the Refugees Bill (National Assembly Bill No.26 of 2016) up to Clause 12 with amendments and seek leave to sit again.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker (Hon. (Ms.) Mbalu) in the Chair]*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, you may sit.

*(Loud consultations)*

Order, Members! Let us have the Chairlady to report.

**Hon. (Dr.) Laboso:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Refugees Bill (National Assembly Bill No.26 of 2016) up to Clause 12 and approved the same with amendments and seeks leave to sit again.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us have the Mover of the Bill to move agreement with the said report.

**Hon. Abongotum:** Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Refugees Bill (National Assembly Bill No.26 of 2016) up to Clause 12 and approved the same with amendments and seeks leave to sit again.

Thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I will not put the Question because of obvious reason. However, we are in agreement with the said report.

There is a Member who is standing. We have provided seats. I cannot see you on the intervention. Hon. Members, after consulting with the Chairperson, following the proposal of the Question, I have decided to put the Question of agreement with the said Report, so that the House can own it. Thereafter, we can move to the next level.

*(Question put and agreed to)*

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Deputy Speaker (Hon. (Ms.) Mbalu) left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu) took the Chair]*

THE KENYA NATIONAL EXAMINATIONS  
COUNCIL (AMENDMENT) BILL

*(Loud consultations)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, we are in the Committee of the whole House to consider the Kenya National Examinations Council (Amendment) Bill (National Assembly Bill No.42 of 2016) by Hon. Agoi Masadia.

*(Hon. Abongotum and Hon. Oyugi consulted loudly)*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairlady, will the two Members go to the backroom? We need to move our amendments in peace.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): That is exactly what I meant because I could see them engaged in some discussion. Hon. Kamama and Hon. Neto, let us give Hon. Sabina time, so that she can move her amendment.

**Hon. (Ms.) S.W. Chege:** There is a backroom there where the two of you can sit and sort out your issues.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): You are protected. Do not become the Speaker.

*Clause 2*

**Hon. (Ms.) S.W. Chege:** Thank you, Hon. Temporary Deputy Chairlady, for the protection. We may need some more enforcement because they do not seem to agree with me.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 2 of the Bill be deleted.

First and foremost, on the Kenya National Examinations Council (Amendment) Bill (National Assembly Bill No.42 of 2016), I am proposing deletion of clauses 1 and 2. I want to congratulate the Member because he had seen the gaps that we had in our examinations. By the time he did the amendment, a lot had been done within the Ministry of Education, Science and Technology and KNEC. Last year, Kenyans witnessed transparency in our examinations. A lot of

things that he has recommended, already the Ministry has put them in place. The Committee proposes the deletion of clauses 1 and 2 and we will adopt what Hon. Ken Okoth has proposed. I just want to be very clear that we are supporting the amendments as proposed by Hon. Ken Okoth. My proposal is that we delete clauses 1 and 2.

*(Question of the amendment proposed)*

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

*(Clause 2 deleted)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): After carrying Hon. Sabina's amendment, the amendment by Hon. Okoth falls.

*(Proposed amendment by Hon. Okoth dropped)*

*New Clause 2A*

**Hon. Okoth:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause—

Amendment  
of section 2  
of Cap  
225A.

2A. The Kenya National Examinations Council Act in this Bill referred to as the “principal Act” is amended in Section 2 by inserting the following new definitions in their proper alphabetical sequence—

“Technical and Vocational Education and Training Authority” means the Technical and Vocational Education and Training Authority established under section 6 of the Technical and Vocational Education and Training Act; No. 29 of 2013.

“Tribunal” means the National Examinations Tribunal established under section 40B;

The clause is rephrased in the new proposed clauses as is in the Order Paper. The new definitions are necessary to offer clarity on the usage in the context of the Bill as they refer to terms introduced by the amendment. So, we are amending the principal Act. We are also bringing in aspects of TVET and its appeals board. We are also talking about 40A to make sure that there is punishment meted out to members of staff or agents of the KNEC who, by action or inaction, aid in examination irregularities. It is not only students who should be made to suffer, but the agents who commit the offences too. We propose hefty fines. We have seen examination irregularities in the last three or four years affecting our students. Last year, the situation was much better, but we want it improved further.

Clause 2(c) talks about the National Examinations Appeals Tribunal, which Hon. Agoi had proposed and we have consulted with him. The membership of the appeals tribunal will meet the requirements, the spirit and the goals of what Hon. Agoi was proposing. The appeals tribunal is important so that fair administrative action as per the Constitution is realised. The composition of the tribunal is also well thought out to bring in a legal practitioner with experience in marking of exams. There are also representatives of head teachers and that is meant to safeguard the rights of people who take exams and whose results may be nullified or cancelled.

Clause 40C would basically give us staggered terms so that the membership of the appeals tribunal does not lapse at the same time and create a vacuum.

Remuneration of members of the appeals tribunal is also taken care of as per the Salaries and Remuneration Commission (SRC).

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Okoth, I hope you are on New Clause 2A.

**Hon. Okoth:** Yes. I beg to move. I was moving all of them.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): We have to move one by one.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Chairperson, do you have any issue on that?

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairlady, I support.

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new Clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

#### *New Clause 2B*

**Hon. Okoth:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Bill be amended by inserting the following new Clause –

2B. The principal Act is amended by inserting the following new section immediately after section 40—

Insertion  
of a new  
section  
into Cap  
255A

Offences by  
examination officers.

40A. A member, officer, agent or staff of the council whose omission or commission leads to an examination irregularity commits an offence and is liable upon conviction, to imprisonment for a term not exceeding five years or a fine not exceeding five million shillings, or both.

I had tried to explain this before. It is about penalties for inaction or action by KNEC officials.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Member for Igembe North.

**Hon. M'uthari:** Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. It is important that we make people comply. When people are used to the culture of impunity and morality does not exist, this law will help in terms of compliance. This culture of cheating is what has led to the rot in this republic. So, I support.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, these are new clauses. Hon. Ken Okoth, when you are moving, just let us know that you are inserting a new clause.

**Hon. Okoth:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause—

Insertion of  
a new part  
into Cap.  
225A.

2C. The principal Act is amended by inserting the following new part immediately after the proposed new section 40A—

#### NATIONAL EXAMINATIONS APPEALS TRIBUNAL

National  
Examinations  
Appeals Tribunal.

**40B.** (1) There is established a Tribunal to be known as the National Examinations Appeals Tribunal.

(2) The Tribunal shall consist of—  
a chairperson, nominated by the Judicial Service Commission who shall be an advocate of the High Court of Kenya of at least fifteen years standing;

two persons nominated jointly by the associations for the time being representing head teachers and principals in the country;

one person having at least ten years' experience in marking examinations; and

one person nominated by the Technical and Vocational Education and Training Authority.

(3) The nominating bodies under subsection (2) shall nominate and submit the names of at least two nominees, being one man

and one woman, to the Cabinet Secretary for appointment.

(4) The Cabinet Secretary shall appoint the members of the tribunal by notice in the *Gazette*.

(5) A person shall not be eligible for appointment under subsection (4) if at the time of appointment the person is an employee of the Council or was an employee of the Council five years before the date of appointment.

(6) In making appointments under subsection (4) the Cabinet Secretary shall—  
ensure that not more than two-thirds of the appointees are of the same gender; and  
have regard to the principle of regional balance.

Tenure.

40C.(1) The chairperson of the Tribunal shall serve for a term of four years and shall be eligible for reappointment for one further term.

(2) A Member of the Tribunal shall serve for a term of three years and shall be eligible for reappointment for one further term of three years.

Remuneration.

40D. The members of the Tribunal shall be paid such allowances as the Cabinet Secretary may, in consultation with the Salaries and Remuneration Commission, determine.

Vacancy in office of member.

40E. The office of a member of the Tribunal shall become vacant if the member—  
resigns by notice in writing addressed to the Cabinet Secretary;

is convicted of an offence and sentenced to imprisonment for a term of at least six months without the option of a fine;

is absent from three consecutive meetings of the Tribunal without the permission of the Chairperson;

is adjudged bankrupt;

is convicted of an offence involving fraud, dishonesty or moral turpitude;

is unable, by reason of mental or physical infirmity, to discharge the functions as a member of the Tribunal;

is otherwise unfit or unable to discharge the functions of the office; or  
dies.

Sittings of the Tribunal.

40F. The Tribunal shall be ad hoc and shall sit at such times and in such places as the Tribunal may appoint.

Quorum.

40G. (1) The Tribunal shall be properly constituted if at least three of the members of the Tribunal are present.  
(2) The chairperson shall preside over all the meetings of the Tribunal and in the absence of the chairperson the members shall elect one member from amongst themselves to chair the Tribunal.

Jurisdiction to hear appeals.

40H. The Tribunal shall consider all appeals made against a decision of the Council to withhold, nullify or cancel examinations prepared and administered by the Council.

Secretariat of the Tribunal.

40I. (1) The Cabinet Secretary shall designate a public officer serving in the Ministry responsible for matters relating to education to be the secretary to the Tribunal.

(2) The Cabinet Secretary may, in consultation with the secretary, designate such other public officers as may be necessary to assist the Tribunal in the discharge its functions under this Act.

Appeals from decisions of the Council.

40J. (1) A person who is aggrieved by a decision of the Council to withhold or cancel the results of a candidate may lodge an appeal to the Tribunal in the prescribed form.

(2) An institution that is aggrieved by the decision of the Council to withhold or cancel the results of the candidates in that institution may lodge an appeal to the tribunal in the prescribed form.

(3) Notwithstanding the provisions of subsection (1), a person aggrieved by a decision of the Council may appeal to the Tribunal through the County Director of Education in the County in which the applicant is resident.

(4) The County Director of Education shall transmit to the Tribunal any applications received under subsection (3) within five days of receipt.

(4) Where the person aggrieved by the decision of the Council is a minor, the application under subsection (1) shall be made by



the parent or guardian of the minor.

(5) An appeal under subsection (1) shall be—  
in writing; and

lodged with the Tribunal within a period of fourteen days from the date of the decision of the Council.

(6) The parties to an appeal lodged under subsection (1) may appear before the Tribunal in person or be represented by an advocate or any other person whom the Tribunal may permit to be heard on behalf of such party.

Procedure of the  
Tribunal.

40K. (1) The Tribunal shall transmit a copy of the application made under section 40J and any other supporting documents to the Council within seven days of receipt of the application.

(2) In any proceedings under this Part, the Tribunal shall act without undue regard to technicalities and shall not be strictly bound by the rules of evidence.

(3) The Tribunal shall—  
within thirty days from the date of receipt of the application determine an appeal relating to examination results in respect of national examinations conducted at primary school level; and

within sixty days from the date of receipt of the application determine an appeal relating to examination results in respect of national examinations conducted at secondary school level.

Powers of the  
Tribunal.

40L. The Tribunal shall have the power to summon witnesses, take evidence on oath or affirmation and order the production of documents.

Decision of the  
tribunal on appeal.

40M. (1) Upon the hearing of an appeal the Tribunal may—  
confirm, set aside or vary a decision of the Council; or

make such other order that it may consider appropriate.

(2) The Tribunal shall communicate its decision to the parties in writing within seven days from the date of the decision.

40N. (1) Where the Tribunal awards damages or costs in any matter before it, it shall, on application by the person in whose

Enforcement of

orders for costs.

favour the damage or costs are awarded, issue to him a certificate stating the amount of the damages or costs.

(2) A certificate issued under subsection (1) may be filed in the High Court by the person in whose favour the damages or costs have been awarded and upon being so filed, shall be deemed to be a decree of the High Court and may be executed as such.

Appeals to the High Court.

40O. A party to an application to the Tribunal who is dissatisfied with the decision of the Tribunal may appeal to the High Court on any of the following grounds-

the decision of the Tribunal was contrary to law or to some usage having the force of law;

the decision failed to determine some material issue of law or usage having the force of law; or

a substantial error or defect in the procedure provided by or under this Act has produced an error or defect in the decision of the appeal.

Rules and procedures of the Tribunal.

40P. (1) The Tribunal shall make rules, within ninety days of the coming into effect of this Act, for regulating the practice and procedure for the Tribunal.

(2) Notwithstanding the provisions of subsection (1), the Rules regulating the practice and procedure of the Tribunal shall not provide for the payment of any fees by any of the parties to an appeal and prescribe forms and anything required to be prescribed under this Part.

Again, it is an improvement of the membership of the appeals tribunal. We need an appeals tribunal that really amplifies the constitutional right for fair administrative action as well as rules of natural justice. Also, the tribunal's composition will bring in legal practitioners, persons with experience in exam adjudication and representatives of the education sector.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu):** Let us have Hon. Alfred Agoi, Member for Sabatia.

**Hon. Masadia:** Thank you, Hon. Temporary Deputy Chairlady. I have just signed to say that I support the amendments by Hon. Okoth.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

*New Clause 2D*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Ken Okoth, back to you. You have an amendment to this.

**Hon. Okoth:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Bill be amended by inserting the following new clause—

Insertion of  
a new  
section into  
Cap 255A.

2D. The principal Act is amended in section 45 by inserting the following new subsection immediately after subsection (4)—

(5) A person aggrieved by the decision of the Council to withhold, nullify or cancel examination results may appeal to the National Examinations Appeals Tribunal.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be  
read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Alfred Agoi, Member for Sabatia, I can see you are on the request list.

**Hon. Masadia:** I support, Hon. Temporary Deputy Chairlady.

*(Question, that the new clause be read  
a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Order, Hon. Members! Hon. Sabina, I am waiting for you to take up your seat so that we can move on. You had proposed the deletion of Clause 1. We want it to go on record.

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairlady, on Clause 1, that was an oversight. I drop the amendment to delete Clause 1.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): So, it was an oversight.

**Hon. (Ms.) S.W. Chege:** Yes.

*(Proposed amendment by  
Hon. (Ms.) S. W. Chege dropped)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): What is it, Hon. Agoi?

**Hon. Masadia:** Hon. Temporary Deputy Chairlady, we have further amendments because the spirit of the amendment---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Member, can you cite your clause. I have given you on an intervention because we have already put the Question on that clause.

**Hon. Masadia:** We are saying that we---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): You and who?

**Hon. Masadia:** I am saying that---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): You and who?

**Hon. Masadia:** Myself.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): On which clause?

**Hon. Masadia:** On Clause 2, we want also to move down to the---

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Member, have you consulted with the clerks? Have you processed your amendment and are you in agreement with them? This is because we do not have it here on the Table.

**Hon. Masadia:** Yes, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Secondly, unless it is a re-committal, I can see you are next to the Chair and she has already admitted and accepted. Therefore, it has to come from the right process. You cannot just stand and make amendments on the Floor. The procedure has to be followed. Again, we have already put the Question on Clause 2 and the House has taken a vote. I understand, but we have to follow the right procedure. We have already moved from there and are not in a position to go back.

**Hon. Masadia:** Is re-committal allowed?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I am saying we have already put the Question on that. I can see you are seated next to the Chair. Ask the Chair on how to follow the right procedure of approval. We do not have it unless it is a re-committal. We have already put the Question on the same.

**Hon. Masadia:** I stand guided.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): I am happy that we are in agreement.

Hon. Sabina Chege, do you want to say something on this?

**Hon. (Ms.) S.W. Chege:** Thank you, Hon. Temporary Deputy Chairlady. I have consulted on this. We would like to re-commit Clause 2. I know we have already put the Question. However, we did the deletion and adopted what Hon. Ken Okoth has proposed as the amendment. He has basically focussed on the tribunal.

However, there was Clause 45(b) which was part of the Bill. We did a whole deletion on the inquiry by the council. I would like to move that Clause 45(b) and (c) be part of the Bill, but

I will stand guided because Hon. Ken Okoth's amendment has dealt with Clause 45(d), (e) and (f), but we would like to maintain Clause 45(b) and (c) within the Bill.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Sabina Chege, we cannot just sneak in amendments here. I want to use the words "sneaking in amendments" because you did not go through the right process. You did not consult. It is a Committee amendment and I agree that you are the Chair. You needed to have used the right procedure in the proposed amendments that you are talking about now. After stating yourself loudly that it was an oversight, you needed to have gone through the right procedure, debated, discussed and brought them to the House as amendments that have been proposed and passed procedurally. I believe next time you will follow the right procedure. This is a House of rules and procedures. I can see you are nodding and I am sure you stand guided.

Thank you, Chair.

*(Title agreed to)*

*(Clause 1 agreed to)*

**Hon. Masadia:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Kenya National Examinations Council (Amendment) Bill (National Assembly Bill No.42 of 2016) up to Clause 1 and its approval thereof with amendment and seek leave to sit again.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker (Hon. (Ms.) Mbalu)  
in the Chair]*

## REPORT AND THIRD READING

### THE KENYA NATIONAL EXAMINATION COUNCIL (AMENDMENT) BILL

**Hon. Okoth:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Kenya National Examinations Council (Amendment) Bill (National Assembly Bill No. 42 of 2016) and approved the same with amendments.

**Hon. Masadia:** Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I also second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Gikaria seconded.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Because of obvious reasons and since we will proceed to the Third Reading of this, we are not in a position to put the Question. I therefore order that we defer putting of the Question to the next appropriate time when the House Business Committee (HBC) will recommend.

*(Putting of the Question deferred)*

Next Order!

## MOTION

### ROAD DESIGNS AND CONSTRUCTION TO INCORPORATE RUN-OFF WATER HARVESTING AND MANAGEMENT MECHANISMS

**Hon. M'uthari:** Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, aware that Article 43 of the Constitution provides that every person has the right to clean and safe water in adequate quantities; further aware that water harvesting is an important practice for water management; cognisant of the fact that earth-dams and water-pans would play a key role in water harvesting especially in arid and semi-arid areas; noting that a large quantity of run-off water goes to waste in most parts of the country; further noting that this run-off water if properly harvested and managed would be useful for domestic, livestock and irrigation purposes; appreciating that increased infrastructural development especially in roads has led to the mobilisation of machineries and human resources in most areas; further appreciating that these civil engineering machineries and personnel can be useful in the construction of earth-dams and water-pans; this House resolves that the Government through the Ministry of Transport, Infrastructure, Housing and Urban Development ensures that all road designs and constructions incorporate run-off water harvesting and management mechanisms.

Hon. Temporary Deputy Speaker, aware that Kenya is a water scarce country and that in this republic, at the moment and in the recent past, we have had heavy investment in infrastructure and development especially on roads, and aware that the machineries which are used for road construction can as well be used for preparing water pans, it would be very helpful to this country, for this House to resolve that having just a little addition in terms of financial resources, we could kill two birds with one stone. We could have infrastructural development and at the same time, we could harvest water. You are aware that in the recent past we have been importing maize. This is the time that we should take the issue of water harvesting seriously. I have visited countries like South Africa and I realised that even the wine that is sold here is made from vine that grow in arid lands like in the Orange State where most of the water is harvested. Once this water is harvested, some of it can be cleaned for domestic use.

Looking at the road construction processes and the machinery that is used, if we were in a position to harvest every drop of rain water, including the recent rainfall, we can collect enough water for use in this country for two years. That water can be enough to cater for domestic use, irrigation and livestock watering purposes. The biggest cost incurred when constructing water pans and earth water dams is in terms of mobilisation of machinery and making the machinery accessible. Once the road designs are made, we can use the same equipment utilised at an extra

cost to make dams and water pans. In every road construction project, we can also provide for the water pans and earth water dams construction. That way, as a country, we can move away from rain-fed agriculture to irrigated agriculture. Once we are in that position, we will be able to feed our people. If a country cannot feed her own people, it cannot talk about being independent.

We can have such mechanism put in place using the same spirit of the Jubilee Government of making 10,000 kilometres of tarmac road. There is a lot of work going on across the country. If this initiative was put in place, we can collect run-off and protect the environment. Rain water run-off also destroys road infrastructure. At the same time, we have destruction of the land downstream. That leads to high levels of environmental degradation. If this mechanism is put in place, we will have food security as the first benefit. Secondly, our environment will improve. We will have less destruction of our roads. At the same time, we will have less destruction occasioned by soil erosion that creates gullies, which create a lot of problems for people living downstream. Therefore, I propose that this mechanism can be used.

The amount of money the Government spent in the recent past to import maize and other food commodities is so much. Instead of waiting for crises to strike, we can combine activities that are related. In the process, we will create opportunity to be food secure as well as create employment for the people who will be used in the utilisation of the water reserves for irrigation. We can also grow food crops to feed our food processing industries. In the process, we can make our country move forward. Kenya is one of the sources of River Nile. Our water run-off go down to Egypt and other countries. We then find ourselves importing food commodities from those countries. In countries like Israel and Bangladesh, where Governments have invested heavily in terms of creating water pans and earth dams, they have improved the countries' aqueous position. The amount of ground water and the entire environment have improved. Such initiatives not only improve a country's economy, but also the general wellbeing of the people. That way, we can facilitate further development of our people in terms of improving their livelihoods and wellbeing.

Therefore, it is my appeal to this House that we take this opportunity to take this country to the next level of development in terms of improving our food security. If we had created water pans along the Isiolo-Moyale Road, that water could be used to irrigate grass. Such an initiative can help to reduce conflicts that arise from competition for grazing land in that region. Cattle rustling is also a result of competition for natural resources. If we make use of such opportunities, we can expand our options for the various livelihood areas. In my observation as a person who has expertise in the area of environmental management, I believe that we receive enough rainfall. The problem with us is that it is as if we have a contract with the Indian Ocean. We allow all the rain water to drain into the Indian Ocean, only for us to start experiencing shortages of water for drinking and irrigation. We end up importing food commodities. Consequently, we remain fragile. Yesterday, we passed a Supplementary Budget to cushion Kenyans against the high prices of maize flour. If we have a higher production of maize, our country can be food secure.

With those remarks, I beg to move.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Do you have a Seconder?

**Hon. M'uthari:** I ask Hon. Kigo to second the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Kigo, you can use the microphone on the Dispatch Box.

**Hon. Njenga:** Thank you very much, Hon. Temporary Deputy Speaker. I rise to support this very important Motion, which has come at a time when we have just come from an acute

drought. I come from Gatundu North Constituency and my constituents and the constituents of the neighbouring Gatanga Constituency and parts of Nyandarua County have been providing most of the water that is used in this city. However, for the first time in my life, I saw people experiencing water shortage in those areas. Big rivers like Karimeno, Chania, Ndarugu and Thika dried up to tiny streams. This might mean that global warming is taking effect. So, such a Motion, if adopted and implemented, would be one major step towards ensuring that we have adequate water in this country. If this is implemented, we would enjoy the economies of scale. If the Minister for Transport and Infrastructure can partner with the National Youth Service (NYS) and such other Government institutions, we could be efficient in the usage of our resources. We enroll young people in the NYS but, after some time, they finish their programme and become idle. We then recruit more youth yet again. I think that is wastage. Why can we not create a partnership between the Ministry and NYS? We should have youth who have undergone programmes at NYS getting employed.

We have companies that are doing construction work and making a lot of money in this country. Some of them are foreign-based, while others are locally-based. There are many quarries that have been left open by excavators. They pose a big risk to people living around them. I know of one big quarry in Kikuyu. There are quite a number in my constituency. If we could partner and utilise such facilities, we could enjoy adequate horizontal and vertical economies of scale for the betterment of our country. Currently, we have high levels of unemployment among the youth. They are likely to end up in alcoholism and crime. We could harvest water adequately and then engage the youth in horticultural activities. It will give returns within a short time. We need an adequate food buffer. It is unfortunate that we have a lot of wastage in this country.

So, this is a Motion we cannot ignore. In fact, there are many other things that they can do. I thought the Ministry would have provided solutions to our problems. In fact, this is the time for us to think of how we can inter-marry Ministries that could work together. We should have Ministries engaging in activities that assist Kenyans.

So many roads are being destroyed by rain water, including the prestigious Thika Superhighway. If you have ever driven on Thika Superhighway when it is raining, you will realize the importance of this Motion. There are sections of that highway that become impassable. I am sure if what we are proposing is implemented, our infrastructure will be maintained well and we will save a lot of resources for our country.

More importantly, this country requires thinking outside the box and embracing what a country like Egypt is doing. Egypt is a desert, but it can feed its people using our water. Why can we not emulate Egypt? We have a lot of water given to us by God and we could use it to better the lives of our people. It is unfortunate that our people are starving to death and yet, we have plentiful of resources.

I take this opportunity to thank the people of Gatundu North who are very good in farming. The quarries in Makwa, Kiangunu Ndarugu could be put into good use if this Motion is passed. I also want to thank them for coming out to vote for me despite what happened. I am sure they will come out in large numbers on 8<sup>th</sup> August, 2017 to vote for me and the President of my choice, Hon. Uhuru Muigai Kenyatta. I support.

**The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu):** Order, Members!

*(Question proposed)*



Let us have the Member for Bahati. Hon. Ngujiri. I see you on the request list. It is a very interesting Motion.

**Hon. Ngujiri:** Nashukuru sana Mheshimiwa Naibu Spika wa Muda kwa kunipa nafasi hii. Nasimama kuunga mkono Hoja hii. Nina hakika Wabunge wote tutaunga mkono Hoja hii kwa sababu inapendekeza utaratibu mwafaka. Maji ni uhai. Nina hakika wakati tuliamka asubuhi, hakuna mtu hakutumia maji. Kwa hivyo, maji ni kitu cha muhimu sana.

Nakubaliana na wale ambao wamesema kuwa utaratibu wa maji lazima upangwe kwa njia nzuri. Najua tuna maji ya kutosha lakini mikakati ya kuweka maji pamoja sharti iwepo. Sharti wizara mbalimbali ziwekwe pamoja ili zitengeneze utaratibu kuhusu ukusanyaji na matumizi ya maji. Wananchi sharti waelewe kwamba nafasi na maeneo ya kujenga barabara ni wao wanapaswa kutupatia. Wasipotenga ardhi ya kutengenezea barabara, hali itakuwa ngumu. Maji ni mengi, hasa ya mvua. Tusipoyakusanya, tutazidi kuwa na shida ya maji. Maji yamekuweco, lakini hatukuweka mikakati ya kuiteka ili itusaidie kesho. Hili ni jambo tunalohitaji kuangazia kwa kina. Tunastahili kushikana sote ili tusaidie watu kwa njia nzuri itakayotusaidia kwa maisha yetu baadaye na ya watoto wetu. Maji inapotea kwa sababu ya kukosa mikakati na sheria. Hii inafanya tupoteze maji kwa wingi. Mvua imenyeshwa kwa muda mfupi sana na watu wameanza kulia kwamba maji imeharibu mashamba na mabonde mengine. Baada ya wiki mbili mvua ikiisha, tunaanza kulia kuna ukame. Hii ni kuonyesha ya kwamba hatujaweka mipangilio na mikakati vile inavyotakikana.

Jambo ambalo liko mbele yetu ni la kuweka mikakati, sheria za kusaidia na kuleta wadau wa pande zote pamoja ili tupitishie mikakati mizuri kuhusu maji ambayo itasaidia Kenya. Hata imechelewa. Hii Hoja ingeletwa kitambo ili itusaidie sisi wote. Tuko na bwawa moja ambalo limetengenezwa juzi na Serikali. Nimesikia kwamba wanataka kutengeneza mabwawa katika kila eneo bunge. Katika eneo bunge la Bahati, tulikuwa na shida ya maji sana. Tuko na mabwawa machache na watu wa Bahati wameanza kusherehekea kwa sababu wataanza kupata maji mazuri. Huko Bahati tuko na mabwawa ambayo yalitengenezwa wakati wa mbeberu karibu miaka sitini iliyopita. Lakini hayo mabwawa hayajaundwa upya ili yaweze kuteka maji mengi kwa sababu watu wameongezeka. Naunga hii Hoja mkono na najua Wakenya watafurahia tukiipitisha na kushirikiana ili tuweke mikakati na sheria nzuri kuhusu maji.

Ahsante sana Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Ahsante sana. Member for Kajiado, Hon. Mary Seneta.

**Hon. (Ms.) Seneta:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to support this very important and timely Motion. We have experienced a very dry spell in many of our semi-arid counties. We have lost livestock because of drought and lack of water. Therefore, I want to congratulate my colleague for bringing such an important Motion.

I think we should not only emphasise that the Ministry of Transport, Infrastructure, Housing and Urban Development should come up with mechanisms of water management, but we should also encourage the Ministry of Agriculture, Livestock and Fisheries to look into harvesting run-off water. Water is a very important necessity of life. As a country, we need to think of ways of harvesting and managing water. We should take note of the climatic change because, in the last five years, we have experienced short rains and after two weeks, they stop. That has caused floods in our roads and urban areas. Last week in Mombasa, people were displaced because of floods. In an area like Kitengela where I live, whenever it rains for short periods, floods occur which displace people and their property.

Harvesting and managing water is a good idea for this country and especially now when we are facing food shortage. We need to encourage more people in this country to do irrigation and grow crops with harvested water, instead of us importing food. This Motion has come at the right time. We need to implement it and encourage the Ministry of Agriculture, Livestock and Fisheries to adapt ways of harvesting and managing water so that, as a country, we can sustain our food production and also export it. This will only happen if we encourage our people to irrigate their farms using dams and harvested water in their homes. I support this Motion and I want to encourage our ministries to really think of strategic ways of harvesting and managing water.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Next on my request list is the Member for Yatta, Hon. Francis Kilonzo.

**Hon. Kilonzo:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. Sometimes I ask myself: As a country, do we have a contract to supply the Indian Ocean, lakes and big rivers with water? This is because sometimes in a particular region, it may rain everyday for a whole week but, two weeks later, you hear people crying because of lack of water.

The Mover of this Motion has done a commendable job. The relevant departments should be involved and not only the Ministry of Agriculture, Livestock and Fisheries or the Ministry of Transport, Infrastructure, Housing and Urban Development, which I think has very little to do with this Motion. We should bring in the Ministry of Water and Irrigation, county governments and other players in the water sector to take into consideration water harvesting. In so doing, we will increase the water table. Water will be available to our people and livestock. We will also deal with the issue of environment degradation. My colleague has talked about climatic change. From the time we attained Independence, if the country took the route of water harvesting, today we could not be talking about environmental destruction, the way we are doing.

I come from a region where we have Athi River, which is one of the major rivers in this country. Today, it is highly polluted courtesy of our failure as a country to address what we are discussing here. This Motion is addressing many challenges that we are facing as a country and I am sure that, in the end, we will come up with solutions. My last comment is this: As much as we are talking about water harvesting and management, we also need to think about the drainage systems in the capital city and other urban centres in this country. This will help this country to move in the right direction.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Well spoken. Hon. Sakaja Johnson.

**Hon. Sakaja:** Thank you, Hon. Temporary Deputy Speaker. First, I would like to thank Hon. M'eruaki for tabling this Motion. I hope it will be taken seriously by Members as well as the Committee on Implementation for the rest of the time that we have here. It is timely. It should be a matter of common practice for the Ministry of Transport, Infrastructure, Housing and Urban Development to ensure that all roads and constructions incorporate run-off water harvesting and management mechanism.

Allow me to just concentrate on urban run-off that happens in the urban areas like Nairobi, Mombasa, Kisumu and many of our towns. Lack of proper planning has led to urban flooding because of the impervious surfaces that are used in construction. When there is a lot of concrete, asphalt and hard surfaces and lack of storm water drainage as you have seen even in

Nairobi, then we have a situation where we have a lot of damage to property, mould and damp in buildings and basements. It is really dangerous. This causes lowering of the water table because the amount of water that remains on the surface because of the impervious surfaces is greater than that which percolates to the ground. We have not had proper storm water drainage that lets the discharge from buildings and roads to move to the rivers and streams. As we have seen in many parts of the City like South C and South B, that water goes into people's houses and basements, especially for those who stay on the ground floor. That water causes a lot of damage.

In the particular case of Nairobi City, the drainage system needs a complete overhaul. This was designed at a time when those in the municipal council never imagined that this would be a City that holds the millions of people that it does. Many people are not aware that what has been some sort of relief in parts of the City have been the alternative drainage and sewerage systems that are owned by Kenya Railways and other old institutions. This is in Kileleshwa, Lavington and parts of Upper Hill. There is need for the prayers in this Bill to be followed. That includes all construction going forward. But looking back to what we have, there is need for a serious overhaul of those systems.

A country like Kenya in the 21<sup>st</sup> Century should not suffer the vagaries of drought and food shortage because it fails to rain once or twice. There are countries across this continent that have much less rainfall in millimeters, but have been sending us food. When you talk about Egypt and Israel, it is because they have incorporated water harvesting and irrigation. Even within the urban areas, there is an imperative to use modern methods of agriculture in backyards and balconies in houses in the City, using even what we call gunny bags or *gunia* in Kiswahili, so that people can grow their vegetables such as tomatoes, *sukumawiki*, spinach and the rest using such water once it is certified for use in agriculture.

Floods flows in urban environments have been investigated relatively recently, despite many centuries of flood events. This has been happening in many areas. We also need to talk about storage of that water. I remember the Budget of 2009 provided for inclusion of water harvesting infrastructure in primary schools. I am not sure that has been implemented because you find that we have structures, buildings and houses that do not even have gutters to harvest rain water. Even before it becomes surface run-off, once it gets to our roofs, this should be able to connect to tanks and water storage must be provided. I am confident that my brother the Cabinet Secretary for Water, Hon. Eugene Wamalwa, has done his part and is really trying to incorporate this. We need to have more awareness especially among private developers who are putting up structures. We see structures coming up every day. They must definitely incorporate methods of water harvesting and run-off into storm water drainage that then transfers this to our water bodies within the City.

I need to emphasise that point because we have seen the health hazards that are caused by urban flooding. It is shocking that in this day and age, you can get children contracting bilharzia because of flooding on their way to school in part of those urban areas. Bilharzia is something that should be a relic of the past. Therefore, we need to be more active in prevention and mitigation of this as we move forward.

When we go to the arid and semi-arid areas, I am glad to note that there has been a good increase within the last three or four years in the development of palms---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Hon. Sakaja! I can see there is an intervention by Hon. Ken Okoth. Is there anything that is out of order as far as Hon. Sakaja is concerned?

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker. There is nothing wrong with what Hon. Sakaja is saying. My point of order is simply to request that after he completes, you can put a Question to the House for the Mover to reply. That is because many of the speakers are in agreement with the same points and we have the next Order item on the Breastfeeding Bill, which is a Private Members' Bill. We have been waiting for the last two weeks for it to get a chance to be discussed.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Okoth, on which Standing Order are you rising? Can you quote the reference that gives you the power?

**Hon. Okoth:** I am sorry I do not remember the number off-my-head, but it asks for the Mover to reply to close that debate. It is Standing Order No.95 or No.97. I apologise I have not crammed the numbers.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I can help you then you can request afresh. It is Standing Order No.95. Put it procedurally.

**Hon. Okoth:** Thank you. I rise under Standing Order No.95 to request that after Hon. Sakaja speaks, you may allow the Mover to reply so that we can go to the Breastfeeding Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Sakaja, I will add you two minutes.

**Hon. Sakaja:** Thank you, Hon. Temporary Deputy Speaker. I hope I can get back the time that my Member has taken from me. He has my vote in Nairobi. He will vote for me as a Senator.

Those are the problems we get when we do not allow some of that water to percolate. Instead of allowing it to percolate into the ground, we should be able to have an effective control of that run-off so that it can be utilised. That includes being able to control and manage the velocity and flow of storm water and reducing pollutant discharges in a city where a lot of what comes out from factories and industries might be pollutants. We must be able to control that flow.

We have seen a lot of management practices that are employed world-over. In the United Kingdom (UK), for example, they have what they call sustainable drainage systems that we can incorporate in Nairobi and Kenya. We have water sensitive urban design policies that are being implemented in Australia and the Middle East. There are also green roofs and improved chemical handling. There is a world of opportunity and things that we can do as we look at this.

I want to thank the Member. I can see my time is up. I hope we get more time. I am confident that those things will be implemented in Nairobi once we elect Mike Sonko as Governor and Sakaja as Senator.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Rising on Standing Order No.95, Hon. Okoth has requested that the Mover be called upon to reply, but not the Speaker to put the Question. I have six requests on this and I hope the Members want to speak on this. This is a House of rules. The representative of the people of Othaya Constituency, the Hon. Member has procedurally done it. Member for Endebess, I cannot see your intervention. Try to do it again on the request.

Hon. Okoth stood under Standing Order No. 95 on closure of debate to call upon the Mover to reply. The Speaker has no vote. It is the Members who are here who will take a vote on this, if they think that the Mover should be called upon to reply.

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

Let us have the Mover to reply.

**Hon. M'uthari:** Thank you, Hon. Temporary Deputy Speaker. It is my hope that after this House adopts this Motion, the relevant departments of the Government will take it into consideration and I believe this will take our country to the next level of food security and improved environment and growth. It will reduce the vulnerability that we have had because of lack of water in various parts.

With those remarks, I beg to reply. Before I end, I donate one minute to Hon. Pukose.

**The Temporary Deputy Speaker (Ms.) Mbalu:** Hon. Member for Endebess, we are aware of the procedure of premature closure of debates. When time is up, it is not possible to donate time. He was willing to donate his time.

Hon. Members, I am not in a position to put the Question on this. Debate on this Motion has been closed. I order that the Question be put in the next appropriate time, as it will be allocated by House Business Committee (HBC).

*(Putting of the Question deferred)*

Next Order.

## BILLS

### *Second Reading*

#### THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL

**The Temporary Deputy Speaker (Ms.) Mbalu:** Second Reading of the Cancer Prevention and Control (Amendment) Bill, (National Assembly Bill No.51 of 2016) by the Hon. Gladys Wanga, as per the Order Paper. From where I sit, I can see that Hon. Wanga, the sponsor of the Bill is not in the House.

I defer the Second Reading of the Bill to the time that will be allocated by HBC.

*(Bill deferred)*

### *Second Reading*

#### THE BREASTFEEDING MOTHERS BILL

**The Temporary Deputy Speaker (Ms.) Mbalu:** I can see the sponsor of the Breastfeeding Mothers Bill (National Assembly Bill No.13 of 2017), Hon. Sabina Chege. Are you ready to move? You can take the Floor to move the Second Reading of the Bill.

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Speaker, I beg to move that the Breastfeeding Mothers Bill (National Assembly No. 13 of 2017) be now read a Second Time.

I am inspired to move this Bill as a young mother and also as a mother who has gone through this experience a few years ago. Kenya has made remarkable growth in exclusive breastfeeding for children that are six months old.

In 2003, 13 per cent of mothers were the only ones who were breastfeeding exclusively. It is also good to notify the House that it is recommended that a child should exclusively be breastfed for six months without having anything else to feed on. This year, according to the National Demographic and Health Survey, 61 per cent of children aged less than six months were breastfeeding exclusively. This is a remarkable growth from 2003 from 13 per cent to 61 per cent now. This achievement is as a result of massive drive to promote breastfeeding through two programmes that are set up by the Kenya Government: the baby-friendly hospitals initiative and the baby-friendly community initiative. They promote breastfeeding in hospitals at the time of delivery and other breastfeeding initiatives in the community. Both have been proposed in the country's most recent maternal infant and young children nutrition strategies stretching to 2017 which we are in now. Although the initiatives have not yet been scaled up fully, they have created mass awareness of breastfeeding and the Government plans to increase exclusive breastfeeding to 80 per cent by the end of this year.

A recent study in six counties within Kenya looked at the challenges among Kenyan women on breastfeeding and considered that women in different settings from urban to poor, to middle income and rural areas have several challenges when breastfeeding their children. It is, therefore, important since breastfeeding reduces child mortality rate. For example, in poor countries like Peru, the Government initiative in promoting breastfeeding has helped in reducing child mortality. They have reduced child mortality from 1,000 deaths to 19.

As women, we have had challenges when breastfeeding. Some of those obstacles are when the woman has to go back to work because the maternity leave is only three months and bearing in mind that the child is supposed to breastfeed for six months exclusively. Of course, lack of food in some areas, poor knowledge on how to handle breastfeeding and where we have teenage pregnancies are some of the challenges that have actually hindered breastfeeding; not forgetting the health-related issues like the Human Immunodeficiency Virus (HIV) where HIV-positive mothers are not allowed to breastfeed. We have also had poor social and professional support.

So, my Bill aims at encouraging mothers and not discouraging them to breastfeed for six months and also making it enjoyable and comfortable. We are also encouraging young women who are also career women to actually enjoy bringing up their children and also enjoy breastfeeding them.

In trying to combine breastfeeding with work, for urban poor women, their concern is limited livelihoods and the nature of their employment. Women are constantly looking for a job and, often, most of them are casual labourers who are not entitled to maternity leave. They also have limited pay that does not allow them to save enough for the period that they have to be with their child for six months. This then means that they have to resume work shortly. Some of them do not even wait for a month. They even go to work after two weeks so that they can earn a living and take care of their child. Some of them also work for very long hours and the environments are not conducive to carry babies to work, breastfeed or actually express their milk and have it stored safely.

Another challenge for income working women is lack of work-place support such as breastfeeding rooms and facilities to either breastfeed or express milk. If a woman is going to a market-place, a place where one can actually go and change a diaper or nappy is not available.

Some of the harassment that women have to go through is like if a woman has a child and the child soils a nappy in a *matatu* or when they are travelling or even walking to a market. When you go to markets, you will find public toilets that even a person without a child cannot

get into. If you go into some of them, your child will pick infections from there. If you go to restaurants, many of them do not allow you to change your child's diaper there. So, women end up frustrated and they may end up leaving their children at home because they do not have a place or a facility where they can do that. Some women have narrated stories of having to express their milk in very uncomfortable settings such as toilets. It is even a shame that this House that makes laws has no room for women to express their milk or even breastfeed or change their milk.

Although the breastfeeding breaks are recommended internationally through the Maternity Protection Convention, Kenya has not yet ratified it. Globally, only 29 countries have ratified it while 158 have not.

Hon. Temporary Deputy Speaker, when I came back to this House after getting my child, I used to express my milk inside the car because there was nowhere to do it. It is a shame. There is nowhere in this House where one can express milk, leave alone coming with the child. This is a Bill I want to ask this House to adopt and move very fast to set a precedent. Before this Bill becomes an Act, the Parliamentary Service Commission (PSC) should consider it with immediate effect. Despite the success that Kenya has made around exclusive breastfeeding in the last few years, more needs to be done to ensure that the rights of mothers and children are realised. Kenya also needs to ratify the Maternity Protection Convention. Although women in the formal sector in Kenya are entitled to maternity leave, breastfeeding breaks and flexible time are now provided in the law.

The Government also needs to ensure that the law is enforced. Employers need to be sensitised to provide the necessary support such as breastfeeding rooms and other facilities to enable women to express milk comfortably. These measures are key in ensuring continued exclusive breastfeeding, even after women resume work after their three months of maternity leave. For the informal sector, there may be need to re-consider labour laws and the possibility of social protection measures, specifically targeting women. Generally, there is also need for the public to be sensitised about the need to support breastfeeding women. It is always very uncomfortable when a woman removes the breast to feed a baby, and you see everybody staring. Breastfeeding mothers need support and love when they are feeding their children. Such support includes allowing mothers to carry babies to workplace in both informal and formal sector.

I have a few recommendations in this Bill. I wish that, at least, the first six months after giving birth, mothers should be allowed to work for fewer hours, for example working between 10 a.m. to 4.30 p.m. Those hours will give them enough time to breastfeed. They should be allowed to have baby nurseries at their workplaces for babies of up to six months, to enable them to breastfeed. The challenge in this is the cost that will have to be footed by the caretaker. However, children between zero to six months sleep most of the time. So, if you have a nursery where you can just come in with your child, you can go on with your work and breastfeed because they do not need anything else. We should not be told to breastfeed in the bathroom because we all know that nobody eats in the toilet or bathroom. It is very unhealthy for any woman to breastfeed in the bathroom or toilet. We should also give a private room to express milk and proper storage like a fridge that is purposely dedicated to that.

Since the Government has been generous enough to give smoking zones, it should provide changing zones, especially in major towns. I wish Hon. Sakaja was here because he is going to the Senate. We need to give women places to change their babies' diapers or nappies. Those places should be very clean and private. It should be in workplaces and public places. I have not seen any baby-changing rooms in our own airport. We need that room so that when you

are travelling, you can purchase a diaper, even if it is one. Once we allow the environment to be conducive for those mothers, all is going to be well.

I will go straight to the Memorandum of Objects and Reasons of the Bill. The principal objective of this Bill is to provide a legal framework for mothers who may wish to breastfeed their children at the workplace. The Bill provides for the right of a mother to breastfeed freely or expresses her milk for the infant. It also requires the employers to provide employees with lactation rooms to either breastfeed or express their milk for their children.

Hon. Temporary Deputy Speaker, breastfeeding is the first preventive health measure that can be given to a child at birth. It also enhances mother-infant relationship. It also nurtures first immunisation, enabling the infant to fight potential serious infection. It contains growth factors that enhance maturation of an infant organ system. Presently, female employees exit the workforce or stop breastfeeding in order to secure their jobs. No woman should be forced to compromise the health of her child in order to make a living. This Bill is trying to make sure that no woman will compromise the health of her child in order to make a living.

Part one of the Bill provides for preliminary matters, including the title of the Bill and the interpretation of the terms used in the proposed Act. Clauses 3 to 9 of the Bill provides the fundamental principles and rights at work for a breastfeeding mother. It provides for the right to freely breastfeed or express milk for the baby. It also places an obligation on the employers to provide breastfeeding working mothers with rooms to either express their milk or breastfeed. It also provides for the standards of such rooms. The Bill further provides for baby-changing tables or rooms. This is important because the greater majority of public finds it uncertain to change a baby in a public setting such as a restaurant or a public toilet. Provision also caters for persons who are travelling for long distances in the accompaniment of babies. It ensures that in each public rest-room, a baby changing facility is provided. This part also provides for the power of the Cabinet Secretary to make regulations for the better carrying out of the proposed Act.

This Bill is affecting counties, and it is an ordinary Bill. It might occasion additional expenditure, but this is what is given within the estimates. We do not need to look for extra funds to provide a table and make a special room within a public building.

With those few remarks, I move the Bill. I would like to ask Hon. Ken Okoth to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Kibra.

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker. Let me begin by congratulating the Member for Murang'a County for bringing a very progressive Bill. Even though there are just a few weeks left to the end of this Parliament, I am delighted because good initiatives from private Members are getting a chance to be passed, and become law in Kenya.

In summary, the Bill addresses the right of women and mothers and the circumstances and space they need to breastfeed their children at work. It describes how and what facilities are needed in creating a proper lactation space. It also provides for a chance for women to be given time off when they need to cater to their children and breastfeed. It encourages employers and gives guidelines for them to create flexible work arrangements for mothers who are breastfeeding. There are some major things that Hon. Sabina has mentioned at the end of her presentation of this Bill. It provides for the necessary baby-changing facilities with certain hygienic standards for infants. This is really important when you think about how people travel in this country with their children, and how they access restaurants and places of work. It also provides for the general penalties where the rights of mothers are violated, and the employers overlook those rights.



The health of our nation and people is the biggest asset that this country can have. Children that are breastfed exclusively for six months develop well and are stronger. Their cognitive ability, the brain development, their immunity, their bones and all those issues benefit from the longer they have the chance to breastfeed. Six months is what is recommended. We know that in many places in Kenya, maternity leave is limited to just three months. We need to create a culture, framework and put systems in place to make sure those women who are coming back from maternity leave are accommodated to continue and try to aspire to that goal of exclusive breastfeeding for the first six months and, maybe, even longer.

The Bill and its provisions will help us break some of the taboo issues around public breastfeeding and make it much more reasonable and acceptable. I do not want to belabour the point. I know there are Members in the House who want to contribute to this Bill. It is a progressive Bill. It will protect the rights of mothers and enhance their capacity to be mothers. It is also in our interest that our children grow into healthy adults.

With those few remarks, I am happy to second. I would like to compliment Hon. Sabina Chege for moving this Bill. I hope that many Members of the House will support it even as we move to the Third Reading. Thank you.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The first one on my request list is the Member for Wajir West.

**Hon. A.O. Ahmed:** Thank you, Hon. Temporary Deputy Speaker. I would like to congratulate and commend Hon. Sabina Chege for bringing this progressive Bill. We know very well that breastfeeding, especially in the early years of any child, plays a big role in the health of a child. The first five years in the life of a child are very important, especially in terms of growth and development. If a child is not properly cared for during that time, his or her future life is bound to be affected. It is the young people we are waiting upon as future leaders.

Breastfeeding prevents a number of diseases at the childhood stage. Breastfeeding reduces mortality. In this country, we have not had a comprehensive Bill that addresses breastfeeding. We know we have been having a baby-friendly hospital initiative and, of late, a community-baby friendly initiative. We have not had a Bill that addresses issues of breastfeeding and, more so, lactation. This is a Bill that will ensure that mothers have time with their children, breastfeed them and even care for them.

To set the record straight, this Bill is not only important for mothers, it is even more important for men. It is important for us because we have a role to play. The moment we make sure that the mother is given the opportunity to take care of a child properly, we will have contributed in the proper upbringing of a child. We do not want to bring forth children into this earth for the sake of it. What matters is the quality of parenting that we give to our children. We can ensure that happens if we take care of their health.

I know that we have the Health Bill in the Senate or somewhere here. I personally proposed that we have lactation centres. When I proposed that, I had in mind that mothers, especially working mothers, have a problem in breastfeeding at their workstations. It is very sad and unfortunate that this Parliament that is tasked with making laws for this country cannot even be an example to this country and other institutions. We have had legislators giving birth and taking care of their children. Unfortunately, such mothers end up bringing their children to Parliament and breastfeeding them in cars or expressing their milk in washrooms. That is very

unfortunate. This Bill should make sure that all institutions, whether public or private, have suitable places where a mother will comfortably breastfeed her child and change the soiled nappies of the child. This is to ensure that the mother is able to productively contribute to wherever she is working, whether at Parliament or in a public or private institution. She will be productive and work well.

However, when you call a mother to duty barely three months after giving birth to a child, she cannot even concentrate. Her mind is not there. So, I urge Members that we should move with speed and make sure that this Bill is passed in both Houses and it is implemented. It is the responsibility of the Ministry of Health and other enforcing agencies to ensure that this is implemented. The Ministry of Health should have a wing or a department to ensure that action is taken against institutions that do not abide by this particular Act.

We have had mothers working in airports and cannot breastfeed their children. It is very unfortunate. The Jomo Kenyatta International Airport, which is an international airport serving hundreds of countries and citizens from all parts of the world, does not have places where women can breastfeed their children. This is unfortunate.

I support the Bill in the strongest terms possible and request that we fast-track it, knowing our timelines.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I know, through Hon. Sabina, that if this Bill goes through, the women, men and children of this country will benefit, including the Members of Parliament who will be joining this House. Women and young ladies will have places and we can be encouraged to get more babies even as we make laws and represent the people.

Next is the Member for Othaya.

**Hon. (Ms.) Munene:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to say something about this Bill. I thank Hon. Sabina because she cares about our children. This Bill is very important.

It is better for women to breastfeed their children because milk from the mother makes the child to grow quickly and healthy. However, we get problems when we do not get somewhere to breastfeed our children. When some women go back to work, they try to press their milk for the children. But when you do that, you know that the milk is going to be cold. The maids, whom we leave our children with, do not know how to give them milk. Therefore, our children are getting problems. I thank the Mover and ask our men and everybody in this House to make sure that this Bill is passed. Young kids used to get problems because they did not get proper care. If we are going to have a private and clean place where a mother can go and breastfeed the child, we will have healthy children in this country.

When women get their first children in this country, they leave them with nannies with instructions on how to handle them. Three months cannot be enough for breastfeeding a child. We should breastfeed children for about a year. If you look at how the old mothers used to take care of their children, you will know why we are healthy. They used to do proper things but, because of the busy schedule of our young mothers, children get problems nowadays. Sometimes, when mothers leave home, they are called back because their children are sick.

As a mother, this Bill is good so that our children can be strong in this country. Fathers will be happy when they see that their children are growing well. Hon. Sabina has been breastfeeding her child when she is here and she has been going through challenges. We are taking care of our mothers by ensuring that they can get private places in their offices to breastfeed. If you go to Jomo Kenyatta International Airport with a small child of about one or

two months, you will have nowhere to breastfeed that child. So, it is good for this House to pass this law that young mothers will get private places to feed their children.

Thank you. I support this Bill. I know God is before us and all Members of Parliament in this House are going to pass this Bill. We are going to have healthy children and healthy mothers.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. That is from an experienced mother's voice, the Member of Parliament who represents the people of Othaya.

Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Temporary Deputy Speaker. I want to take this opportunity to thank *Maitu wa* County of Murang'a for bringing a very good Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Is the Hon. Member representing the people of Murang'a called *Maitu wa* County?

**Hon. Gikaria:** That is her nickname in Murang'a. In Murang'a, they love her by that name. She is called *Maitu wa* County.

I also take this opportunity to congratulate her for having been nominated by the Jubilee party. She beat a huge team.

First and foremost, it is sad that, as a father at my age, I wish my wife could get a child.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member, are you saying you wish you could get a child?

**Hon. Gikaria:** I wish I could get a breastfeeding child at this age.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): But you are capable. The Bill will pass and you can add more children. I know it is on a light note.

**Hon. Gikaria:** My last born now is about nine years and I am not intending to have another child. All I am saying is that my children are going to benefit immensely from this Bill. My children were affected because of breastfeeding. I wish Hon. Sabina Chege was in this Parliament 10 years ago and I would be one of the biggest beneficiaries. For young Kenyans out there and as Hon. Ore has put it, I do not agree with the title "The Breastfeeding Mothers Bill". Hon. Ore has just put it clearly that this Bill is not only for mothers. It is also going to assist men. My wife had to stop her employment to breastfeed my four children. You can see the stress that I was going through to feed my family alone. I want to assure young men and women not to get scared of getting pregnant and that the maternity leave is not enough.

This kind of Bill will open doors for mothers. It is very unfortunate as Hon. Wambui – the Member for Othaya – has just said; that you leave milk with your maid and you do not know whether it will be contaminated or not. It is sad that lactating mothers have to squeeze out breast milk in the morning and leave it in some containers for their babies to use later. Most of women do not like it very much. I was watching a programme on television. There was a lady whose name was entered into the Guinness Book of Records for breastfeeding her children for 13 years. That was a very long period of time. She was always there with her two children, with each child clinging onto one breast, breastfeeding. My wife and I were left wondering. That lady was very conspicuous. She gave her children enough immunisation to fight any possible disease. She said she had never had serious medical issues with her two children. We thought it was one of the best things that a mother can give to her baby. The law compels employers to give women time

to breastfeed their new born babies. I would also ask women not to be scared. They need to be proud.

The other day, there was a breastfeeding day and mothers were just sitting along the streets all over, breast-feeding their children. We are also asking women not to feel ashamed of walking to a bench in a public place and breastfeed her child. I do not know whether it is bad to see a woman's breasts in public. We urge women not to be scared. Most of the time, I see women carrying some light clothing to cover their child while breastfeeding. They then realise that the children are not getting enough oxygen. So, they uncover them in the process. At the same time, this law should have provided for penalties against women who refuse to breastfeed their children just because they feel that they will lose their beautiful shapes, or that their breasts will no longer be as firm as they used to be. During the Third Reading, we will bring it up. I hope it will be accepted. Women who refuse to breastfeed their children should also be penalised for refusing to do so.

*(An Hon. Member interjected)*

I know you will have. That is actually what I was saying about the title. We are going to sit down with the owner of the Bill so that we can get a better one because it is not only for mothers. I agree with Hon. Sabina. You have come up with a very good Bill. We have only four more sittings. This is one of the Bills that we would have wanted to improve. I hope I will be here because this is one of the most fundamental Bills that the 11<sup>th</sup> Parliament can be appreciated for passing. I know the President will append his signature quickly. We hope you will allow another speaker and Hon. Millie an opportunity to speak on this Bill, before you ask the Speaker to allow us to vote and see if we can pass it.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you, Hon. Gikaria. I am sure that Hon. Sabina has heard all your proposals, including the one on the title, as well as your intention to bring amendments during the Committee of the whole House. It is interesting that men appreciate the importance of breastfeeding; and that they even appreciate the fact that babies do not get enough oxygen when they are covered while breastfeeding. The Bill is going to take care of all those fears. Order, Hon. Members! In the next Sitting, we will have a balance of 2 hours and 55 minutes to debate the Bill.

**Hon. (Ms.) Odhiambo-Mabona:** Give me one minute!

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Millie, you can have your one minute.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I would request that using your discretion under Standing Order No. 1 that you extend the time by three minutes.

Having said that, I congratulate Hon. Sabina Chege for bringing this Bill. It is a testimony to the fact that we did not do wrong by supporting the position of the 47 women elected in our counties. Many people have been saying that the 47 women are flower girls. They are not! It shows that when you bring women to this House, they also bring issues that are very dear to their fellow women.

I congratulate Hon. Sabina Chege. I think it is because of this that her people demonstrated confidence in her and have given her the opportunity to defend her seat yet again. I

can see male Members of Parliament are opposed to this Breastfeeding Mothers Bill. They want it to be a Breastfeeding Fathers Bill. I would suggest that Hon. Ichung'wah be the first breastfeeding father when this Bill passes because I know it is going to pass.

In the same spirit, Hon. Gikaria was concerned that he will not have another child because of his age. I am going to have my first baby after 50 years. With technology, you can do so much. So, I will also be a beneficiary since I am coming back to this Parliament. That will happen with assisted technology. I will be a breastfeeding mother even as Hon. Ichung'wah will also be a breastfeeding father.

This is a matter of reproductive rights of women. I challenge the Government of Kenya, especially the Executive. If you looked at the advert three days ago about a policy on menstrual hygiene for women, you will realize that all the people who were being advertised, including Principal Secretaries (PSs), were men.

I know how terribly awkward it can be for male PSs within an African setting to be seated discussing the menstrual health of women. That is why we encourage this Government and the succeeding Government, which will be a National Super Alliance (NASA) Government, to ensure that in all appointed positions, two-thirds are women. It should not be one-third because men have been enjoying too much.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Okay. Thank you Hon. Millie Odhiambo. Order Members! As I said, we will have two hours and 53 minutes to debate the same. It is a good Bill that will benefit the mothers of this country. I am sure mothers, including myself and our children, will benefit. Members who wanted to contribute will do it next time.

### ADJOURNMENT

**The Temporary Deputy Chairlady** (Hon. (Ms.) Mbalu): Hon. Members, the time being 1.02 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.05p.m.