

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Thursday, 25<sup>th</sup> February 2021**

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]***PRAYERS****Hon. Speaker:** There will be a Communication a little later.**PETITION****BANNING OF PHOSPHATES IN THE MANUFACTURE OF WASHING DETERGENTS**

**Hon. Speaker:** Hon. Members, Standing Order No.225 (2)(b) requires that the Speaker reports to the House any Petition, other than those presented by a Member. In this regard, I wish to report to the House that my office has received a Petition from Mr. Peter Khamisi and Mr. Benjamin Odhiambo on behalf of Waste Water Managers Association in Kisumu - a multi-disciplinary association formed with the objectives of research on affordable, effective, simple and efficient waste water management practices.

Hon. Members, the petitioners aver that the content of the phosphates used in the manufacture of washing detergents in Kenya is higher than the recommended international standards, making it harmful to the environment and specifically, to aquatic life when discharged into water bodies.

The petitioners are concerned that the continued use of detergents with excessive high content of phosphates and consequent release to water bodies is raising unsustainable toxicity levels, thereby resulting in exponential increased growth of algae and other unwanted aquatic flora and fauna such as water hyacinth, which consumes large portions of available oxygen in the water. This unbalanced aquatic ecosystem leads to production of toxins that are also harmful to other forms of life.

The petitioners contend that the effects of the phosphate toxins when discharged into water bodies has led to reduction in the value of many water uses, from drinking and swimming to fishing; increased the cost of water treatment to water service providers and altered the plant community, food web and chemistry of water bodies.

The petitioners, therefore, pray that this House intervenes, through the relevant Government authorities, to compel manufacturers of detergents to comply with the required international standards with regard to the use of phosphates, so as to reduce the cost of water treatment, save aquatic life and ensure sustainability of the aquatic environment.

Pursuant to the provisions of Standing Order No.227, the Petition stands committed to the Departmental Committee on Environment and Natural Resources for consideration. The Committee is required to consider the Petition and report its findings to the House and the petitioners in accordance with Standing Order No.227 (2)

Next Order.

### PAPERS LAID

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2019, and the certificates therein:

1. Civil Servants Housing Fund by the State Department for Housing and Urban Development;
2. The Taita Taveta University;
3. Kenya National Shipping Line Limited;
4. Kenya Roads Board Operations;
5. Konza Technopolis Development Authority;
6. Policy-holders Compensation Fund;
7. Kenya Urban Roads Authority;
8. Engineers Board of Kenya;
9. Kenya Universities and Colleges Central Placement Service;
10. Multimedia University of Kenya;
11. Kenya Institute of Special Education;
12. Kenya National Qualifications Authority;
13. Kipchabo Tea Factory Limited;
14. Kenya Investment Authority;
15. Energy and Petroleum Regulatory Authority;
16. Kenya Veterinary Board;
17. Kenya Film Commission;
18. Public Sector Accounting Standards Board; and,
19. Regional Centre on Ground Water Resources, Education, Training and Research in East Africa.

Thank you.

**Hon. Speaker:** Very well. Next Order!

### QUESTIONS AND STATEMENTS

#### ORDINARY QUESTIONS

**Hon. Speaker:** The first segment is the Questions. The first one is by the Member for Central Imeni, Hon. Moses Nguchine Kirima.

*Question No. 025/2021*

## STATUS OF OWNERSHIP OF LAND OCCUPIED BY MPIDI PRIMARY SCHOOL

**Hon. Moses Kirima** (Central Imenti, JP): Thank you, Hon. Speaker. I rise to ask Question No. 025/2021 to the Cabinet Secretary (CS) for Lands and Physical Planning:

- (i) What is the status of ownership of land parcel LR No. Abothuguchi /L-Kiiija Parcel No. 830 occupied by Mpidi Primary School since 1988?
- (ii) What action, if any, the Ministry has taken against the adjudication officer who registered the parcel of land in his name in 1995?
- (iii) When will the Ministry have the title deed of the said parcel of land registered in the name of the school to enable the institution receive funding for development, particularly funds from the National Government Constituencies Development Fund (NG-CDF)?

That is all, Hon. Speaker.

**Hon. Speaker:** Very well. The Question will be responded to before the Departmental Committee on Lands. The next Question is by the Member for Laikipia County, Hon. Catherine Waruguru. Why are you going to where there is a microphone?

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): Hon. Speaker, I forgot to carry my card.

**Hon. Speaker:** You will be given the microphone there. There is no problem.

*Question No. 034/2021*

## SAFETY OF KENYA WILDLIFE SERVICE AIRCRAFT

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): Thank you, Hon. Speaker for your kindness. I apologise. I will remember to carry my card next time. I rise to ask Question No. 034/2021 to the Cabinet Secretary for Tourism and Wildlife.

- (i) Could the Cabinet Secretary provide the status and comprehensive safety assessment report of all aircraft owned and operated by the Kenya Wildlife Service, including those leased from third parties?
- (ii) Could the Cabinet Secretary further provide details on the frequency at which routine inspection and safety assessment measures are undertaken by the Kenya Wildlife Service on all its aircraft and explain the status of the airworthiness of its fleet and decommissioning standards for any unworthy aircraft?
- (iii) What measures is the Service taking to ensure the safety of all its researchers and employees while on duty, tourists and other passengers when being offered air transport services?
- (iv) What substantive support and assistance, if any, does the Service provide to the families of staff members and members of the public who lose their lives as a result of accidents involving aircraft owned and operated by the Service?

Thank you very much, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources. The next Question is by the Member for Kirinyaga Central, Hon. John Munene.

*Question No. 36/2021*

## MEASURES TO CURB HUMAN-WILDLIFE CONFLICT IN KIRINYAGA CENTRAL

**Hon. Munene Wambugu** (Kirinyaga Central, JP): Thank you, Hon. Speaker. I rise to ask Question No.036/2021 to the Cabinet Secretary for Tourism and Wildlife.

- (i) What immediate steps is the Ministry taking to curb the ongoing human-wildlife conflict in Kirinyaga Central, particularly on the invasions and attacks by wild dogs in Inoi Ward and parts of Kerugoya Ward, which are causing panic to school-going children and threatening the lives of residents of those areas?
- (ii) Could the Ministry consider compensating victims of the said human-wildlife conflict?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources. The next Question is by the Member for Bondo, Hon. (Dr.) Gideon Ochanda.

*Question No. 040/2021*

## MEASURES TO CURB FLOODING OF RIVER YALA

**Hon. Gideon Ochanda** (Bondo, ODM): Hon. Speaker, I rise to ask Question No. 040/2021 to the Cabinet Secretary for Devolution and Arid and Semi-Arid Lands.

- (i) Could the Cabinet Secretary submit a list of all major flooding-related emergencies that the Ministry has handled since May 2010?
- (ii) Could the Cabinet Secretary further clarify whether the bursting of River Yala's banks that occurred in May, 2020 is part of the major national flooding catastrophes and further explain why the dykes and riverbanks have not been restored to date?
- (iii) What immediate and long-term measures is the Ministry putting in place to address the current suffering of the people affected by the perennial problem and permanently restore the riverbanks and dykes in River Yala?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Administration and National Security. The next Question is by the Member for Trans Nzoia County, Hon. Janet Nangabo, who has written to request for its deferment. The request has been acceded to. Therefore, the Question is deferred.

*Question No.045/2021*STATUS OF IMPLEMENTATION OF UNIVERSAL HEALTH CARE PROGRAMME  
IN TRANS NZOIA COUNTY

*(Question deferred)*

The next Question is by the Member for Ruiru, Hon. Simon King'ara. Do you have a card? There is a system problem. It is not showing your card.

*Question No. 051/2021*

CONSTRUCTION OF FOOTBRIDGE AT KIHUNGURO AREA

**Hon. Simon King'ara** (Ruiru, JP): Thank you, Hon. Speaker. I am sorry for that hiccup. I stand to ask Question No. 051/2021 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

- (i) Could the Cabinet Secretary consider constructing a footbridge at the junction of Kihunguro Road and the Thika Highway in Ruiru Constituency to facilitate the crossing of pedestrians, ease traffic flow on the highway and prevent further loss of lives through accidents at the designated pedestrian crossing that is located in the area?
- (ii) What other plans does the Ministry have to address the high number of road accidents involving pedestrians that have been taking place at the various designated pedestrian crossings sections commonly known 'Zebra Crossings' at all national highways, particularly along the Nairobi-Thika Highway?

**Hon. Speaker:** The Question to be replied to before the Departmental Committee on Transport, Public Works and Housing.

Next Question is by the Member for Kisauni, Hon. Mbogo Ali Menza.

*Question 052/2021*

OWNERSHIP OF LAND REFERENCE NO.MN/II/506 IN MWAKIRUNGE WARD

**Hon. Mbogo Ali** (Kisauni, WDM-K): Thank you, Hon. Speaker for giving me this opportunity to ask Question No. 052/2021 on behalf of the great residents of Njia Kuu in Mwakirunge Ward in Kisauni Constituency, to the Cabinet Secretary for Lands and Physical Planning.

- (i) What is the current status of ownership of the parcel of Land Reference No.MN/II/506 in Mwakirunge Ward in Kisauni Constituency?
- (ii) Are there any plans by the Ministry to settle the over 664 families who are currently occupying the said piece of land?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Lands. The next Question is by the Member for Suna West, Hon. Peter Masara.

*Question 053/2021*

UPGRADING OF KABABU- PINY-OYIE-ADERA ROAD TO BITUMEN STANDARD

**Hon. Peter Masara** (Suna West, Independent): Thank you, Hon. Speaker. I rise to ask Question No. 053/2021 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

(i) Is the Cabinet Secretary aware of the deplorable state of the Kababu-Piny-Oyie-Adera Road which is serving the Sub-County Headquarters and Kapanga Border Point in Suna West Constituency?

(ii) When will the Ministry upgrade the road to bitumen standards?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. The next Question is by Hon. (Ms.) Sarah Korere.

*Question 056/2021*

MEASURES TO CURB INSECURITY IN LAIKIPIA NORTH SUB-COUNTY

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Speaker. I rise to ask Question No. 056/2021.

- (i) What actions is the Ministry taking to curb the increased cases of insecurity in Laikipia North Sub-County, particularly arising from cattle rustling?
- (ii) Could the Cabinet Secretary consider establishing additional Anti-Stock Theft camps at Tura and Nadung'oro areas in Mukogodo West and East Wards, respectively, in Laikipia North Sub-County?
- (iii) When will the Ministry provide motor vehicles and other equipment to Survey, Kimanju and Loiragai police stations as well as to the Anti-Stock Theft Camp at Naibor Trading Centre of Laikipia North County?
- (iv) Could the Ministry consider recommending the construction of security roads for ease of access to insecurity prone areas by the security personnel from Loiragai - Sieku to Iidorot through Mukogodo Forest, and from Mugie through Lonyiek to Churo areas of Laikipia North Sub-County?

Thank you.

**Hon. Speaker:** The Question is to be replied to before the Departmental Committee on Administration and National Security.

The next segment is on Statements. There is a request by the Member for Garissa Township.

**STATEMENTS**

CONSTRUCTION OF ISIOLO–GARISSA-WAJIR-MANDERA ROAD

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. Pursuant to Standing Order 44(2) (c), I wish to request for a statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the construction of Isiolo-Garissa-Wajir-Mandera Road.

Hon. Speaker, the construction of the Isiolo-Garissa-Wajir-Mandera Road was earmarked to commence soon after the Kenya National Highways Authority (KenHA) finalised submission of bids for the North Eastern Transport Improvement Project (NETIP) funded by the World Bank/Arab Bank for Economic Development in Africa (BADEA)/ Public-Private-Partnership under the Annuity Programme. The said project which covers 748kilometres at a cost of USD451 million was to be the single largest infrastructural projects in northern region of the country, serving five counties in the region; namely, Isiolo, Meru, Wajir, Garissa and Mandera. The Kenya

National Highways Authority has indicated that the said project is divided into nine implementable lots, at different stages of design, tendering and construction.

Hon. Speaker, currently, the said road is un-motorable and in a very deplorable state occasioning long travel hours, breakdown of vehicles and high maintenance costs. It is of great concern that this deplorable state of the road has negatively and adversely affected the economy of the region, including those transporting relief food and perishable commodities especially during the rainy seasons.

It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on the following:

- (i) What is the status of the submission and award of tenders for the construction of Lot 1 and 2, that is Isiolo-Kula Mawe-Modogashe since the deadline for submission of the tenders was on 28<sup>th</sup> April, 2020?
- (ii) Could the Cabinet Secretary also state the firms that were awarded the construction of the various lots, indicating whether they are local or international firms and their capacity?
- (iii) How much money was allocated to each of the nine lots of the said road?
- (iv) What is the status of the construction of the Modogashe-Samatar-Wajir section of the road, which was to be funded under BADEA/PPP and Annuity Programme, and state whether the World Bank - which has expressed interest in funding the road - was granted the request to fund that section of the road and, if so, was the funding proposal shared with the initial funder, that is, BADEA/PPP and Annuity Programme?
- (v) What is the status of the design of the remaining part of the road in the Wajir-Kutulo-Elwak-Mandera section?

Thank you, Hon. Speaker.

**Hon. Speaker:** Is the Chairperson of the Departmental Committee on Transport, Public Works and Housing or his Vice-Chairperson present? Is the Committee one of those ones dealing with the Budget Policy Statement (BPS)? Okay. The request will be channeled through the Office of the Leader of Majority Party.

The next request is by the Member for Kibwezi East, Hon. (Ms.) Jessica Mbalu.

#### CASES OF SEXUAL VIOLENCE AGAINST CHILDREN IN KIBWEZI WEST CONSTITUENCY

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a statement from the Chairperson of the Department Committee on Administration and National Security regarding increased cases of sexual violence and assault against children in the country and, in particular, Kibwezi East Constituency.

Hon. Speaker, in the recent past, the country has witnessed increased cases of violation of children's rights, in particular, sexual assault and molestation of boys. In particular, a case of sexual assault has been reported in a certain school in Kibwezi East Constituency. Hon. Speaker, I beg to withhold the name of affected school for the psychological welfare of the victims of that heinous act.

Hon. Speaker, that childhood sexual abuse has increased and causes physiological trauma to the victims and has been correlated with higher levels of depression, guilt, shame, self-blame, eating disorders, somatic concerns, anxiety, repression, denial and relationship problems. Those

cases of sexual assault have been reported to the relevant authorities. The suspects are people who are well-known to the victims and the community.

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

1. Could the Chairperson explain what measures are in place to guarantee the safety of children, especially the boy-child in the country and, in particular, in Mtito-Andei area of Kibwezi East Constituency?
2. What is the status of investigations into the cases on sexual violence against children that have been reported, and whether the relevant authorities conducted any medical examination of assaulted children with a view to establishing whether they were infected with sexually transmitted diseases and putting them under medication?
3. What plans are in place to offer counselling services to the affected boys, their parents as well as other pupils and students in Kibwezi East Constituency?
4. What measures have been put in place by the Ministry to curb the increased cases of sexual assault and to bring to book the perpetrators of those heinous acts?

Hon. Speaker, the statement request is presented to Parliament by myself, Hon. Jessica Mbalu, CBS, MP the Member representing the people of Kibwezi East on the Floor of the House today.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. The request is directed to the Chairperson, Departmental Committee on Administration and National Security. The request is to be channeled through the Office of the Leader of the Majority Party. That Committee is also addressing the issue of Budget Policy Statement (BPS) right now.

The next request is by the Member for Kacheliba, Hon. Lomunkoror.

#### ABDUCTIONS AND KILLINGS OF RESIDENTS OF CHEMOLINGOT AREA

**Hon. Mark Lomunokol** (Kacheliba, PDR): Thank you, Hon. Speaker, for giving me this opportunity to request for a statement. I rise to request for a statement about abductions and killings in Chemolingot Town in Baringo County.

Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the recent abductions and killing of six residents of Chemolingot Town, Baringo County.

In February, 2021, a number of residents in Chemolingot area in Baringo County were abducted by persons allegedly believed to be police officers. Among those who were abducted and subsequently killed were Mr. Paul Koskei, Human Resource Officer at the Teachers Service Commission (TSC), Tiaty Branch; Mr. Nelson Kordado, a primary school head teacher; Mr. Brian Silale, an IEBC official; Mr. David Kukat, a Medical Training College (MTC) student; Mr. Kanga Siareng, a businessman and an unidentified young man operating a *boda boda* business. They were abducted while having a meal in a restaurant in Chemolingot Town, and their bodies were later found dumped.

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

- (i) Could the Chairperson provide the status of investigations into the abduction and subsequent killing of the late Mr. Paul Koskei, Mr. Nelson Kordado, Mr. Brian Silale,

Mr. David Kukat, Mr. Kanga Siareng and unidentified young man in Chemolingot area?

- (ii) Could the Chairperson also explain what challenges the intelligence agencies are facing in providing information to facilitate identification and arrest of culprits as well as addressing the security problems in the area?
- (iii) What plans has the Ministry put in place for long term and sustainable peace in the area?
- (iv) Could the Ministry, through the Chairperson, explain the whereabouts of four civilians from Tiaty who were released by a court in Ravin and later abducted by police and have not been found up to date?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Lomunokol, is your request directed to the Chairperson, Departmental Committee on Administration and National Security?

*(Hon. Mark Lomunokol spoke off record)*

Again, the request for statement is to be channeled through the Office of the Leader of the Majority Party.

Now, there was supposed to be a response by that same Chairperson. The Leader of the Majority Party has said that he is still engaged somewhere. The response was to the statement requested by Hon. Kamket. The other day, they agreed on something. There is also a response to a request for statement by Hon. Osotsi. The Chairperson not being present, those matters are taken out to be dealt with next week.

*(Statements deferred)*

The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I am aware that the Chairperson, Departmental Committee on Administration and National Security is currently dealing with the BPS and, hence, it might be a challenge. So, I will get in touch with him and we will report on the status by Tuesday.

**Hon. Speaker:** There is a statement by yourself on the House business.

BUSINESS FOR THE WEEK COMMENCING 2<sup>ND</sup> TO 4<sup>TH</sup> MARCH, 2021

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee, which met on Tuesday, 23<sup>rd</sup> February 2021, to prioritize business for consideration.

On Tuesday next week after the Afternoon Sitting, we shall continue with the following Bills in the Committee of the whole House, if we do not conclude them today:

- (i) The Refugees Bill (National Assembly Bill No. 62 of 2019).
- (ii) The Health (Amendment) Bill (National Assembly Bill No. 64 of 2019).

I do not see any challenge with the Health (Amendment) Bill but just in case we do not finish it.

- (iii) The Care and Protection of Older Members of Society Bill (Senate Bill No. 17 of 2018)

We shall also continue with the Second Reading of the following Bills during both the Afternoon and Evening Sittings, if we do not conclude them today:

- (i) The Kenya National Blood Transfusion Service Bill (National Assembly Bill No. 6 of 2020);
- (ii) The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018);
- (iii) The National Cohesion and Peace Building Bill (Senate Bill No. 35 of 2018);
- (iv) The Constitution of Kenya (Amendment) (No.3) Bill (National Assembly Bill No. 53 of 2019);
- (v) The County Statutory Instruments Bill (Senate Bill No. 21 of 2018);
- (vi) The Impeachment Procedure Bill (Senate Bill No. 15 of 2018); and,
- (vii) The County Law Compliance and Enforcement Bill (Senate Bill No. 25 of 2018).

The HBC has also scheduled consideration of the Mediated Version of the Early Childhood Education Bill (Senate Bill No 26 of 2018) and the Second Reading of the Narcotics, Drugs and Psychotropic Substances (Control) (Amendment) Bill (National Assembly Bill No.27 of 2020).

The House will prioritise the 2021 Budget Policy Statement once the Budget and Appropriations Committee finalises its report on it to enable the House conclude the matter within the stipulated timelines.

The House Business Committee will reconvene on Tuesday, 2<sup>nd</sup> March 2021, at 11.00 a.m. to schedule business for the coming week. I now wish to lay this Statement on the Table of the House.

*(Hon. Amos Kimunya laid the Statement on the Table)*

**Hon. Speaker:** Very well. Next Order!

## BILL

### *Second Reading*

#### THE KENYA NATIONAL LIBRARY SERVICE BILL

*(Hon. Amos Kimunya on 18.2.2021)*

*(Resumption of Debate interrupted on 23.2. 2021 - Evening Sitting)*

**Hon. Speaker:** Was anybody on the Floor? Hon. John Paul Mwirigi, what is the nature of your intervention?

**Hon. John Paul Mwirigi** (Igembe Central, Independent): Hon. Speaker, last year in September, I presented my Petition to the Departmental Committee on Agriculture and Livestock seeking a Statement on the fate of the *miraa* farmers upon closure of the *miraa* market in Somalia. The Committee is yet to report to the House and yet 60 days have already lapsed. I wish to seek your guidance on when the Committee will issue a response because farmers in Nyambene are suffering. The market has remained closed since March last year and there is no response from the Committee.

**Hon. Speaker:** Let us have the Chairman of the Departmental Committee on Agriculture and Livestock. Is Hon. Tiren in? Is he finding the work challenging?

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Hon. Mwirigi, please, liaise with the Leader of the Majority Party so that your concerns are communicated to the Chairman of the Departmental Committee on Agriculture and Livestock. Let us have Hon. Gitonga Murugara.

**Hon. George Gitonga** (Tharaka, DP): Hon. Speaker, I do not think there was any Member on the Floor on Order No. 8. I did not participate but there was exhaustive discussion and debate on that Bill and pursuant to Standing Order No. 95, I want to request the House to approve that the Mover be called upon to reply.

**Hon. Speaker:** Is that the mood of the House?

**Hon. Members:** Yes.

**Hon. Speaker:** Let me test. The Member for Tharaka, Hon. Murugara rose in his place and requested that the Mover be called upon to reply. I will put the Question.

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

Let us have the Mover.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I want to thank Hon. Murugara for bringing a closure to this debate because we have been on it for two days and several Members spoke to it. I want to thank all the Members who spoke to the Kenya National Library Service Bill. There was total consensus that we need to get libraries, a reading culture and to support libraries across all the counties. This is very positive because without that source of knowledge, our youth will be diverted to other anti-social behaviour from the social media and other platforms.

I want to recognise that Members had an overwhelming support. I did not hear any single amendment being suggested; which means that the Bill was well drafted. However, any Member who wishes to bring an amendment is at liberty to do so. We can process it as fast as possible and move it to the Senate. The issue of libraries is a shared responsibility between the national Government and the county governments and the earlier we can process that, the better so that our scholars can get the benefits of this Bill.

As I was moving the Bill, I noted that we are updating an Act of 1967, and with so many years having passed and a new Constitution in place, we needed this law like yesterday.

With those few remarks, I beg to reply.

**Hon. Speaker:** Hon. Members, if you are following the debate, you will know that I am about to put the Question.

*(Hon. Gathoni Wamuchomba and Hon. Rachael Nyamai consulted with Hon. Aden Duale)*

Member for Garissa Township, I can see that the Members for Kiambu and Kitui South are over-engaging you.

*(Hon. David Pkosing walked into the Chamber)*

Chairman of the Departmental Committee on Transport, Public Works and Housing, you have just walked in at 3.15 p.m., and there was a huge request from you. I want to encourage many

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Chairpersons to be present during the Questions and Request for Statements time. If a Chairperson is not in, the Vice-Chair should take up the matter. Hon. John Paul Mwirigi has just raised a complaint about a Petition that he brought more than 60 days ago and there was nobody to respond. Is the Departmental Committee on Agriculture and Livestock dealing with BPS? I am just willing to accommodate that aspect because this is a period when so many Committees are busy considering various sector proposals in the BPS.

Hon. Members, having confirmed that the House quorates, I will put the Question.

*(Question put and agreed to)*

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

**Hon. Speaker:** Next Order!

### COMMUNICATION FROM THE CHAIR

**Hon. Speaker:** Hon. Members, I think it is important that we all pay attention to this Communication that we delayed so that we can have as many of you as possible.

#### RESOLUTIONS OF COUNTY ASSEMBLIES ON THE DRAFT CONSTITUTION OF KENYA (AMENDMENT) BILL

Hon. Members, I wish to make the following Communication regarding the status of delivery by the county assemblies to the Speakers of the two Houses of Parliament, their decisions on the Draft Constitution of Kenya (Amendment) Bill, 2020.

Hon. Members, it is in public domain that the Building Bridges Initiative Steering Committee delivered a draft Bill to amend the Constitution by popular initiative and signatures of persons in support of the initiative to the Independent Electoral and Boundaries Commission (IEBC) for verification. Consequently, the IEBC, pursuant to the provisions of Article 257(4) of the Constitution, submitted the draft Bill to the 47 County Assemblies for consideration after verification of the signatures in support of the initiative.

Hon. Members, Article 257(6) of the Constitution affords the respective county assemblies a period of three months after receipt of a draft Bill to amend the Constitution by popular initiative within which to approve the Bill. Thereafter, the respective Speakers of the county assemblies are required to communicate the resolutions of the approval by the respective assemblies by delivering a copy of the draft Bill jointly to the Speakers of the two Houses of Parliament, with a certificate indicating such approval or rejection.

Hon. Members, you will recall that during the consideration of the *Punguza Mizigo* (Constitution Amendment) Bill, I had highlighted several procedural difficulties that Parliament encountered during the process of the delivery of resolutions by the county assemblies to the two Houses. You will also recall that in my Communication dated 5<sup>th</sup> December, 2019, I informed the House that the Speaker of the Senate and I had agreed to jointly develop and issue standard guidelines for delivery by the county assemblies to the Speakers of the two Houses of Parliament of a draft Bill for the amendment of the Constitution by popular initiative to inform the process.

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Those guidelines were subsequently published in the *Kenya Gazette* as Legal Notice No.175 dated 18<sup>th</sup> November, 2019. The guidelines have informed the current process before Parliament.

Hon. Members, at the current stage of the process, paragraphs (5) and (6) of the said guidelines require that the speakers of the two Houses of Parliament undertake the following:

(a) Report to their respective House of Parliament—

(i) The county assemblies that have submitted the draft Bill and the certificate approving the Bill;

(ii) The county assemblies that have submitted the draft Bill and the certificate rejecting the Bill;

(iii) The county assemblies that did not submit the draft Bill and the certificate;

(iv) Whether or not the threshold required under Article 257 (7) of the Constitution has been met;

(v) Such other information as the Speakers of the two Houses of Parliament may consider necessary; and,

(b) Submit to the Independent Electoral and Boundaries Commission and publish, by notice in the Gazette, the information specified under sub-paragraph (a).

The guidelines do also provide that the Speakers of the two Houses of Parliament shall not receive any draft Bill and certificate where the Bill was considered by the county assembly after the expiry of the period specified under Article 257 (6) of the Constitution.

Hon. Members, in furtherance to requirements of paragraph 5 of the said guidelines, the statistics of the submissions which have been formally delivered by the respective speakers of the county assemblies as at 2.00 p.m. today, Thursday, 25<sup>th</sup> February, 2021 are as follows –

(a) Thirty county assemblies have delivered the draft Bill with a certificate indicating their approval of the Bill. They are: Siaya, Homa Bay, Kisumu, Trans Nzoia, Busia, Kajiado, West Pokot, Laikipia, Kisii, Nairobi, Garissa, Mombasa, Taita Taveta, Kakamega, Kitui, Vihiga, Murang'a, Narok, Makueni, Kirinyaga, Nyeri, Bungoma, Machakos, Nakuru, Meru, Tharaka-Nithi, Tana River, Embu, Nyandarua, Marsabit and Kericho.

(b) One county assembly, which is Baringo County Assembly, rejected the draft Bill. However, I note that the county assembly only submitted a certificate of rejection and failed to submit a copy of the draft Bill as required under the guidelines. It may not be possible, therefore, to know what they rejected.

*Laughter)*

(c) Kwale County Assembly submitted a certificate of approval, but failed to submit a copy of the draft Bill that was considered by the Assembly, again, making it not possible for us to determine what they approved.

(d) Nyamira County Assembly submitted a certificate of approval. It was, however, observed that the draft Bill submitted by the Assembly alongside the certificate had fundamental variances in many clauses compared to the draft Bill submitted to the County Assembly by the IEBC.

Hon. Members, at this point, I wish to reiterate the importance of paragraphs 1 and 2 of the guidelines, which provide that upon approval or rejection of a draft Bill to amend the Constitution, as the case may be, the speaker of the county assembly shall notify the Speakers of the two Houses of Parliament by delivering, during official working hours, the following documents-

(i) A copy of the draft Bill; and,

(ii) A certificate as prescribed in the First and Second Schedules certifying that the county assembly has approved or rejected the draft Bill.

The provisions of paragraphs 1 and 2 of these guidelines are couched in mandatory terms and the premise of this is that, without such clear directives on the manner of issuance of returns, the process would be clothed in ambiguity, leading to inconsistency and discretion in the manner in which counties not only consider the draft Bill, but also subsequently submit returns to Parliament.

Hon. Members, indeed, you will agree that the provisions are essential in assisting the Speakers and the two Houses of Parliament to ascertain the exact decisions the counties have made and to confirm whether the draft Bill as considered by each county assembly was the exact version forwarded to the respective county assemblies by the IEBC.

Hon. Members, with respect to the deadlines, a simple calculation reveals that 14 other county assemblies are yet to deliver the draft Bill to the Speakers of the Houses of Parliament with a certificate indicating either their approval or rejection of the Bill.

Correspondence received from the IEBC indicates that the delivery of the Draft Bill to the county assemblies was done on varying dates. The first set of county assemblies received the Draft Bill on 27<sup>th</sup> January, 2021, while Elgeyo Marakwet County Assembly received the Draft Bill last, having received it on 2<sup>nd</sup> February, 2021. Consequently, the last date by which Elgeyo Marakwet County Assembly ought to have made a resolution after its consideration of the Draft Bill pursuant to the provisions of Article 257(5) of the Constitution is, therefore, 3<sup>rd</sup> May 2021.

Hon. Members, from the statistics I have just read out, 30 county assemblies have so far approved the Draft Bill. Article 257 (5), read together with Paragraph 5 of the guidelines, provide that each county assembly shall consider the draft Bill within three months from the date it was submitted by the IEBC. Further, Article 257 (7) of the Constitution provides that if a draft Bill has been approved by a majority of county assemblies, it shall be introduced in Parliament without delay.

*(Applause)*

Emphasis is on “without delay”

In this regard, it is clear that the draft Constitution of Kenya (Amendment) Bill, 2020, promoted by the Building Bridges Initiative (BBI), has met the threshold required under Article 257(7) of the Constitution for introduction in Parliament. Probably, the only question that would arise at this stage would be two-fold, being:

1. What then follows with respect to the parliamentary processes on the draft Bill?
2. What is the recourse with respect to the unreceived and/or incomplete or inconsistent returns from the county assemblies?

Having consulted the Speaker of the Senate, we have resolved to facilitate the Houses of Parliament to commence the process of consideration of the Bill without any delay, in accordance with the requirements of Article 257(7) of the Constitution. We have also agreed that the draft Bill will be forwarded to the Government Printer for publication tomorrow, 26<sup>th</sup> February 2021, on white paper, as a Bill for introduction in Parliament, so as to pave the way for its processing. Once this is done, we will guide the respective Houses on the rest of the processes after meetings of the respective House Business Committees. We have also resolved that in full recognition of the bicameral nature of our Parliament, and in order to comply with the provisions of Article 257(7) of the Constitution, the Bill will be considered in the Houses of Parliament in a concurrent manner

and processed in accordance with the Standing Orders of the respective Houses. This implies that it will be introduced in both Houses at the same time and be processed in a parallel manner. My colleague and I will be updating each other and the respective Houses whenever necessary.

In compliance with paragraph 5 of the guidelines, the Speakers of the Houses of Parliament expect the Clerks of the two Houses to publish, at the appropriate time, the following information in, at least, two newspapers of national circulation and in the *Kenya Gazette* for general information of the public:

1. The list of county assemblies that have submitted the draft Bill and the certificate approving the Bill jointly to the Speakers of the Houses of Parliament.
2. The list of county assemblies that have submitted the draft Bill and the certificate rejecting the Bill jointly to the Speakers of the Houses of Parliament.
3. The list of county assemblies that have not submitted the draft Bill and the certificate.

With respect to the un-submitted or incomplete or inconsistent returns from the county assemblies, as Speakers of the Houses of Parliament, it is our hope that once this information is published, the remaining county assemblies will submit their respective returns within the stipulated timelines to enable us to conclusively submit to the IEBC the respective decisions of all the 47 county assemblies. Further, with respect to the county assemblies of Baringo and Kwale, I have directed the Clerk to communicate to the county assemblies for purposes of drawing their attention to Article 257(6) of the Constitution, the guidelines and attendant provisions requiring their compliance. At this point, it is not possible to determine if Nyamira County Assembly received the right document and amended it or if the Assembly passed a different document. Similarly, I have directed the Clerk of the National Assembly to seek clarification on the material discrepancies from Nyamira County Assembly and draw the attention of Kwale County Assembly on the requirements of the guidelines. In the meantime, the returns from the county assemblies of Nyamira and Kwale will not count for purposes of confirming if the process has met the threshold of the total number of county assemblies required to approve the draft Bill as submitted by the IEBC.

The House is accordingly informed and guided. I thank you, Hon. Members.

*(Applause)*

Before we move to the next Order, the Leader of the Majority Party had indicated that there is something he wanted to say about what is in the Refugees Bill.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, taking cognizance of the ongoing budget work and the heavy business under Order No. 9, which is a continuation of consideration of the Refugees Bill that has several amendments, there was a request by the Committee that we should take out the Bill and push it to next Tuesday to facilitate the harmonisation of the amendments by the Committee and three other Members. But I can now see the Committee has come. What I do not know is whether the harmonisation will be done at the Committee of the whole House or if we should give them time to harmonise, so that we consider the other business in the Committee of the whole House and take this Bill up on Tuesday. I think that is the neater thing to do, because it was even difficult for Members to follow. For the convenience of the House, it would add value if Hon. Millie Odhiambo and the Committee could sit. They were supposed to sit yesterday, but I understand they did not sit. We would like to have them sit between now and Tuesday to harmonise the amendments, because this is a major Bill. If we process it the way we were doing, we may not add value to the Bill or we may end up receiving a memorandum from

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the President referring the Bill back to us. So, I would urge that you re-organise the Order Paper by removing Order No. 9(ii) and taking it to Tuesday to facilitate that harmonisation.

**Hon. Speaker:** Hon. Millie, what is your point of order? I thought we needed to get a response from the person who was moving the Committee amendments. Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you, Hon. Speaker. We had agreed when we last sat on the subject matter to meet with Hon. Millie Odhiambo and Hon. Pkosing yesterday. We were able to meet with Hon. Pkosing. Hon. Millie was not in the meeting. What she informs me now is that she went straight to meet the Chair of the Committee. There was no good communication between us.

My view, and this is the instruction from the Chair of the Committee, is that the amendments which we needed to make have been narrowed a bit. I have just informed Hon. Millie that even in her absence, there are some of her amendments we have acceded to in principle. So, my view would be that this is business which has been dragged for far too long. We should be allowed to dispense with it. Members of the Committee are on their way coming. If there are reasonable concessions, we can persuade one another across the aisle, so that this business of the Refugees Bill leaves the Floor of the House. Our request is that, unless there are very contentious issues, we proceed. If there were to be any contentious issues, because I also see the Health Bill coming to the Committee of the whole House with just one or two clauses, it can precede the Refugees Bill, then proceed immediately after its conclusion, just to hear Hon. Millie on the issue that could be contentious. It would be good that we conclude.

**Hon. Speaker:** What is happening? There is a general problem with the system. I think Hon. Millie, just use the other microphone.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker. I would like to raise only two issues in relation to that matter. We agreed yesterday that we meet at Hon. Koinange's Office and I was there on time. We called Hon. Kaluma several times, but we were not able to reach him. Unfortunately, because of mis-communication, he and Hon. Pkosing went to a different venue. So, they were meeting on their own as the Chair and we were waiting for them. We were not able to harmonise the amendments. Ideally, it would be better if we met because it would hasten the process.

However, if the Committee wants to proceed, I do not mind. It would definitely hasten the process if we were able to harmonise. Some of the issues we are not agreeing on are mainly when we do not communicate at times. I was magnanimous enough to even tell him that we passed a clause which we had agreed to drop. It was favouring my desire, but it does not. It means we have to recommit. Having said that, I am willing to abide with the decision to proceed.

Secondly, I request because it is in line with what we will agree. I have done several amendments to the Care and Protection of Older Members of Society Bill. However, because I was so busy with the Refugees Bill, I realised I did not send it on time. I could only send it in the morning. This means it would not have been processed by the Legal Department.

I earlier sent a letter to you, copied to the Clerk and to Mr. Njoroge, requesting if you could kindly indulge me and push the Care and Protection of Older Members of Society Bill to next week. This is so that some of the amendments I am raising, genuinely and honestly, will strengthen the Bill. There are many definitions that are referred to even in the body, but do not appear in the body of definitions. So, if you could kindly indulge me, I would appreciate.

**Hon. Speaker:** Where is the Chairperson of the Committee dealing with this matter? No! Hon. Mwathi. With respect to the other past issue that Hon. Millie raised...Vice-Chair, Hon. Koske, kindly have the Floor.

**Hon. Gideon Koske** (Chepalungu, CCM): Hon. Speaker, I feel that we should proceed as it is because there was maximum time allocated to that.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Do you have any amendments?

**Hon. Gideon Koske** (Chepalungu, CCM): Yes, there are.

*(Loud consultations)*

**Hon. Speaker:** Hon. Duale, kindly have the Floor.

**Hon. A.B. Duale** (Garissa Township, JP): Hon. Speaker, you need to guide us. This matter is in the Order Paper and we are prepared for all these Bills. We are prepared for the Refugee Bill, the Employment Bill, the Health (Amendment) Bill, the Care and Protection of Older Members of Society Bill and any other. The House and the majority of us are prepared. It is, therefore, not in order for a single Member - with a lot of respect, Hon. Millie Odhiambo - to ask for harmonisation. The matter is now before the House. The House will decide whether the amendment is from the Committee or the House can harmonise it. We did it the other day.

As we are moving, the Chairperson or the person can talk to Hon. Millie Odhiambo. However, we cannot remove it from the Order Paper, with your permission, so that we finish, and then we go to other businesses of the House. So, if there is only one item, even as we were debating at the Committee of the whole House, each Member, either the Chairperson can convince us or Hon. Millie can do so, then we agree. So, the harmonisation can take place at the Committee of the whole House depending on how each group convinces the other.

**Hon. Speaker:** Very well spoken. The only reorganisation that is going to be there is that the business appearing as (iii) will come in as (ii). That is (iii) becomes number (ii) and (iv) becomes number (iii) and (ii) becomes number (iv) in that order. When the House goes into the Committee of the whole House, that is the way the business will be considered. Business appearing as Number (ii) will be Number (iv). Order Number (iii) becomes Order Number (ii) and Number (iv) becomes Number (iii). I can see some interventions. Member for Dagoretti South, what is your intervention? There are general chaos.

**Hon. John Kiarie** (Dagoretti South, JP): Thank you, very much Hon. Speaker.

I am rising under Standing Order No. 47(3). Since we are on this matter of reorganising the Order Paper, going by what is provided in Article 118(b) of the Constitution, I am seeking your guidance to know if we are in order to also get into the matter that is appearing on the Order Paper as item No. 10, which is a Motion on Ratification of the Economic Partnership Agreement between Kenya and the United Kingdom.

I rise because I am also looking at the Treaty Making and Ratification Act which provides for ways in which this Parliament can ratify a treaty. This Treaty is coming to this House through a Report of the Committee, which I am in no place to fault. However, looking at this Treaty, the one that has been tabled here, and I was here in October when it was tabled, it says that it will be tabled in this House together with annexes. There is an annex listed as Annex I which is custom duties on products originating in the EAC partner states. Annex II is on custom duties on products originating from the United Kingdom. There is Annex III and Protocol I and 2.

I am in possession of a treaty that was tabled in this House and to my mind and also, what I am having here, it is very clear that these annexes have not been together with this treaty. My concern is that this treaty is extremely critical. What we are about to discuss here is going to go into matters of how we relate with our trade partners in the UK.

I had the opportunity to be part of a delegation that is, ACP-EU delegation from this Parliament. I fully understand how this treaty came into being from the original treaty that came from the Cotonou Agreement, where Kenya was negotiating with the EU on multi-lateral terms. If we go into this treaty, our country will have to go into a bilateral agreement with UK which has also exited from EU. So, as we look at this treaty, without having the annexes that have been listed here, I believe that the House shall be the poorer to be able to make a decision not knowing exactly what it is that this treaty entails.

Looking at this, we do not know which products are going to be exempted as provided for by the treaty. We do not know whether this will mean that we shall be having tax free milk coming from the UK. We do not know whether the UK shall be bringing toothpicks. The people of Dagoretti South would be keen to know whether we shall be getting raw hides and skins from the UK under this new Economic Partnership Agreement.

So, I am calling upon you, Hon. Speaker, through Standing Order No. 47(3), which gives you discretion to make a decision on this, to tell us whether we are in order to have this in the Order Paper in the manner that it is. What I am raising is, one, a deficiency issue. That this Report, as has been tabled here, is deficient in the sense that the treaty that is on the Floor of the House is incomplete.

I am also raising a procedural issue. The fact that this treaty is incomplete – and the Committee Report tells us that it underwent public participation... In that sense, if what we have in the House is incomplete, it means even the public participation that the Committee held was also incomplete. So, on these two counts, the fact that this treaty is incomplete, and the fact that the procedure was canvassing an incomplete treaty, I seek your guidance as to whether we are in order to attend to the matter that is appearing in the Order Paper as Item No. 10.

Thank you, very much.

**Hon. Speaker:** The Chair of the Committee, did you have those annexures? This is because the point being raised is very serious. It might also mean among other things that then, maybe, the United Kingdom will be shipping motor vehicles duty free into Kenya.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. Yes, indeed, I have the annexures and I also forwarded them to the Hon. Member earlier on during lunch time. Hon. Member, I think it is incorrect for a Member to pretend that he does not have a list of items that are excluded from coming into the country. Hon. Speaker he has just put the cart before the horse...

**Hon. Speaker:** Just a minute. What was tabled here? Did it include the three annexures? What was tabled here before the House? This is because he has raised the issue that if what was tabled here did not include the annexures, then even any purported public participation engagement was also incomplete to the extent of lack of the annexures.

**Hon. Ali Adan** (Mandera South, JP): Hon. Speaker that is not entirely true because I was going to table an extra two documents.

**Hon. Speaker:** When?

**Hon. Ali Adan** (Mandera South, JP): During my presentation.

**Hon. Speaker:** What do you mean?

**Hon. Ali Adan** (Mandera South, JP): In addition, Hon. Speaker, this...

**Hon. Speaker:** Please, Chair. Can you understand the question so that you do not... Nobody is asking you to table extra documents. This is because if you table extra documents, then you will have to go back to do public participation. It is like coming to introduce on the Floor amendments to a Bill to do things which were never considered when the Bill went out there for public participation. That has already been ruled to be unconstitutional.

**Hon. Ali Adan** (Mandera South, JP): These two documents were not forming part of what was being tabled here before. However...

**Hon. Speaker:** When did you receive them yourself and where did you get them from?

**Hon. Ali Adan** (Mandera South, JP): Hon. Speaker these documents were sent to Parliament from the Ministry of Trade, Industry and Co-operatives.

**Hon. Speaker:** When?

**Hon. Ali Adan** (Mandera South, JP): They were sent together with the document that actually marked it to the Committee. Therefore...

**Hon. Speaker:** How is it that?

**Hon. Ali Adan** (Mandera South, JP): Therefore, that is what was supposed to appear in the website. We only took up after this document was already...

**Hon. Speaker:** However, the website does not have the annexures.

**Hon. Ali Adan** (Mandera South, JP): That is now a matter you can guide us on.

**Hon. Speaker:** That issue had been raised with me earlier. Even the staff have confirmed that what they received in Table Office did not include the annexures. Therefore, these ones you must have obtained from the streets as far as we are concerned. If they are not in the Table Office, then they must have walked here irregularly. You know it is not possible that... In fact, we do not even need to belabor the point. We need confirmation from the Clerk before you can undertake this business. This is because it is a very serious issue, Hon. Adan. It is a very important issue; what Kenya is about to ratify. We must be very sure that you the Member and, indeed, the entire House as well as the public that care to engage in the process of public participation, have full knowledge of those items in the Motion appearing as Order Number 10. It is good the Member for Dagoretti South has raised this issue.

The Office of the Clerk had also indicated to me that they are having difficulties. They do not have those annexures. Therefore, they must have walked into your hands in some strange manner. It is no wonder you are saying you are intending to table them as you move the Motion. Therefore, Hon. Adan, better go and discuss with the people that receive documents here. Even if they came to the Office of the Leader of Majority Party and he failed to deliver them to that office, too bad! It would only mean that it would not be right for the House to be taken by surprise. This is because the issue has been that when you went to do public participation, you did not have the annexures. Now you are saying you have stealthily sneaked them to the Member. The other Members here do not know. Now you are intending to surprise Members with due documents. Please, Hon. Adan.

**Hon. Ali Adan** (Mandera South, JP): Hon. Speaker, we interacted with this document immediately after Parliament, through the Clerk of the National Assembly. He had sent out an advertisement directing members of the public to a website, which, perhaps, contained the document from the Ministry as well as all the annexures. Therefore, what would the public be sending their MOUs on if they do not have this information?

**Hon. Christopher Omulele** (Luanda, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Omulele

**Hon. Christopher Omulele** (Luanda, ODM): Thank you, Hon. Speaker. I am getting a bit worried. Your directions are on point. However, the Chair, in his comments, seems to be saying that there is a website which, perhaps, had those annexures. The word is 'perhaps'. It cannot be. We know that the devil is always in the details and the details here are in those annexures. Therefore, if those annexures... It can only be one thing: Either the Chair saw those annexures, had them, and provided the annexures to Kenyans who came to participate in this inquiry and

investigation, or he did not. In addition, I agree with the Hon. Member for Dagoretti South. We are entering into a Treaty where we are ceding custom duty that will be charged on goods that will come from our trade partner, the UK. Moreover, we need to know: Which are those goods that we shall be ceding the taxes that should be paid to the coffers in this country? If we do not have that, then we have no business agreeing with this Treaty. Therefore, until we have those details, the Hon. Chair, I think the honourable thing to do is to withdraw this and go back and do your homework.

**Hon. Speaker:** Hon. Members, I think because the issue is one to do with doubt on what was tabled, I see no harm... Let us not be told that somebody is in a hurry either in the United Kingdom or... This is the Parliament of the Republic of Kenya.

*(Applause)*

It has outright authority in the ratification of treaties and other international agreements that this country gets into. We cannot be told that there is hurry. Those who are in a hurry, they might as well go and do their things. We cannot be told that. Let us get that confirmation. It is only fair that what is going to be discussed and debated by Members here should be in the public domain. It is for that reason that both Articles 10 and 118 require that there is public participation. If during that participation those annexures were not there, it, therefore, means that even this report itself may be incomplete. This is because Members may not have actually participated sufficiently in what is contained in those annexures.

Therefore, to clarify and get proper information, I will direct that the business appearing as Order Number 10 be taken out of the Order Paper today. The Clerk should confirm the documents that were availed to Parliament and if, indeed, those annexures were availed and whether they were also uploaded to the website. That is important because there seems to be that contestation as to what was uploaded. So, that business is taken out of the Order Paper for today until that information is verified.

*(Applause)*

Let us not be told that there is a hurry to do something. We do not want people to rush to Parliament telling us that they are in a hurry. If they were in a hurry, they would have come last year. We are not going to be told by others that we are in a hurry. We cannot be told that. People must also respect this institution. They engage in certain activities out there and then when you come here, you tell us you are in a hurry. What happens if this House rejects it? They say it has reached an untimely end. Do not hurry in a way that you could crash.

Member for Homa Bay, what is it? You are on intervention.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I just wanted to seek your guidance with regard to some of these treaties that touch on the taxation regime of the country. When they are handled by the relevant departmental committees and not the committee on Finance and National Planning, then we are unable to have any institutional memory on the matter. So, I wanted to seek your guidance as to whether at any point or level when matters on taxation are touched on, then the Committee on Finance should find a way of engaging with some of these matters so that we can follow up in the subsequent Finance Bills.

I wanted to seek your guidance on that matter because, as far as this treaty is concerned, we are in the dark and yet, the headlines even in the newspapers and all over are such that British

goods are supposed to come in tax free. So, when we are not apprised as the Finance Committee, we should think as a House on how we are going to be handling some of these treaties that touch on our tax regime. I thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Let us have Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker. First of all, I thank you because you have made a very good ruling.

All reports that are tabled here have your signature. Now, we have a Report and annexures which are coming. So, which is which? The Report that we picked was the one that you appended your signature. It was tabled and Notice of Motion was given. I had prepared myself to debate this matter. I have said it and will say it again when I am contributing that going forward, we must amend the Treaty Making and Ratification Act. I read this thing and the ratification by the House of Commons and the House of Lords. They are involved in the negotiation. So, we must, in fact, amend the Treaty Making and Ratification Act so that before a report comes here, the relevant committee of this House is involved in the initial negotiation between the two executives. That is one thing we need to do.

Secondly, now that we have realised this Report is not complete... The matter is so grave and should not bother you. You are the Chair. You need to even get the Report, do the annex and do a second tabling and give a Notice of Motion and then we discuss it because this House has the powers. I remember I stayed with the difference agreement between the UK and Kenya for over one-and-a-half years and because the House had issues, I was forced to maneuver. So, this one touches on taxation and Hon. Wanga is right. We cannot open this matter.

This matter must be dealt with by three committees - the Departmental Committee on Trade, Industry and Co-operatives, the Committee on Finance and National Planning and the Committee on Regional Integration. This matter is touching on the East African Community (EAC). Anything we do with our Custom Union, any taxation is sensitive if it touches on what we have agreed with our neighbours.

So, the Committee on Finance that deals with taxation, the Committee on Regional Integration that deals with how we live within the EAC and the Committee on Trade needs to sit and look at this matter. I was prepared and also got the annexures over lunch hour. You know Hon. Aden is a nice, soft and decent Chair from my region. So, he gave me the annexures over lunch hour. Now, the bigger picture is: You cannot introduce documents after a report has been signed by the Hon. Speaker of the National Assembly, tabled and a Motion given. You cannot sneak in an annex. Right now, if I want to table anything, the first thing is to find out whether that document is admissible.

So, even these annexures which are being sneaked in, their admissibility is in question. This is because you did not look at it. So, this is a good decision that you have made. We are not in a hurry and that is why the Constitution gave the people of Kenya and this House the power to ratify. So, Hon. Aden, do not be in a hurry. We want to have a win-win situation. The British have left the European Union (EU). Hon. Speaker, this matter is so serious because we are doing business with the rest of the EU. This House has passed the Europe Economic Partnership Agreement (EPA) where Tanzania, Uganda and Rwanda refused and gave us problems.

So, if we go with the UK, how would the rest of Europe react? If we go with the UK, how will our neighbours react? So, this matter is important. We must deal with it and the Chairman should just go back as you directed. Going forward, Hon. Speaker, do not allow a Chairman to table a report here and then during the moving of that report, they introduce an annex. The Hon. Speaker must approve everything, including annexes.

**Hon. Speaker:** Sorry, Hon. Members. Hon. Aden, I want you to just state because the Deputy Clerk here confirms what appears on this document - The annexes and protocols to this agreement shall form an integral part of this agreement. However, there are annexures here and the Deputy Clerk confirms that they were never received. This is important.

Annexure I is on custom duties on products originating in the East African Community (EAC) Partner states.

Annexure II is on custom duties on products originating in the UK.

Annexure III is on joint statement of the parties on the objectives, essentials and fundamental elements of this agreement.

Protocol I concerns the definition of concept of “originating products” and methods of administrative co-operation.

Protocol II is on mutual administrative assistance in customs matters.

I think you would agree with me that these are very weighty matters. If these documents were never received here as the Deputy Clerk now confirms, then even the point being raised by Hon. Wanga is such a fundamental one.

Hon. Aden, are you saying that you received them from Parliament?

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. I was guided earlier when you said that we put this matter to rest and we re-do the whole process. All I wanted to say is that Members did not interact with these annexures and so, we are not in a position to make assumptions and even debate as they are doing right now.

That is what I am avoiding because I am privy to these documents which, unfortunately, were not tabled. Hearing what Members are saying, all those concerns have been addressed in these annexures.

Let us leave it there. The Speaker has said we have to redo this Report, so that Members can get access to all this information and make informed decisions on this matter. As we speak now, some of the concerns I am hearing have already been captured in this Report. I request we leave it there.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I share part of the blame for this. This is because I tabled this document on 22<sup>nd</sup> December. You may recall we had a Special Sitting then. Why I am saying I share part of the responsibility for this is we agreed, because of COVID-19 and handling of papers, we will not be physically bringing Papers to the Table. They will be received in the Table Office. I will be given a schedule of all the documents that are there, so that we do not have to bring them physically here and table them.

Even the ones I read today with the annexures, my assumption is that the Table Office has confirmed those annexures are there. This is because I did not physically bring them to table them. I think there is a lapse somewhere. The Report was very clear that it has annexures. Hence, I assumed when I table a Report, I do so complete with all the annexures having been received in the Table Office because they are listed.

The issue we need to look at is that nobody had any intention of concealing any of the annexures from public information. This is because the whole agreement is in public domain. It is only that it was not brought to Parliament complete with those annexures. My plea is that we do not delay this matter on a technicality of the annexures. They are important, but the Committee can look at them and give us a supplementary report to guide the House, having looked to find out if they fundamentally change the agreement or not.

I am also aware that our Gross Domestic Product (GDP) is dependent on agriculture. Our foreign exchange is dependent on agricultural export to Europe predominantly and the UK. We are operating on a temporary Memorandum of Understanding (MoU) between Kenya and the UK, which expires on 8<sup>th</sup> March - that is next week. After 8<sup>th</sup> March, Kenya exporters to the UK will have to start paying duties on exports. This makes it uncompetitive for our people relative to the other countries.

So, we may have made a mistake. As Parliament, we were not thorough in terms of looking if the document was complete or not. That should not be an excuse for us to punish our farmers and exporters because of something we should have done in December and did not do. Perhaps, the Committee did not know if the people knew. I want to alert you that time is of essence. The Committee can look at it over the weekend and give us a Report so that we are able to debate this and save our farmers from being levied duties on their exports to the UK from 8<sup>th</sup> March when the temporary MOU expires.

This is the only thing I wanted to alert you about. We are here for the welfare of society and the just government of the people. That welfare of the society includes protecting our farmers and exporters to the UK. The taxation regime will change on 8<sup>th</sup> March, which is next week, if we do not have a binding agreement in place. We should have this in mind and task the Committee to rectify their mistakes. They should look into this as an emergency and give us, at the earliest opportunity possible, maybe on Tuesday, so that we can debate either on Tuesday evening or Thursday in the course of next week and beat that deadline.

**Hon. Speaker:** You know there is nothing out of order. The officer who received the document is here. He confirms that he received the memorandum and the agreement only. Indeed, the Report of the Committee will tell you everything. If the Committee had interacted with the annexures, there will be reference to them in their Report. There is no mention of anything about annexures.

It is true that the annexures were not submitted to the Table Office. This is because the officer who received them has confirmed he only received the memorandum and agreement. That is why he has appended his signature to them. There is nothing else. He only received those two. So, the annexures were not there. Therefore, as suggested by the Leader of the Majority Party, the Committee should take up the matter, organise immediate sessions and come up with an addendum.

This is because once you pass this, you will be deemed to have passed what is in together with the annexures, which the House does not have. But the Chairman has said he sneaked some copies to Hon. Duale and Hon. Kiarie, Member for Dagoretti South over lunch hour. So, please, do not go that way. Sneaking documents over lunch hour is not how business is transacted in this House.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** No! There is no need. I know everybody who cares to have some idea about economics wants to tell me something. We have already finished that. No more of this, Hon. Wamuchomba. Now, everybody wants to say: "Over the weekend, I was doing public participation on economics or the budget." Please, you will say that when that debate is there. Hon. Wamuchomba.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): On a point of order, Hon. Speaker. Mine is away from what you are discussing right now, but what we discussed earlier. Unfortunately, my point of order was not recognised at that time. I wanted to seek your guidance

on the matter that Hon. Millie Odhiambo brought on the Table of the House. She requested for time for us to debate the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018).

The reason why I am seeking guidance is because I have a lot of interest in the geriatric matters, that is matters of the elderly. In 2019, I proposed a Bill called Geriatric 2019 which has lost direction along the way. It has been stalled between the Departmental Committee on Health and the Departmental Committee on Labour and Social Welfare twice. Each Committee is looking at the Bill and tossing it to the other. I am requesting you to give us time so that I can consider without wasting more time whether my issues in the Geriatric Bill can be accommodated in the Senate Bill.

**Hon. Speaker:** No! I have already given direction. That matter is closed and over. It is overtaken by events. Be in the House when the Mover is moving. If there are issues you would wish to speak to, you can proceed to move your Bill. Do not say it got lost. There is no forest here.

I am sure Hon. Wamuchomba, being the Member for Kiambu County, has a lot of forest cover, including Karura Forest. But if the Bill is lost somewhere around there, let me know what the problem is. We will certainly find it because you have said it is between the Departmental Committee on Health and the Departmental Committee Labour and Social Welfare. Just raise that matter. Is it a legislative proposal? Has it been drafted into a Bill? Hon. Wamuchomba, you do not know whether it is before the Departmental Committee on Labour and Social Welfare or the Departmental Committee on Health.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): Hon. Speaker, my Bill went to the Departmental Committee on Health first. They disowned it. It was referred to the Departmental Committee on Labour and Social Welfare. They disowned it. It was taken back to the Departmental Committee on Health. I am still waiting for communication because they also disowned it. That is why I am saying my Bill is lost.

**Hon. Speaker:** What do you mean by “disowned”?

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): They said the matters contained in the Bill are not matters that are supposed to be discussed within those respective committees.

**Hon. Speaker:** Let them bring a report.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): Hon. Speaker, I have been waiting for the report.

**Hon. Speaker:** Hon. Nyikal is here. Please, just go and bring a report and say: “This is a strange thing.” The House will make a decision one way or another. Even that will be a report. If the Departmental Committee on Health finds that it is raising strange things, they can just make a report. The House will know how to deal with those strange things. The House sitting in plenary will be able to deal with the matter so that she does not complain that the Bill is oscillating between the two committees.

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

**Hon. Speaker:** Not on this one now. Not on the issue of the aged. You can raise a point of order on the not-too-aged.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Speaker, I am not raising a point of order on the not-too-aged because you already gave your direction, which I will abide with. I will bring the amendments in the next Parliament because there are some things that, as a lawyer, I am embarrassed that we can put, like the right to legal dignity. There is no such right. They should have consulted with lawyers.

That aside, I am just concerned with what Hon. Wamuchomba is raising. We have Bills which you have even given direction around them. We have Bills that come from the National Assembly, and some are very similar with Bills that come from the Senate. Some of the Senate Bills are even younger than the ones that come from the National Assembly, but the Senate ones come ahead of the National Assembly. It is like the private Members who have done work... I sit in the Budget and Appropriations Committee and so, I happen to know. It is like the Members who are doing work in the National Assembly, their work is not recognised. Other than that, you also have similar Bills like the Geriatric Bill and this one of older persons. It is similar issues but we will bring this one and then she will bring hers and we have a queue of many Bills. I have a similar Bill with another one in the Senate. As I said, I actually agreed to let mine go. I will bring my issues and give her to add in the Senate Bill, but what about the other Members who have Bills which are similar? An example is the one on public participation. It is not mine. We have another one from the Senate. When the ones from the Senate come here, they are given priority.

I am also more concerned about the Bills that go to the Departmental Committee on Health. You have even given directions in relation to my own Bills. Then the Departmental Committee on Health and the Justice and Legal Affairs Committee have just gone to sleep. They tell me they are calling me for meetings. Every day, I am available. I am in this Parliament daily, but they do not call me for meetings. Surely, I brought these Bills the first year up to now. Even this period of COVID-19, could they not call us on *Zoom*? We are willing to discuss on *Zoom* because it is very frustrating for Members to do so much work and then it comes to naught.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Millie, I am certainly in sympathy with those sentiments. Part of the reason why we, as the House Business Committee, resolved to have these extra sittings on Tuesday and Thursday evenings is so as to address the issue of Private Members' Bills. The problem has been this: When Wednesday mornings were set aside as the days to consider Private Members' Bills, we did not have the presidential system of governance that we have today, where about 99.99 per cent of all Bills originating from the Senate would be from private Members and then with 349 Members in this Chamber, we are still stuck with Wednesday mornings as the days reserved to consider Private Members' Bills. It is not tenable certainly. Indeed, it is within Members' power to see how to address that problem because as you say, they are very many. I have been seeing them almost every day. There are so many private Members' legislative proposals, some of which have progressed, as you rightly pointed out, into Bills, but they have still not seen the light of the day. Had the HBC, again, in its wisdom not seen the need to save them at the end of the last Session, many of them would have died. It is a very unrealistic thing to have found ourselves in. It is not a very good thing for us, as a House, to encourage.

So, Hon. Millie Odhiambo, your point is valid but I have time, without number, called on chairpersons of committees to, please spare some time to consider many of those proposals that have come from colleagues. Even if you are Chair of a Committee, you could also originate a Bill. How will you feel when you are told that another Committee to which it is referred is either "sitting", "sleeping" or "walking" on the Bill? We must be able to encourage one another. There are so many of those Private Members' Bills. I only hope that the House will rise to the occasion on those evening sittings to consider many of those Bills. This is because one of the reasons for us to set aside those evening sittings is to be able to attend to many of those Private Members' initiatives. Obviously, there will be one such sitting this evening. Hopefully, Members will be available. If you are not there also, again, you cannot eat your cake and have it. You must be present to prosecute those Bills and make amendments. There are many proposals that I have

received. Some Members have even proposed more sitting hours. As long as we have this system, again, Tuesday mornings are not very good because those are the days that Cabinet Secretaries do appear before Committees. So, if you have sittings here, then you may throw away some business that is here only to realise that the Member was before another committee maybe because a Cabinet Secretary was appearing there or such like Government functionary.

I want to invite all of us to think how to best utilise the time we have to particularly ensure that we deal with so many private Members' initiatives. Hon. Members, I think that is as far as we can go today.

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Speaker (Hon. Justin Muturi) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairman (Hon. Patrick Mariru) took the Chair]*

#### CONSIDERATION OF PRESIDENT'S RESERVATIONS TO THE EMPLOYMENT (AMENDMENT) BILL

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order Members! We are now in the Committee of the whole House. We have quite a bit of business. I hope we can carry along everyone. We shall start with Consideration of the President's Reservations to the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019). Leader of the Majority Party.

#### *Clause 3*

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I beg to move:  
THAT, clause 3 of the Bill be amended by—  
(a) deleting Sub-Clause (4),  
(b) deleting Sub-Clause (5); and,  
(c) deleting Sub-Clause (6).

Hon. Temporary Deputy Chairman, Members may recall that the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019) was passed by the National Assembly on Thursday, 17<sup>th</sup> September 2019, having been moved by the Member for Gilgil, Hon. (Ms.) Martha Wangari. The Bill sought to amend the Act in order to provide for pre-adoptive leave to persons intending to adopt children.

In line with the powers conferred by Article 115 of the Constitution, His Excellency the President expressed some reservations to assent to the Employment (Amendment) Bill of 2019. Consequently, the Memorandum was sent to the National Assembly and communicated to us on 9<sup>th</sup> February 2021, where the Message was that the President had refused to assent to the Bill because of Sub-Clauses 4, 5 and 6 of Clause 3. Those had sought to provide for pre-adoptive leave

and parental leave for parents of a child born as a result of surrogate motherhood agreement and the procedure for applying for such leave.

In his Memorandum, His Excellency the President noted that surrogacy is, itself, a novel reproductive science which has not been regulated in this country. Because of that, if the Bill is enacted in law in that form, surrogacy agreements recognised by it would operate in a vacuum in terms of the absence of a substantive legal and regulatory framework to govern surrogacy in Kenya. I believe there are other provisions that are related to surrogate motherhood which are also of a substantive nature. It was his feeling that we need to formulate a more comprehensive policy, arrived at after a broad public participation and stakeholder engagement. It is on that basis that His Excellency then recommended that those three clauses be removed. I urge the House that we consider them positively and agree with His Excellency so that the Bill can continue being in operation, subject to removal of those three issues that would otherwise render it inoperable.

I beg to move and ask the... There is no seconder. Yeah, I beg to move.

*(An Hon. Member spoke off record)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. (Ms.) Odhiambo-Mabona! What do you want to say? I have not even proposed the Question yet. Let me propose the Question first.

*(Question of the amendment proposed)*

We shall get two Members and then we make progress. Member for Chepalungu.

**Hon. Gideon Koske** (Chepalungu, CCM): Thank you, Hon. Temporary Deputy Chairman. I agree with what His Excellency the President feels that he is not comfortable with in assenting to this Bill. These are the reasons that we gave out, as the Committee:

The Committee held a meeting on Monday, 15<sup>th</sup> February 2021, to deliberate on the President's Reservations to the Employment (Amendment) Bill of 2019. In consideration of the Memorandum, the Committee was persuaded that the President's reasons for refusal to assent to the Bill were valid. The proposed provisions granting parental and paternal leave to parents of a child born out of surrogate motherhood agreement were adopted by the Committee after receiving submissions on the same from various stakeholders during public participation. At the time, the Committee was convinced that this situation presented unique circumstances and found it prudent to accord special consideration to parents who intend to obtain leave, to enable them care for and apply for adoption of children born as a result of surrogate motherhood agreements.

Hon. Temporary Deputy Chairman, surrogacy is still a novel reproductive science in Kenya. As such, it operates in an unregulated manner and if enacted as it was, the provision would operate in a legislative vacuum. There is need for the nation to formulate a comprehensive policy that is arrived at after broader public participation and stakeholder engagement, which should inform a substantive legal and regulatory framework to protect all parties within a surrogacy arrangement. For legislative harmony and ease of interpretation, administration and enforcement, the rights accruing to and obligations on the various parties in surrogate motherhood, including right to maternal, paternal or parental leave, should be contained in a legislation only dealing with that subject matter.

The Committee, having considered the President's Reservations to the Employment (Amendment) Bill, 2019, pursuant to Article 115 of the Constitution, recommends that the House agrees with the President's recommendation that Clause 3 of the Bill be amended by deleting Sub-Clauses 4, 5 and 6.

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I thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): He is the Vice-Chairperson of the relevant Committee.

Let us have Hon. (Ms.) Martha Wangari. Actually, Hon. Wangari, was the original owner of this Bill.

**Hon. (Ms.) Martha Wangari** (Gilgil, JP): Thank you, Hon. Temporary Deputy Chairman. I thank the Committee and the Leader of the Majority Party for their consideration of the Presidential Memorandum.

At the outset, I agree with the President because the original amendment that I had put across was on the pre-adoptive leave for those children that are adopted through the legal framework that is already set out, considering Article 53 of the Constitution on the rights of children. I want to clarify, because some Members have wondered whether the whole Bill has died. In fact, the President had no issue with the pre-adoptive leave on Section 29 (a) and Section 3 of the Bill. He had only reservations, and rightfully so, on the issue of surrogacy for the commissioning parents. He was specific that he threw the ball to us to develop a legal framework on which to anchor the issue of surrogacy.

So, I thank the Committee for the consideration. This had come from the public participation which has been key in terms of including the public in our legislative work. I definitely support the Report, agree with the President and throw the ball back to us as Members of Parliament, to create a proper legal framework for surrogacy. Maybe in future, this can come back to the House, so that we can harmonise it.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. Let us have two other Members, so that we make progress on this. Let us have Hon. Makali.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM) *spoke off-record*.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You cannot speak now. It is Hon. Makali's turn.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I agree with the proposal from the President. Even as I agree, I get concerned when I hear the Committee lamenting that they could not pick up on those things before they went to the President. This House makes laws. Such glaring gaps which are identified on the other side do not say good things about us. We need to improve.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I agree with the President. I had earlier raised it with the Speaker. I hope the House leadership is listening. I forgot to emphasise the same. If the Departmental Committee on Health cannot bring their report on the Assisted Reproduction Technologies Bill that has twice been listed on the Order Paper, can the House leadership table that Bill? The court has decreed that we make such a law. The President has now decreed that we make such a law. Hon. Millie Odhiambo has brought such a Bill. Can the Departmental Committee on Health stop gatekeeping Members' Bills? Nobody stops you from tabling your own Bills. You cannot act as a gatekeeper on Members' Bills for two years. Table the Bill that I brought before you, so that we can pass a Bill that does what the President is asking us to do. It sounds like we are not doing our work, yet we are. The Departmental Committee on Health should bring my Bills and stop sitting on them. You are sitting on two of my Bills. Bring my Bills!

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. The Speaker spoke on that earlier on. Why do we not make progress on this? We have a bit of business. Hon. Mishra, you have one minute. We must make progress. We have quite a bit of business this afternoon.

**Hon. Swarup Mishra** (Kesses, JP): I will only take one minute. Thank you, Hon. Temporary Deputy Chairman. First of all, I will respond to Hon. Millie Odhiambo. We worked on tabling that Bill when I was in the Departmental Committee on Health. It must be on the way. We did it in Mombasa.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Mishra, address the Chair. Do not address Hon. Millie.

**Hon. Swarup Mishra** (Kesses, JP): Secondly, I agree with the President on surrogacy, but we have to look into the details. Surrogacy should be allowed in a technical way among Kenyans. If we allow international surrogacy, gay couples will come, child trafficking will happen and it will be a business by *muhindis*, the Chinese and *wazungus*. Poor Africans will be the victims of surrogacy. It should only be allowed domestically.

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

*(Clause 3 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we must report on that Bill so that we move to the next one. Let us have the Mover.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the President's Reservations to the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019) without amendment.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with that. We shall now transition to the Health (Amendment) Bill (National Assembly Bill No.64 of 2019).

#### THE HEALTH (AMENDMENT) BILL

##### *Clause 2*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): There is an amendment by the Chairperson of the Departmental Committee on Health. The Leader of the Majority Party will move on behalf of the Chairperson of the Departmental Committee on Health.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, on behalf of the Chairperson of the Departmental Committee on Health who is caught up in budget issues, I beg to move:

THAT, Clause 2 of the Bill be amended in the proposed new Section 79(A) —

(a) by deleting subsection (1) and substituting therefor the following new subsection—

(1) The Cabinet Secretary shall develop policy guidelines on the mechanisms for referral of patients to health institutions outside the country.

(b) in subsection (3) by deleting the words “within or”

The justification for this is that Section 79 of the Health Act provides for guidelines on referrals of patients within the country. Therefore, the proposal in the Bill should be limited to referral of patients outside the country rather than both inside and outside because that is already taken care of. It is a fairly straightforward amendment. I have discussed it with the Member and he is in agreement. I ask Members to support the amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Mishra, do you want to say something for one minute?

**Hon. Swarup Mishra** (Kesses, JP): Thank you, Hon. Temporary Deputy Chairman. I agree with the withdrawal of referral within the country. I agree with referral outside the country.

*(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 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Having done that, I call upon the Mover to move reporting.

**Hon. Swarup Mishra** (Kesses, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Health (Amendment) Bill (National Assembly Bill No.64 of 2019) and its approval thereof with amendment.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with that particular Bill. We shall now transition to the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018).

THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL

*(Clauses 3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,*

20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 agreed to)

Clause 30

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have an amendment by the Vice-Chair, Departmental Committee on Labour and Social Welfare. The Member for Chepalungu, you have the Floor.

**Hon. Gideon Koske** (Chepalungu, CCM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 30(5) of the Bill be amended by deleting the words “the Schedule” and substituting therefor the words “this Act”.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Explain the import of the amendment, so that Members can appreciate it.

**Hon. Gideon Koske** (Chepalungu, CCM): Hon. Temporary Deputy Chairman, the amendment is very clear. We are tidying up the Bill.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us now have Hon. Makali.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Temporary Deputy Chairman, the Mover of this amendment should explain to us why we are deleting the word “schedule” and substituting it with the word “Act” because this is still part of the whole Bill. He has said that he is tidying it up. If it is just a matter of cleaning it, I support the amendment.

*(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 30 as amended agreed to)*

*(Clauses 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,  
41, 42, 43, 44, 45, 46, 47, 48 and 49 agreed to)*

*(Clause 2 agreed to)*

*(Title agreed to)*

*(Hon. Gideon Koske and other Members consulted loudly)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order Members! That includes the Chair who is very busy consulting. You are not even voting for this Bill!

*(Clause 1 agreed to)*

Hon. Members, we are done with that Bill. We will report. Mover, you have the Floor.

**Hon. Gideon Koske** (Chepalungu, CCM): Hon. Temporary Deputy Chairman, I beg to move that the Committee reports to the House its consideration of the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018). We shall now transition to the Refugees Bill (National Assembly Bill No.62 of 2019). We shall resume from Clause 21.

#### THE REFUGEES BILL

##### *Clause 21*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have an amendment by the Chairperson, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 21 of the Bill be amended by inserting the words “or are of old age” immediately after the words “suffer from disability”.

We are proposing this amendment, so that we can include elderly persons among the persons who should be given care when their matters are being dealt with under the categories of persons with disabilities.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

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

*(Clause 21 as amended agreed to)*

##### *Clause 22*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have an amendment by Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 22 of the Bill be amended in sub-clause (1) by deleting the words “sixty days” appearing in paragraph (c) and substituting therefor the words “ninety days”.

The amendment seeks to ensure that there is consistency in timelines between Clause 22(1)(c) and Clause 22(2). Since I do not have the Bill, I do not know whether it is a presumption of an earlier proposal which was made. I ask Hon. Kaluma to confirm this.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): He will only confirm it after you move the amendment and I propose the Question.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I have moved the amendment.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Are you done?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will give the Chair an opportunity to contribute.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, the Committee opposes this amendment because the reason it is being moved is not very clear. Clause 22(1)(c) of the Bill requires a person whose appeal on application to be recognised as a refugee has failed to apply for admission to another country within 60 days.

Clause 22(2) of the Bill gives the Cabinet Secretary discretion to keep extending the period for the person's stay in the country indefinitely within three months. So, they are not mutually consonant. I want to request Hon. Millie to look at what it deals with. In Clause 22(c), we are saying that when your appeal is not successful, you apply to be admitted to another country within 60 days. We still safeguard the person in sub-clause (2) by saying that at the discretion of the Cabinet Secretary, the person can continue to have extension to stay around. I, therefore, do not see the rational of saying 90 days.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Makali.

*(An. Hon. Member spoke off record.)*

You only guide when I give you a chance. Now it is time for Hon. Makali.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Well, being the Mover, I will still give her chance to second stamp, but let us have Hon. Makali first.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. I want to agree with Hon. Kaluma. After your appeal is declined, it means that you have been released to go to any other country. I do not think we really need to have such a person for three months in the country. It is better we have it at 60 days so that they also see the urgency to apply to those other countries. Otherwise, if we allow them a lot of time, they will just relax and continue hanging around which is not good for the country.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. Let us have Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. Sometimes I do not seat in the chair, but if you listened, it would actually save the House time. I had made a request to Hon. Kaluma sort of to guide because I could not remember if this is one of my amendments which was defeated. But it was defeated. There is even no reason

for him to talk, I will just drop it. All I needed to do was to guide you by telling you that I have realised that it is one of the amendments that was based on the fact that my earlier amendment would have passed.

So, I am not moving it any more. I drop.

*(Proposed amendment by Hon. Odhiambo-Mabona dropped)*

*(Clause 22 agreed to)*

Clause 23

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have an amendment by Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I propose –

THAT, Clause 23 of the Bill be amended—

(a) by deleting sub-clause (5) and substituting therefor the following new sub-clause—

(5) A person who has submitted an application for refugee status shall be under obligation to abide by all the laws of Kenya including all the lawful orders given by the mandated institutions under this Act.

(b) by inserting the following new sub-clauses immediately after sub-clause (5).

What I am trying to do with the amendment is to ensure that Kenya does not violate international law especially in regards to the principle of non-refoulement. Kenya has ratified several international treaties and our provision now is to entrench the principle of non-refoulement which will make us in violation of the various treaties that we have ratified in Kenya. I, therefore, move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I have said sub-clause (5) because there is still another amendment by Hon. Millie under the same clause to insert a new sub-clause. So, we are dealing with sub-clause 5.

Yes, Hon. Chairperson.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, the proposed amendment by Hon. Millie to sub-clause 5 is agreeable to the Committee for the reason she has given, and for the additional reason that this part she is seeking to delete will give the commissioner too much power which may be abused. It is enough that refugees are required to abide by the laws of the country. Those laws are provisions in terms of how breaches or their violations are dealt with.

*(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)*

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

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman I propose that we have a new sub-clause. We have taken away the powers given to the Cabinet Secretary. We are suggesting that a person who has submitted an application shall be under obligation to abide by all the laws of Kenya, including the lawful orders given and mandated under this Act. I do not know if I can move sub-clause 6 as well.

I want to request your indulgence because I realised that what I submitted is not necessarily what is on my computer. There is a further sub-clause 7 and I do not know if I can move them together. I do not think that they would be things the Committee would be against. We just want to obligate.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, what you have is sub-clause 6.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Then in that case, let me move that sub-clause 6 alone.

I beg to move-

THAT, Clause 23 of the Bill be amended by inserting—

“(6) Any person who contravenes subsection (5) commits an offence.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chairperson, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): The Committee opposes the insertion of new sub-clause 6 because it is superfluous. What is already effected by the amendment Hon. Millie proposed to Clause 5 is that breaches of those national laws will invite punishments prescribed under those laws. That is what it means.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Either way, that is okay.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): We do not need to restate it, in any event, the offenses are created under those laws which will be violated.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Makali, do you have something to say?

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Temporary Deputy Chairman, I think Hon. Millie also needs to save us a bit of time because it looks like she does not have the Order Paper. I beg her to have the Order Paper so that she moves what is in the Order Paper. Her computer seems to have more than what we are seeing. We are discussing what is in the Order Paper.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The Clerk will make that arrangement. What is it Hon. Makali?

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Temporary Deputy Chairman, his amendment has two parts. One, we passed, and Part II which Millie does not seem to have in her computer, the Chair of the Committee has proposed a rejection. You need to put the Question again so that we get it right.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Members! That is why we all need to be alert. Hon. Millie amendments were in two parts. There is Part I which we voted on Clause 23(5). Now we are dealing with new sub-clause 6. We need to carry along everyone. You need to be alert. I will put that Question again.

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

*(Clause 23 as amended agreed to)*

*Clause 24*

**The Temporary Deputy Chairperson** (Hon. Patrick Mariru): We have a minor re-numbering amendment by the Chair and also insertion of new sub-clauses 2 and 3.

Hon. Chairperson, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairperson, I beg to move-

THAT Clause 24 of the Bill be amended-

(a) by renumbering the existing provision as sub-clause (1).

(b) by inserting the following new sub-clauses immediately after sub-clause (1) —

“(2) Where a person is lawfully in Kenya and is subsequently unable to return to his country of origin for any of the reasons specified in section 3, the person shall, prior to the expiration of his lawful stay, present himself before an appointed officer and apply for recognition as a refugee, in accordance with the provisions of this Act.

(3) Where there is a large-scale influx of persons claiming to fall within the meaning of refugees under section 3, the Commissioner shall, in consultation with other agencies advise the Cabinet Secretary on emergency measures to be taken including-

(a) designation of areas for reception, transit and residence of refugees, having due regard to the security requirement for refugees to be settled at a reasonable distance from the frontier of their country of origin;

(b) provision of adequate and appropriate facilities and services necessary for the group of persons affected by the influx with particular reference to women, children, victims of trauma, persons of old age and persons with disabilities; and,

(c) ensuring the civilian and humanitarian character of areas designated for refugees and the sensitization of the local population for their reception.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Well, you do not need to read word for word. You just need to give the import.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, in that new sub clause 2, we want to make provision for a person who is already in the country who becomes asylum seeker to have a right to do so.

Hon. Members, in what we have renumbered as sub-clause (1), we were referring to people coming from outside.

In sub-clause (2), we are making provisions for a person who is in, but he or she is finding the circumstances back in his country not acceptable, so he or she wants to apply. That is the provision we are bringing in sub-clause (2).

Hon. Temporary Deputy Chairman, in terms of sub-clause (3) as per the Order Paper, we are bringing what is currently in Clause 29(3) under sub-clause 24 because that is where it rightfully belongs. It is just reorganisation.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Okay. Very well.

*(Question of the amendment proposed)*

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

*(Clause 24 as amended agreed to)*

*Clause 25*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 25 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) —

“(3A) Asylum seekers at transit centres shall be processed within a reasonable time.”

Again, the reason is obvious, we do not want an asylum seeker having applied to be recognised as a refugee to be kept indefinitely. We are just making the provision which is already under Article 47 of our Constitution that the process of determining a refugee be expedited and be within reasonable time.

I beg to move.

*(Question of amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Makali.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairman. Even as I support this amendment, we were supposed to define this “reasonable time” because if you just say reasonable time, it is just like leaving it open. The fact that this person is already at the transit centre which is not a good place, it would have been better if we define that. Despite that, I support the amendment.

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

*(Clause 25 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Makali, if you speak to Hon. Millie, she will tell you that “reasonable time” has a definition. The judges are able to say what a reasonable time is in the circumstances. There is a legal definition. The reasonable person is a person who is on the carrier. Is it so?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): He is a reasonable man.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): He is a reasonable man. Okay.

*(Clause 26 agreed to)*

*Clause 27*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. Even as I propose this amendment, I am glad that the Departmental Committee on Labour and Social Welfare is sitting here and seeing what the Departmental Committee on Administration and National Security is doing. It is a Bill that comes from the Committee, but honestly, they bring one or two amendments to their Bill, when I have almost 50 amendments. There must be something wrong with the Committee.

Having said that, I am glad they can see...

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, there cannot be something wrong.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): There is something wrong, Hon. Temporary Deputy Chairman. That is why the Chairperson is running away. He has left his Vice-Chairperson to...

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): He is not the Chairperson of that Committee. However, Hon. Millie, to save on time...

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): He is a Member. Let me move my amendment on Clause 27.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Millie! There is a point of order by the Chairperson, and Hon. Kabinga looks very agitated.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, it is not right for Hon. Millie to attack my Chair and cast aspersions on his capacity, particularly when the Departmental Committee on Administration and National Security is the most organised Committee in this House. This is the only Committee with established sub-committees. So, I am only privileged by the Chair to deal with this matter because I chair the sub-committee dealing with legislation. Otherwise, our Chairperson is very capable and ready to deal with this.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, Hon. Kaluma is a bit confused. I am not talking about your Committee. I can only accuse your Committee of opposing everything that I brought even though I still bring them here. However, I am glad you are opposing because you have brought your own amendments.

I am speaking about the Committee that dealt with the Care and Protection of Older Members of Society Bill that brought two amendments, and as a lawyer, I had over 50 amendments. It is a very unserious Committee.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You can now move your amendment.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Let me move my amendments for this Committee to now oppose. I beg to move:

THAT, Clause 27(1) of the Bill be amended—

- (a) by inserting the words “trafficking in persons, especially women and children, terrorism and” immediately after the words “to prevent the”.
- (b) by renumbering the existing provision as sub-clause (1).

The amendment talks about screening of refugees that come, and it gives the reasons for the screening which is to ensure the security and safety of the people. I am also seeking to add that it should not stop there, but also to prevent trafficking in persons especially women and children and also stop terrorism as part of the reasons.

I do not know whether I should move the second one as well?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, move them together.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 27(2) of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) —

“(2) Any security screening shall be undertaken in a manner that preserves the dignity of the person and that protects the rights of vulnerable persons including women and children.”

Under this one, I am also proposing a new amendment which is Clause 27(2) that requires that any security screening shall be undertaken in a manner that preserves the dignity of the person and that protects the rights of vulnerable persons especially women and children. I am seeking for a stronger screening agenda to include screening for terrorism and others. In fact, in my original amendment in my computer, I had even proliferation of arms so that people do not bring light arms into the country, but unfortunately, it fell off the way somewhere.

Those are my amendments for sub-clauses (1) and (2) which is to enhance the circumstances that we are screening. However, in the event that we are doing that screening, we should be sensitive to women and children so that during screening, we do not pull women’s breasts or look at them in a very insensitive manner in areas that we should not.

Thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, they should be split into two.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You propose that we split them because they may not relate seamlessly. That is a fair request. There is sub-clause (1) and sub-clause (2). Right?

*(Hon. (Ms.) Odhiambo-Mabona spoke off record)*

No! You have moved. That is fine. They are just saying that, in terms of proposing, I should propose the two amendments separately which is fair request. So, I will start with sub-clause (1).

*(Question of the amendment proposed)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, this amendment is agreeable to the Committee because it is just adding additional grounds for security screening. So, it is a harmless provision which can be allowed in the Bill.

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Sorry, I was consulting the Clerk. So, I will put the Question on Clause 27(1).

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

Now, I will proceed to propose the Question of amendment on Clause 27(2).

*(Question of the amendment proposed)*

Yes, Hon. Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Temporary Deputy Chairman, I was wondering whether my Chair could go first then I go after him.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You are deferring to the Chair?

**Hon. Josphat Kabinga** (Mwea, JP): No! I have my contribution, but I wanted him to go first.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Okay. No wonder he said that your Committee is quite organised.

**Hon. Josphat Kabinga** (Mwea, JP): Yes.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You have allowed the Chair to go first?

**Hon. Josphat Kabinga** (Mwea, JP): Yes.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kaluma, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, the Committee opposes the proposed insertion of new sub-clause (2) in terms of its content and substance.

The provisions of Clause 20 already speak to the special manner in which women and children in particular should be treated by always preserving their dignity. This additional amendment repeats a provision which is substantively provided for in the Bill. Other vulnerable groups are catered for under Clause 21

Secondly, if you look at this provision, it is superfluous to the extent that beyond Clause 20, we have a right to human dignity under the Constitution. This is a right that is applicable to all human persons; not only citizens, but even refugees.

We oppose.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): If you are dropping, I will give you priority.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I am glad that I told Hon. Kaluma before that when we are here, it is give-and-take. I can see that it is covered under Clause 21 and so there is no reason to move.

Speaking as a woman, I want to urge my uncle, Hon. Kaluma, that he has certain privileges as a man that women do not have. Whatever looks obvious to him might not be obvious to women. We keep restating and that is what we call “mainstreaming gender and women rights issues.” Even though it is in the Constitution, unless it is provided for in law, some people will not see it. In this case, I can see that it is provided for under Clause 21. I am just emphasising because he keeps repeating the same thing. As a woman, I know where it pinches. You are privileged to be a man

and you might not understand me. Maybe, one day in another life, you will ask God that you come back as a woman. It is only then that you will understand.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Is that dropped?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes, it is dropped.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You should not say that Hon. Kaluma is privileged to be a man because you are also privileged to be a woman.

*(Proposed amendment by Hon. (Ms.)  
Odhiambo-Mabona dropped)*

*(Clause 27 as amended agreed to)*

*Clause 28*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we have an amendment by Hon. Millie Odhiambo and a further amendment from Hon. Pkosing. We will start with the amendment by Hon. Millie and if it is carried, we will move to Hon. Pkosing's amendment.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): We agreed with the Committee that Hon. Pkosing moves his amendment and my amendment is dropped. I was only proposing to tidy up the clause.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): On a point of order, Hon. Temporary Deputy Chairman. Under Clause 28, there are amendments by the Committee, Hon. Pkosing and Hon. Millie. Looking at all the three amendments in substance, they are the same, save for the wording. Yesterday, during harmonisation, we agreed with Hon. Pkosing that we will go with Hon. Millie's amendment because his amendment would be a totally new provision. We, however, have a problem with Clause 28(b) of her amendment. In terms of order, we agreed that Hon. Millie proceeds to move her amendment. We only have a problem with Clause 28(b) of her amendment, but we do not have a problem with the other amendments.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kaluma, you are talking of a completely new clause. Your amendment does not come at this point, but much later. I agree with you that if Hon. Millie's amendment drops, Hon. Pkosing's amendment dies. Hon. Pkosing's amendment hangs on the shoulders of Hon. Millie's amendment.

Hon. Millie, if your amendment dies, Hon. Pkosing's amendment dies too.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I do not want us to die together. The Chair of the Committee has indicated that they do not agree with Clause 28(b). I would like to move them sub-clause by sub-clause.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended—

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

“(1) Subject to this Act, every refugee and every asylum seeker within Kenya shall—

(a) be entitled to the rights and be subject to the duties contained in the 1951 Refugee UN Convention, its Protocol and the OAU Convention Governing Specific Aspects of Refugees in Africa; and,

(b) be bound by all the laws in force in Kenya.”

Hon. Temporary Deputy Chairman, this seeks clarity of meaning.

*(Question of the amendment proposed)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): This is agreeable to the Committee because it takes the definition from the Convention.

*(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)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, move the next sub-clause. You are doing a new sub-clause 1A.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended -

(a) by inserting the following new sub-clause immediately after sub-clause (1) –

“(1A) Without prejudice to the generality of sub section (1), every refugee and asylum seeker shall be accorded treatment as favourable as possible and, in any event, not less favourable than that accorded to foreign nationals in Kenya.”

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kaluma, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, the Committee opposes the proposed new sub-clause 1A for the reason that whilst on the face of it, it appears to accord refugees better treatment, it can be dangerously interpreted in terms of implementation. It says “they will be treated not less favourable than other foreign nationals in Kenya”. We know that foreign nationals who are working here are required to have work permits, but in later provisions, we are seeking not to require refugees to work. It might be contradictory and interpreted in a manner that prejudices the interests of the refugees that we seek to protect. I want to request Hon. Millie to drop this amendment for the introductions that we will bring. If you interpret this, you will require refugees to have work permits while in later provisions we are saying that they can engage in gainful employment with their IDs as prescribed in other clauses that we have discussed. We oppose because it denies the rights it purports to give.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Temporary Deputy Chairman, I want to I agree with the Committee. Clause 28(a) that we passed talks about the rights of refugees as captured in the UN Convention. If those rights are clearly stipulated, I do not see the need for new sub-clause 1A because it might be misused. I want to urge her to drop this one.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well.

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, you have new sub-clause 5.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, it is a tragedy that we did not meet. Sometimes we agree in principle, but it is just we do not seem to agree in the way we are putting it.

I beg to move:

THAT, Clause 28 of the Bill be amended:

(c) by inserting the following new sub-clauses immediately after sub-clause

(4) —

“(5) Subject to the laws applicable and taking into special consideration the special circumstances of refugees, a refugee recognised under this Act shall have the right to engage individually or in a group, in gainful employment or enterprise or to practice a profession or trade where he holds qualifications recognised by competent authorities in Kenya”.

If the Committee is in agreement, I can move the other amendments.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon Millie! Just move new sub-clause (5) because Hon. Pkosing’s amendment is dependent on that.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I have already moved new sub-clause (5).

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order Members! The Member for Chepalungu, you are nomadic.

*(Question of the amendment proposed)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I support this amendment. In terms of wording, it is better than what the Committee has proposed, but speaking to the same thing.

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Pkosing. You have two further amendments. Please speak to only sub-clause (5).

**Hon. David Pkosing** (Pokot South, JP): Hon. Temporary Deputy Chairman, because they are the same and we did consultations yesterday with the Chairman, I drop mine in favour of Millie’s.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon Millie, move new sub-clause (6). Hon Pkosing, for the record, your proposed amendment to sub-clause (5) is dropped.

*(Proposed amendment by Hon. Pkosing dropped)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended:

(c) by inserting the following new sub-clauses immediately after sub-clause (4) —

(6) A refugee and an asylum seeker shall have the right to identification and civil registration documents and such documents shall be sufficient to identify a refugee or asylum seeker for the purposes of access to rights and services under this Act and any other applicable law;

Yesterday night, I had an unfortunate incident when I was driving to drop somebody around Kilimani. I met a girl dressed like an Ethiopian and it looked like somebody was about to attack her. When I ran to help her - because it was at night - she run away from me thinking that I was a police woman. Probably, she was attacked by whoever tried to attack her because she thought I am part of the security. The reason could be because she did not have an identification card. She was a woman probably in her twenties or thirties. If they have that identification, it will not only help in terms of getting services, but it will also help in their protection, especially for women and children. It will also help the country because when they work, we can also tax them.

Thank you.

*(Question of the amendment proposed)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, we support this amendment as a Committee.

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, move new sub-clause 7.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 28 of the Bill be amended:

(c) by inserting the following new sub-clauses immediately after sub-clause (4) —

(7) Without prejudice to the generality of the foregoing, and subject to the special circumstances of refugees, the Refugee Identity Card shall at a minimum have a similar status to the Foreign National Registration Certificate issued under section 56 (2) of the Kenya Citizenship and Immigration Act for the purposes of accessing the rights and fulfilling obligations under this law.”

*(Question of the amendment proposed)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, we support this amendment, as a Committee, to the extent that the purpose for which the identification is being rated to the one issued to Foreign National Registration Certificate is spelt out at the last paragraph. That is for the purpose of accessing rights and fulfilling the obligations under the law. I doubt that Hon. Millie should mention a specific section of the Act. I do not know whether she will do a further amendment by deleting this specific provision for the reason that that Act may be amended and this provision may be relocated to another provision. I support, but there should be

a deletion by Hon. Millie as the Mover so that it remains: “Under the Kenya” and not “Under Section”. We support the amendment.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us now have Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I am telling the Chairperson that as the Mover of the Bill, he can support me by moving a further amendment. I can also do it. I agree by moving and dropping the sub-section that has been mentioned.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. I am sure the clerks will note that in specific terms.

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

*(Question of the further amendment proposed)*

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Pkosing, you had a further amendment on sub-clause (7) now as further amended by Hon Millie.

**Hon. David Pkosing** (Pokot South, JP): Hon. Temporary Deputy Chairman, the further amendment was what the Chair has mentioned. I was deleting sub-section 56(2). Now that Hon Millie has moved a further amendment and it has been carried, I drop it.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well, that is dropped.

*(Proposed further amendment by Hon. Pkosing dropped)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will, therefore, put the global Question.

*(Clause 28 as amended agreed to)*

#### Clause 29

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have two amendments by the Chairperson and an amendment by Hon. Millie.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 29 of the Bill be amended—

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

“(a) the person may be subject to persecution on account of race, personal convictions, religion, nationality, membership of a particular social group or political opinion, or for failure to conform to a retrogressive---

No! This is Hon. Millie’s amendment, Sorry, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kaluma, I did not know that you could cross the Floor to help Hon. Millie move her amendment.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Millie is very persuasive.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Kaluma, you can move sub-clauses (2) and (3) together.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Millie is very persuasive. When she refers me as her uncle, I seem to forget where I should be fighting from.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 29 of the Bill be amended—

(a) in sub-clause (2) by deleting the words “or public order” appearing immediately after the words “national security”; and

(b) by deleting sub-clause (3).

In sub-clause (2), we are deleting the phrase “public order” because it is subjective and too wide. It can overexpose refugees. The amendment proposed under (b), the deletion of sub-clause (3), is being effected because we have taken the whole of that sub-clause to Clause 24. So, we are just cleaning up the Bill.

I thank you, Hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

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

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, you had two amendments. The second one on sub-clause (3) falls now that that sub-clause is deleted. So you will only move your amendment to sub-clause (1). Sub-clause (3) does not exist because it is already deleted.

**Hon. (Ms.) Millie Odhiambo** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. In sub-clause (3), I was concerned about children, persons with disability and the elderly. I will deal with sub-clause (1).

I beg to move:

THAT, Clause 29 of the Bill be amended in sub-clause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) the person may be subject to persecution on account of race, personal convictions, religion, nationality, membership of a particular social group or political opinion, or for failure to conform to a retrogressive cultural practice.

I seek to enhance the grounds upon which a person may be considered to be persecuted. I know that the grounds I am proposing are more expansive and are in line with decisions of the courts and the concluding remarks of the UN agency that monitors refugees’ rights. I seek, therefore, to include “non-conformity to retrogressive cultural practices” as one of the grounds.

I move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The Chair, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, we oppose this amendment for the reason that the principle being reiterated under Clause 29 is a very important principle governing humanitarian interventions, more so around refugees. It is what we call non-refoulement - that you cannot return a person to a hostile territory or expel them from where they are safe. The amendment being proposed by Hon. Millie seeks to add personal convictions and failure to conform to retrogressive cultural practices as reasons as to why a person can enjoy refugee status and avoid being expelled. My concern is that ‘personal convictions’ and ‘cultural practices’ are very subjective. A person may say you cannot return him to his country because he has convictions on what in our country is a crime. He may say he has conviction to murder children or to defile. The proposal is subjective. I want to request Hon. Millie to withdraw this amendment. The definition in the Bill is word for word what is in international conventions.

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

*(Clause 29 as amended agreed to)*

*(Clause 30 agreed to)*

*Clause 31*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): There are two amendments by Hon. Millie. You seek to amend sub-clause (1) and insert a new sub-clause. I suggest that you move them separately.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 31 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new clause—

- (1) Subject to the provisions of this Act, the Commissioner may require any refugee within a designated area to move to or reside in any other designated area.

The manner in which the section is framed appears to suggest that the commissioner’s power to require a refugee or an asylum seeker to reside within a designated area is limited to those refugees and asylum seekers already in a designated area. My amendment seeks to include those not already in a designated area.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chairperson, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, we oppose this amendment for the reason that it is not clearly explained what the amendment adds or improves to what already exists. The provision of Clause 31(1) is already very clear that the commissioner may require any refugee who is within a designated area to move to or reside in any other designated area. I think Hon. Millie Odhiambo is just repeating the same thing by twisting the words without adding any change, unless differently advised.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is out of order, Hon. Millie?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, maybe Hon. Kaluma did not understand me well. There will be refugees in an already-designated area and the commissioner can tell them to move to another designated area. What about refugees who are coming in and are not yet in a designated area? We need to include them, so that they can be told to move to a designated area. What I am doing is to net all refugees so that they are all within designated areas. The commissioner should determine that they are all within designated areas.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I will give you a chance, Chair. Let us hear from Hon. Rasso first.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Chairman. When I look at what has been proposed by the Committee, there is both the leverage to give the commissioner a wide scope in terms of what he can do, but also the operative word is “may”. It may happen or it may not happen. There is also the aspect of security connotation. The principal amendment clearly says that upon consideration of any special need. I think we cannot over-legislate. That phrase covers everything.

Thank you, Chair.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us hear Hon. Kabinga for one minute then we get to the Chair.

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I am struggling to understand what Hon. Millie is introducing. She is talking about refugees who are within a designated area who may be required to move to another designated area. Now, this other category you are saying are not in a designated area, how are they covered in what you are introducing?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, you have the Floor.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, the fact that refugees should live in designated areas is already prescribed in Clause 30, which we have passed. What Hon. Millie seeks to add to Clause 31 is the phrase “subject to the Act”. Otherwise, the other provisions are a repetition of what is already in the Bill. That is why I was saying the amendment is superfluous.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The Leader of the Majority Party, would you want to say something?

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairman, I just want to draw the attention of the House to the fact that what Hon. Millie Odhiambo is explaining is not what she is amending. Her amendment only introduces the phrase “subject to the provisions of this Act”. All the other words remain as the clause is in the Bill. What Hon. Millie is clarifying may be what is on her computer, but what is on the Order Paper is a replica of what is in the Bill. The only addition is the phrase “subject to the provisions of this Act”. That is neither here nor there. It is superfluous.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I actually agree with the Leader of the Majority Party. In the process of drafting, sometimes what

you send is not what comes back. What is on my computer is very different from what is on the Order Paper. What is on the Order Paper is not an amendment. It is just many words, so I withdraw the amendment.

*(Proposed amendment by Hon. Odhiambo-Mabona withdrawn)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, I thought you now have the Order Paper.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes, I do, but I read what is on my computer to make sense.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let the Order Paper be the primary document. Having withdrawn that amendment, you have another amendment where you seek to introduce a new sub-clause (1A).

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I hope this amendment takes care of what I forwarded.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it, Chairperson?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): The Committee also has an amendment to sub-clause (1). I was thinking we could move it at once so that we are clear at once.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, what are you saying? I know you have an amendment.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): We have an amendment to sub-clause 1 of Clause 30.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Before we get to Clause 1(a) and for tidiness, we need to deal with it, which is fair. Hon. Millie, we will come back to you on 1(a).

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 31 of the Bill be amended in sub-clause (1) by inserting the words “upon consideration of any special needs or conditions that may affect the refugee’s protection and safety” immediately after the words “Commissioner may”.

Hon. Chair, we are putting this so that when the commissioner is determining whether the refugees are moved to different designated areas, their special needs are taken care of in line with the previous provisions we made for women, children, persons with disabilities, elderly persons among others.

Thank you. I beg to move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, kindly have the Floor.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Chair, I support the amendment. It is actually similar to mine. I support his as I drop mine. It even dies naturally whether I drop it or not.

I support.

*(Question, that the words to be inserted be inserted,*

*put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, did you say you dropped sub-clause 1(a), the new one?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes, because it is similar.

*(The proposed amendment by Hon. (Ms.) Odhiambo-Mabona dropped)*

*(Clause 31 as amended agreed to)*

*Clause 32*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I am happy to say that, that is my last amendment. Hon. Kaluma can now heave a big sigh of relief.

I beg to move:

THAT, Clause 32 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d) —

“(e) the provision of special services to women, girls and persons with including legal and psychosocial services to victims of sexual and gender-based violence; reproductive services and other specialized services”

I worked a lot with refugees in refugee camps. Many women go through sexual abuse even as they move. Many times there is no provision for such services.

I beg to move.

*(Question of amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Temporary Deputy Chair, please, say something.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): We agree to that amendment. It is harmless. It only firms up the humanitarian interventions for refugees.

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

*(Clause 32 as amended agreed to)*

*Clause 33*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chair, I beg to move:

THAT, Clause 33 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “or body” immediately after the words “no person”;

(b) by inserting the following new sub-clause immediately after sub-clause 2—

“(2A) The Commissioner may, on an application, review a decision made under subsection (1) where any new circumstance is brought to his attention.”

We are prohibiting any person from entering designated areas where refugees are staying. We also want to prohibit people or individuals going under the guise of bodies so that it is any “person or body”. In terms of the new 2(a), we are giving the commissioner the power to review his decision.

*(Question of the amendment proposed)*

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

Order Members! I told you that the Chairperson, at the very minimum, must vote.

*(Clause 33 as amended agreed to)*

*Clause 34*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chair, I beg to move:

THAT, Clause 34 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) The commissioner shall, so far as is practicable, ensure that there is shared use of public institutions, facilities and spaces between the refugees and the host communities.

We are seeking to ensure that the facilities which are availed to refugees can be shared by the host communities. It is something we observed before we introduced this amendment when we went to Kakuma and Dadaab. The local communities are saying that refugees are more privileged in terms of water provisions and other services than them. These includes hospitals and other services. We are, therefore, seeking for a way, whereby, the host community and refugees can share facilities.

I beg to move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Oundo, kindly have the Floor.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. Yes, the amendment proposed by the Committee on the face of it sounds very nice. However, by adding the words “as practical as possible” it waters down the provisions that are in the general Act, and leaves it at the discretion of the commissioner which could be abused. The way it is framed in the original Bill seems to make it mandatory or a requirement, but here, it is as practical as possible. This means it basically waters down the exact provisions here.

Thank you.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Whip, kindly have the Floor.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment by the Committee.

Looking at the example Hon. Kaluma has given, if you do not allow flexibility in terms of allowing outsiders to enjoy the facilities inside the camps, it will become a concrete decision of the commissioner. Therefore, the use of the word practicability allows the flexibility of the community *vis-a-vis* the refugees.

Therefore, I support this amendment.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. Yes, Hon. Rasso, you do not want us to make progress on this. Just one minute.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Temporary Deputy Speaker. I think the host community must accept refugees and that is really the import of the Committee's amendment. If we want refugees to be accommodated and accepted, I think if the facilities they enjoy are of superior quality than what is locally available, then it should be of common use.

*(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 34 as amended agreed to)*

#### Clause 35

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairperson, I beg to move:

THAT, Clause 35 of the Bill be amended by deleting the word "concerns" appearing immediately after the words "that refugee" and substituting therefor the word "matters".

This is just for clarity and nothing in terms of substantial content change.

*(Question of the amendment proposed)*

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

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

*(Clause 35 as amended agreed to)*

#### Clause 36

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have an amendment, Hon. Temporary Deputy Chairman.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 36 of the Bill be amended by inserting the words 'older persons, victims of trauma' immediately after the words 'women, children'.

Hon. Temporary Deputy Chairperson, this speaks to groups of people to whom there should be affirmative action. What this amendment seeks to do in the light of the previous amendments is to include among that group all the persons and victims of trauma as people who should be given special care as refugees.

*(Question of the amendment proposed)*

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

*(Clause 36 as amended agreed to)*

*(Clause 37 agreed to)*

#### Clause 38

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 38 of the Bill be amended in sub-clause (2) by deleting the words 'Ministry of Foreign Affairs' and substituting thereof the words 'relevant government ministry'.

Hon. Temporary Deputy Chairman, the matters dealing with refugees may be moved in terms of re-organisation of any Government to any other ministry. Putting it as foreign affairs legislation may be problematic in future.

I beg to move.

*(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 38 as amended agreed to)*

#### Clause 39

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): No amendment.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, there is 39A. It is a new provision.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): That is a new provision that comes at the end.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 39 of the Bill be amended by inserting a new clause immediately after Clause 39—

Confidentiality

39A.(1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—(a) in the course of his duties under this Act; or(b) with the consent of the Commissioner. (2) No person who receives information in contravention of sub section (1) shall disclose or publish the information. (3) A person who contravenes any provision of this section commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both.

*(Question of the amendment proposed)*

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

*(Clause 39 as amended agreed to)*

Clause 40

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairperson, I beg to move:

THAT, Clause 40 of the Bill be amended in sub-clause (1) (c) by inserting the words 'without good reason' immediately after the words 'fails to report'.

This is so that we do not make it a strict liability offense to fail to report. If there is excuse that it was for a good reason, a person should not be punished.

I beg to move.

*(Question of the amendment proposed)*

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

*(Clause 40 as amended agreed to)*

*(Clause 41 agreed to)*

Clause 42

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 42 of the Bill be amended —

(a) by deleting sub-clause (2) and substituting therefor the following new sub-clauses—

“(2) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former Refugee Affairs Secretariat,

Refugee Appeals Board and Refugee Affairs Committee shall be deemed to be vested, imposed or enforceable against the current Department for Refugee Services, Refugee Status Appeal Committee and Refugee Advisory Committee respectively.

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) Any reference in any written law or in any document or instrument to the former Refugee Affairs Secretariat, Refugee Appeals Board and Refugee Affairs Committee shall, on and after the commencement day, be construed to be a reference to the current Department for Refugee Services, Refugee Status Appeal Committee and Refugee Advisory Committee respectively.

Hon. Temporary Deputy Chairman, this is just providing a transition clause in terms of the agencies dealing with matters to do with refugees to the new ones created under the Bill and for clarity at the proposed sub-clause 3.

I beg to move.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Have you moved the two of them?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Yes.

*(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 42 as amended agreed to)*

*Clause 43*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 43 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “within six months of the commencement of this Act” immediately after the words “under this Act”;

(b) in sub-clause (2), by inserting the following new paragraphs immediately after paragraph (t)—

“(u) period of validity of documentation;

(v) circumstances on limitation of rights granted to refugees;

(w) documentation to be provided to a recognised refugee.

By these additional amendments, we are specifying the period within which the regulations or delegated legislation to be promulgated by the Cabinet Secretary should be so promulgated. In addition, we are also adding new matters which should be covered by the Cabinet Secretary under the regulations.

I beg to move.

*(Question of the amendment proposed)*

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

*(Clause 43 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are transitioning now. We are done with the clauses in the Bill and we are now into new clauses and the procedure is different. Therefore, Hon. Millie, you shall be moving the Second Reading of that new clause.

*New Clause 3*

**Hon. Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairperson, I thought I was done with my amendments and I even closed my computer.

I beg to move that New Clause 3 be read a Second Time.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We are in new clauses now. We are done with Clause 43, which was the last clause under the Bill. We are done with the clauses in the Bill and we are now into clauses that are completely new.

**Hon. Odhiambo-Mabona** (Suba North, ODM): I actually thought I had finished with my clauses. Be that as it may...

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): She has New Clause 3 which is on page 99 of your Order Paper.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): It is page 99. Could I, please, request that I move? They are in different parts and we have already defeated (a). So, I move (b).

I beg to move that the Bill be amended-

(b) by inserting the following new clause immediately after Clause 3 —

Application      3A. This Act shall apply to all refugees and asylum seekers within the territory of Kenya without discrimination on the basis of race, religion, personal conviction, colour, national origin, sex, disability or age.

So, I wish to move that and drop “personal conviction”. Going by what the House has decided, I can drop the first two because the House had already made decisions on those ones.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, be clear on what you are saying. Is there New Clause 3A that you are moving Second Reading?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes. I moved that Clause 3A be read a Second Time, but with a further amendment dropping the words “personal conviction” because the House was averse to “personal conviction.” So, the grounds would be that this applies to all refugees and asylum seekers within the territory of Kenya without discrimination on the basis of race, religion, colour, national origin, sex, disability or age.

So, the one about personal conviction is the one I am withdrawing. I move and urge Hon. (Dr.) Nyikal to second.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Well, I am not sure there is seconding, but I will give Hon. Nyikal an opportunity to speak to it.

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*(Question of the new clause proposed)*

*(New clause read the First Time)*

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

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Chairman. This Bill is extremely important. It is going to become an Act and, therefore, we should put everything clearly. The issue of “any form of discrimination” should be removed.

I second the Second Reading of New Clause 3A.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have the Vice-Chair of the Departmental Committee.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, this amendment does not hurt. However, it adds nothing. We are making this Act for refugees and asylum seekers. My problem is that if we mention that it will only be applying to refugees and asylum seekers, then we are leaving other categories of people falling under this Act who are not yet recognised as refugees and asylum seekers.

Hon. Members should remember that we are making this Act to protect anybody who finds himself within our territory. We have made provisions in terms of how they should approach the authorities to identify themselves and how they should apply for asylum. So, if we specify that the Act will only apply to refugees and asylum seekers, we will exclude other groups we are giving protection under the Act.

Because the Act speaks to all these issues, this is an amendment I would request Hon. Millie Odhiambo, my good niece, to withdraw.

**Hon. Amos Kimunya** (Kipipiri, JP): It is already taken care of elsewhere.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, if I have heard Hon. Kaluma well, he has no problem with this Act not being applied discriminatively. However, he has a challenge that I have limited it to only those who have reported for refugee and asylum seeker status. Can I then provide that this actually applies to all refugees and asylum seekers and all those who have received a status within the territory of Kenya without discrimination on the basis of race, religion, colour, national origin, sex disability or age?

The reason I am saying this is that almost all our laws have a non-discrimination clause, except this one. Unless it is somewhere and I have not seen it, I would be willing to let go. Otherwise, this would be a very peculiar law that does not have this clause especially when we have a lot of vulnerable people. Perhaps Hon. Kaluma could guide if there is a provision that I have missed that is on non-discrimination and then I will drop this amendment. If there is no such clause, then I would urge the Committee, as is the practice with other laws especially where you have vulnerable people, to give a blanket provision of non-discrimination in its application.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. Hon. Kaluma so we make progress because we have time limitation now.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, what Hon. Millie is seeking to do with this provision is what is done in the introduction of the Act in terms of the persons it covers. These specifications are already in the various clauses we have

mentioned. It is clear to anybody the Act will apply to refugees, asylum seekers and other persons for whom there are provisions. It is otiose.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very good. Hon. Members, I must put the Question because we must make progress.

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

The Ayes have it.

**Hon. Members:** The Noes have it.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I must carry that again. The last Question is global. I am well guided. I have been on this Chair for some time.

*New Clauses 28A and B*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair, if you can move with a bit of speed.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, the amendments the Committee proposed in New Clause 28A and B are already covered by the amendments which Hon. Millie brought. So, I drop them.

*(Proposed amendments by Hon. Peter Kaluma dropped)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well.

*New Clause 28A*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): There is a New Clause 28A by Hon. Pkosing, who is not present.

**Hon. Members:** He had dropped it!

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Well, he is not here to tell us. So, it is dropped by virtue of his absence. As well as New Clause 28B.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, they were word for word with what Hon. Millie had proposed.

*(Proposed amendments by Hon. David Pkosing dropped)*

*New clause 39A*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 39 of the Bill be amended by inserting a new clause immediately after Clause 39—

Confidentiality.

39A. (1) No member of the Committee, employee or agent of the Department of Refugees shall disclose information acquired under this Act except—

(a) in the course of his duties under this Act; or

(b) with the consent of the Commissioner.

(2) No person who receives information in contravention of sub section (1) shall disclose or publish the information.

(3) A person who contravenes any provision of this section commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both.

We are providing for confidentiality, that any information, agency or person gets regarding a refugee be kept confidential and used only for purposes relevant to the Act.

*(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 Chairman** (Hon. Patrick Mariru): Hon. Oundo, one minute.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairman. I do not support the amendment. For one, the Access to Information Act No.31 of 2016 has very clear provisions on how somebody can access public information.

The information kept about a refugee is public information. It will be essentially superfluous or terribly a waste of time and space to include that provision, when we have a substantive Act dealing with access to public information. I oppose.

**Hon. Ali Rasso** (Saku, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Rasso, what is out of order?

**Hon. Ali Rasso** (Saku, JP) *spoke off record.*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): No! That is not a point of order. I will come to you. Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I am glad Hon. Oundo has made Hon. Kaluma see that virtually anything can be considered superfluous. That even the issues of confidentiality can be considered superfluous.

So, when we strengthen the protection of women and children, it is not superfluous. Having said that, I support Hon. Kaluma, but learn that you do not make everything about women and children superfluous, and the Leader of the Majority Party will be with you here when Hon. Kaluma has gone. You will be asking to give quorum. I will not give you quorum.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Rasso, you can have one minute because we must really make progress.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Chairman. I support the amendment by the Chairperson. Refugees should be the most protected people on earth because they are running away from circumstances in their own country. If the information about them is put out there in public, I think the insecurity from which they were running from will adversely affect them.

*(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)*

*(Title agreed to)*

## Clause 2

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, I am afraid we have very few minutes, but we have an amendment by the Chairperson and Hon. Millie. We have quite a bit of amendments in terms of definitions. Let us start with Hon. Millie. Hon. Millie, speak briefly to your amendment on Clause 2 together and then we move on to the chairperson and we make progress because in the next three minutes, we should be done. You are basically dealing with the issues of definitions of protocol, spouse, transit centre and United Nations Convention. Members have the Order Paper. Just put the import we make progress.

**Hon. Odhiambo-Mabona** (Suba North, ODM): Do I go by all of them?

**Hon. Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes.

**Hon. Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended—

(a) by deleting the definition of “essential services” and substituting therefor the following new definition—

“essential services” include security, shelter, basic education, health, water and sanitation services;

(b) in the definition of “OAU Convention” by deleting the words “done at” and substituting therefor the words “adopted in”;

(c) in the definition of “protocol” by deleting the words “done at” and substituting therefor the words “adopted in”;

(d) in the definition of “spouse” by inserting the words “a customary law or” immediately before the words “common law spouse”;

(e) in the definition of “transit centre” —

(i) by deleting the word “either” appearing immediately after the words “pending transfer to”; and

(ii) by inserting the words “or pending repatriation and resettlement” immediately after the words “settlement centres”

(f) in the definition of “United Nations Convention” be deleting the words “done at” and substituting therefor the words “adopted in”;

It defines “essential services” to include security, shelter, basic education, health, water and sanitation service. It puts better wording. Instead of saying the OAU Convention was done at, it is adopted and not done. We adopt conventions. We do not do them. I will drop the definition of “spouse” because Hon. Kaluma was not understanding me. I am an expert family lawyer. So, I know, but I do not want to argue right now. That is why I am saying I do not know because there

are many definitions. I move that they be amended as per the Order Paper except the definition of the word “spouse”. I drop it because I was including those married under customary law. Even before coming into effect of the Marriage Act, those are people who are married under the African Christian Act and the other laws. They are not married under African law. Those who are married under customary law before the Marriage Act came into effect which now recognises officially and even asks us to get certificates. I drop it nonetheless.

**The Temporary Deputy Chairperson** (Hon. Patrick Mariru): Very well.

*(Question of the amendment proposed)*

Hon. Peter Kaluma, one minute.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairperson, with the dropping of the proposed sub-clause (d) dealing with spouse, we agree to the amendments.

*(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)*

**The Temporary Deputy Chairperson** (Hon. Patrick Mariru): Hon. Chairperson, please put your amendments under Clause 2 in a guillotine manner because they are outright in the Order Paper.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Chairperson, I beg move:

THAT, Clause 2 of the Bill be amended—

- (a) in the definition of “asylum seeker” by deleting the word “case” appearing immediately after the words “but whose” and substituting therefore the word “application”;
- (b) in the definition of “authorized officer” by inserting the words “or any other officer assigned such responsibility” immediately after the words “or immigration officer”;
- (c) in the definition of “Committee” by deleting the expression “ 6” and substituting therefore the expression “11”;
- (d) by deleting the definition of “Department” and substituting therefore the following new definition—
  - “Department” means the Department of Refugee Services established under Section 7”;
- (e) in the definition of “durable solutions” by deleting the words “resettlement to a third-party country or local integration” and substituting therefore the words “local integration in the country of asylum or resettlement to a third country”;
- (f) in the definition of “Eligibility Panel” by deleting the words “under section 14” and substituting therefore the words “under section 13”;
- (g) in the definition of “local integration” by deleting the word “border” appearing immediately after the words “refugees attain” and substituting therefore the word “broader”;
- (h) by deleting the definition of “essential services” and substituting therefore the following new definition—

“essential services” means services that meet the immediate needs of refugees and asylum seekers and include food, shelter, education, health, water and sanitation services;

- (i) by deleting the definition of “OAU Convention” and substituting therefore the following new definition—

“OAU Convention” means the Organization of Africa Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, done at Addis Ababa on 10th September, 1969 and ratified by Kenya on 28th December, 1987;

- (j) by deleting the definition of “Protocol” and substituting therefore the following new definition—  
“protocol” means the Protocol relating to the Status of Refugees, done at New York on 31st January 1967 and acceded to by Kenya on 13th November 1981;

- (k) by deleting the definition of “*prima facie* refugee status” and substituting therefore the following new definition—

“*prima facie* refugee status” means a declaration of refugee status by the Cabinet Secretary as provided for under this Act;

- (l) by deleting the definition of “United Nations Convention” and substituting therefore the following new definition—

“United Nations Convention” means the United Nations Convention relating to the Status of Refugees, done at Geneva on 28th July, 1951 and acceded to by Kenya on 16th May, 1966.

- (m) in the definition of “transit centre” by deleting the words “and may include prisons, immigration detention centres, police stations, remand homes or any other areas designed as such; and,

- (n) by inserting the following new definitions in their proper alphabetical sequence—  
“separated child” means a child who has been separated from both parents, or other relatives or by an adult who by law or custom is responsible for being the care giver.

This is just for clarity and definition of terms which are used several times within the Act and which are not clearly provided for now.

I beg to move.

*(Question of amendment proposed)*

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

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

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

*(Clause 2 as amended agreed to)*

Clause 1

**The Temporary Deputy Chairperson** (Hon. Patrick Mariru): There is no amendment to it.

*(Clause 1 agreed to)*

Hon. Members, we are done with that Bill. Let us have the Mover.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Chairperson, I beg to move that the Committee doth report to the House its consideration of the Refugees Bill (National Assembly Bill No.62 of 2019) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Hon. Members, we will have the Chairperson to report to the House. We have four Committees of the whole House to report on the Bills. So, we start with the Presidential Reservations on the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019).

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Presidential Reservations on the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019) without amendments.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): The Mover to do the agreement with the report. Leader of the Majority Party, you can use the next microphone or you use the Dispatch Box.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Peter Kaluma to second the Motion of agreement for agreement with the Report of the Committee of the whole House.

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

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

*(Consideration of Report of Bill ordered for tomorrow)*

**CONSIDERATION OF REPORTS AND THIRD READINGS**

## THE HEALTH (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, we move to the next Bill for reporting, and I call upon the Chairperson to report to the House on the Health (Amendment) Bill (National Assembly Bill No.64 of 2019)

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Health (Amendment) Bill (National Assembly Bill No.64 of 2019) and approved the same with amendments.

**The Temporary Deputy Chairlady** (Hon.(Ms.) Jessicah Mbalu): Very well. Let me have the Mover of the Bill to move agreement with the Report.

**Hon. Swarup Mishra** (Kesses, JP): Hon. Temporary Deputy Speaker, I beg to move that the House does agree with the Committee in the said Report and request Hon. William Chepkut to second the Motion for agreement with the Report of the Committee.

**Hon. William Chepkut** (Ainabkoi, Independent) seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairlady** (Hon.(Ms.) Jessicah Mbalu): Let me have the Mover move reporting and Third Reading.

**Hon. Swarup Mishra** (Kesses, JP): Hon. Temporary Deputy Speaker, I beg to move that the The Health (Amendment) Bill (National Assembly Bill No. 64 of 2019) be now read the Third Time. I also request Hon. Emanuel Wangwe to second.

**Hon. Emmanuel Wangwe** (Navakholo, JP) seconded.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the  
Third Time and passed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Next for reporting, we have the Chairperson, Departmental Committee on Labour and Social Welfare to report to the House on the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018).

## THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018) and approved the same with amendments.

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**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Mover to move agreement with the Report.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Kaluma to second the Motion of agreement with the Report of the Committee of the whole House. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kaluma for seconding.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**Hon. Members:** Put the Question!

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): If that is the wish of the House, I move to put the Question.

*(Question put and agreed to)*

#### THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Can I have the Mover of the Bill to move Third Reading.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker, I beg to move that the Care and Protection of Older Members of Society Bill (Senate Bill No.17 of 2018) be now read a Third Time. I also request Hon. Kaluma to second.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**Hon. Members:** Put the Question!

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Just a minute before I put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

#### THE REFUGEES BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): We move to the last Bill for reporting and this is the Refugees Bill.

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Refugees Bill (National Assembly Bill No.62 of 2019) and its approval thereof with amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Yes, the Mover.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the Report of the Committee of the whole House be amended by inserting the words "subject to recommittal of Clause 3". I also request Hon. Kaluma to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kaluma to second.  
**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, I second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, I must guide you on the way forward. If we reject, we will go back to finish.

*(Question proposed)*

Leader of the Majority Party, you can confirm.

**Hon. Amos Kimunya** (Kipipiri, JP): The recommittal is on Clause 3 only.

**Hon. Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I welcome the Leader of the Majority Party. He is not interested in saying anything. The Member for Funyula, the mood of the House is that I put the Question.

*(Question put and agreed to)*

### ADJOURNMENT

**Hon. Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members! Member 001, we have no Members who have funny characters. We are honourable Members.

Hon. Members, the time being 6.30 p.m., this House stands adjourned until today, Thursday, 25<sup>th</sup> February 2021, at 7.00 p.m. I thank you.

The House rose at 6.30 p.m.