

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 6th October, 2016

The House met at 2.30 p.m.

[The Speaker (Hon. Muturi) in the Chair]

PRAYERS

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016 and the Explanatory Memorandum.

The Annual Report and Financial Statements of the Competition Authority of Kenya for Financial Year 2014/2015.

The Annual Report and Financial Statements of the Independent Electoral and Boundaries Commission (IEBC) for Financial Year 2015/2016.

Thank you, Hon. Speaker.

Hon. Speaker: Well, the Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016 and the Explanatory Memorandum are forthwith referred to the Committee on Delegated Legislation for their consideration and reporting as appropriate.

Next Order.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 11TH TO 13TH OCTOBER, 2016

Hon. A.B. Duale: Hon. Speaker, pursuant to the provisions of Standing Order No.44(2) (a), on behalf of the House Business Committee, I rise to give a Statement regarding the business appearing before the House for the week beginning Tuesday, October 11th, 2016.

The House Business Committee (HBC) met on Tuesday this week at the rise of the House to prioritise the Business for consideration, this and next week. Scheduled for debate next week is a Motion by the Committee on Selection on Appointments of Members to various Committees. The House will also continue with Second Reading of the following Bills: The Witness Protection (Amendment) Bill, 2016; The Competition (Amendment) Bill, 2016; The Insurance (Amendment) Bill, 2016; The National Youth Service Bill (Senate Bill No. 26 of 2014); the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) and the Persons With Disabilities (Amendment) Bill (Senate Bill No. 24 of 2014).

Hon. Speaker, in the same week, prioritised for consideration, is Committee of the whole House on the Public Finance Management (Amendment) Bill, 2015. I, therefore, urge Members with amendments to submit them to the Clerk's Office in good time. I also encourage the Departmental Committee on Justice and Legal Affairs and the Departmental Committee on Finance, Planning and Trade to expedite the vetting of the various nominees before them including the nominee for the Chief Justice position and the other nominees to the Board of the Central Bank of Kenya (CBK) and table their Reports for debate.

On Questions before Committees, the following Cabinet Secretaries (CS) are scheduled to appear before Committees on Tuesday, October 11, 2016:-

- i) The CS for Interior and Coordination of National Government at 10.00 a.m. before the Departmental Committee on Administration and National Security to answer Questions from Hon. Roba S. Duba, M.P; Hon. Abdullahi M. Diriye, M.P; Hon. Francis Mwangangi, M.P; Hon. Raphael Otaalo, M.P; Hon. Abdinoor Mohamed, M.P; Hon. Abdul Rahim Dawood, MP and Hon. Ben Momanyi, MP;
- ii) The CS for the Ministry of Education, Science and Technology at 10.00 a.m. before the Departmental Committee on Education, Research and Technology to answer Questions from Hon. Abdullayi Diriye, M.P; Hon. James Bett, M.P; Hon. Peter Kaluma, M.P; Hon. Kabando wa Kabando, M.P; Hon. Robert Mbui, MP and Hon. Ronald K. Tonui, MP; and,
- iii) The CS for Public Service, Youth and Gender Affairs at 10.00 a.m. before the Departmental Committee on Labour and Social Welfare to answer Questions from Hon. Patrick Makau, M.P and Hon. Francis Mwangangi, M.P.

Finally, the HBC will reconvene on Tuesday, 11th October 2016 at the rise of the House to consider Business for the coming week.

Hon. Speaker, I now wish to lay the Statement on the Table of the House.

Hon. Speaker: Hon. Members, before we move on to the next Order, allow me to recognise the presence of the students and pupils of the following institutions: Seated in the Speaker's Gallery are pupils from Landmark Primary School from Ruaraka Constituency, Nairobi County; Kerwa Secondary School from Limuru Constituency, Kiambu County; Nyakoiba Girls Secondary Schools from Bomachoge Constituency, Kisii County and PCEA Ongáta Rongai Educational Center, Kajiado North, Kajiado County.

Seated in the Public Gallery are students from Nyakoiba Boys Secondary School, Bomachoge Constituency, Kisii County. The other one was Nyakoiba Girls. Reto Education Center from Kajiado South Constituency, Kajiado County and Aberdares View Academy, Kinangop Constituency, Nyandarua County. They are welcome to observe proceedings of the National Assembly.

(Applause)

Next Order.

BILL

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(Hon. A. B. Duale on 5.10.2016)

(Resumption of Debate interrupted on 5.6.2016)

Hon. Speaker: Hon. Members, Debate on this Bill was concluded yesterday and what remains is for the Question to be put and I hereby do so.

(Question put and agreed to)

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

Next Order.

MOTIONS

ADOPTION OF THE TWENTIETH PIC REPORT

THAT, this House adopts the Twentieth Report of the Public Investments Committee on the Accounts of State Corporations, laid on the Table of the House on Thursday December 03, 2015.

(Hon. Ichung'wah on 5.10.2016)

(Resumption of Debate interrupted on 5.10.2016)

Hon. Speaker: The Mover to reply. Hon. Ichung'wah.

Hon. Ichung'wah: Thank you, Hon. Speaker. I will beg your indulgence that before I reply, to allow the Leader of the Majority Party, two minutes.

Hon. Speaker: Yes.

Hon. A.B. Duale: Thank you, Hon. Speaker. This is a very important Report. First I would like to thank the Public Investments Committee (PIC) for fast-tracking a lot of the pending workload. I am sure the next Chair of the PIC in the 12th Parliament will have less work because they have covered the backlog that was there when they were elected.

Hon. Speaker, I support the Committee because they have dealt with key thematic areas. They have dealt with the weak financial positions that face a number of State corporations and they have dealt with over-reliance. On the weak financial position, they have recommended that State corporations that continue to perform non-strategic national functions and continue to rely on the Exchequer for financial support should be disbanded. I really support because we should not have parastatals that are of no importance to the country and the citizens and still utilize public resources.

The other recommendation was on over-reliance on the Exchequer for financial support. They are many. I am sure the recommendation is that more rationalisation and harmonisation is done. There is something on non-remittance of statutory deductions. The committee observed that a lot of parastatals are very poor in terms of remittance of statutory deductions including the National Museums of Kenya. The recommendation they gave is they must settle those deductions in a timely manner and the Inspector-General of the State Corporations should ensure

that all pending deductions of various State corporations are settled within three months after adoption of this Report.

They have dealt with the matter of land and building which they have observed with a lot concern that several State corporations do not possess title deeds and relevant documents for the buildings and land that they own. The Committee has made recommendations to the Ministry of Land, Housing and Urban Development. If you look at the latest Government structure, there is no ministry called Ministry of Lands, Housing and Development. The housing and urban development functions have since shifted to the Ministry of Infrastructure. There is the issue of expenditure beyond the approved budget. What happened is that they incurred more expenditure than the amount of money that was approved by the National Treasury.

With those many remarks, I support and thank the Committee for a job well done.

Hon. Ichung'wah: Hon. Speaker, with your indulgence, I would beg that you allow Hon. Njuki, Hon. Lemein, Hon. Gikaria and Hon. Mer'uaki a minute each and then we close this debate.

Hon. Speaker: It is utterly out of order for Members to start exchanging across the House. Most of you are apparently new Members. Four years down the road, you are still new? That is a bit strange.

Member for Chuka/Igambang'ombe, you have one minute.

Hon. Njuki: Thank you, Hon. Speaker. I will use that minute very economically.

I take this opportunity to thank PIC, in which I serve. When the current PIC was constituted, there was a heavy backlog of accounts that had not been reviewed. However, after burning a lot of midnight oil, we have seen cases that are up to date in terms of implementation and recommendations. I am worried about the implementation of recommendations that are made by the Committee, especially recommendations on recovery of monies in respect of surcharges that are to be imposed on Government officials who have been found to have misappropriated funds in parastatals. The PIC is sometimes seen to be a toothless bull dog because they make recommendations which are never implemented. I hope all the recommendations that have been made in this particular Report, especially on recovery of funds, will be adopted.

Thank you for giving me the opportunity, Hon. Speaker.

Hon. Speaker: Let me also draw your attention to the existence of the requirement of status of implementation of Reports. This House has the Committee on Implementation. Therefore, we should not lament when we are not doing what we are supposed to do.

Member for Narok South!

Hon. Lemein: Thank you, Hon. Speaker. I also rise to support this Motion. I want to thank the Chairman of the PIC and its Members. Being a Member of the PIC, I want to congratulate my colleagues. We have done a wonderful job. As the majority of Members have alluded to, we have done a perfect job as far as those particular parastatals are concerned. In these particular Reports, we have made a number of recommendations that are worth following up.

I support the Motion.

Hon. Speaker: Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Speaker. First, I would like to thank Hon. Ichung'wah for giving me this opportunity.

This week, we have legislators from Sierra Leon under a Committee they call Transparency and Accountability. When we had a session with them in the Implementation

Committee, these are some of the things they said in terms of how they fasten implementation of some of the recommendations that most of their Committees come up with. It is unfortunate that this Report was tabled way back on 3rd December 2015. The House Business Committee (HBC) may need to prioritise some of these things. However, as you have rightly said, we, in the Implementation Committee, have not been taking seriously the recommendations from the PAC and PIC. It is high time we took these Reports seriously.

Hon. Speaker: Member for Igembe North.

Hon. M'uthari: Thank you, Hon. Speaker. I would also like to thank Hon. Ichung'wah for giving me this opportunity. I rise to support this Motion.

We have heard about the issue of the National Hospital Insurance Fund (NHIF). The NHIF is a very important parastatal dealing with the health of the people of Kenya. However, the challenge that we have with this parastatal is that when they pay money in respect of people who were hospitalised, they do not consider the heavy expenses incurred by in-patients. For example, if an in-patient had a surgery, they do not pay the expenses relating to the surgery. I wonder if theirs is just to pay for bed and food, and not for serious challenges that make many Kenyans to contribute to the NHIF. This is something which needs to be looked at in a more serious way because despite the massive investments that the NHIF have, they do not support patients in their most critical needs.

Hon. Speaker: Hon. Members, before the Mover finally replies, it is fair to observe with a few exceptions; that a number of the Members who sought a few moments from the Mover are Members of the Committee. If you look at the record yesterday, debate on this Motion went on until there was no Member who was willing to contribute. That was when the Mover was called to reply. I doubt whether the Members who have today asked to be allowed to contribute for a minute each are keen Members of the Committee. I have listened to some of you say that you wanted to congratulate the Members of the Committee yet you are also Member of that same Committee. It suggests that you may be a peripheral Member of the Committee. You may be very busy doing other work outside rather than attending to the Committee sessions.

Therefore, those of you who are in that Committee, from now going forward, please, attend more sessions of the Committees. When Reports are tabled, be in the Chamber to debate them. You are the ones who are supposed to guide the rest of the membership of the House in debating and showing them the salient features of the Report. This Report covers very many parastatals. If many of you Members of the Committee were present, you would have helped this House a lot in terms of understanding more and more of the areas covered by the PIC.

Hon. Ichung'wah!

Hon. Ichung'wah: Thank you, Hon. Speaker. As you rightly pointed out, many hon. Members might be out there with other business given that we are in the run-up to the general elections. However, your sentiments are quite in order because we have many Committees with pending reports. We also have the issue of quorum at this time of the year.

In closing this debate, let me also take this opportunity to thank the Members of the PIC, especially those who were here yesterday afternoon and in the early parts of yesterday evening for their contributions to this Motion. I do not need to go back to everything that I said yesterday while moving the Motion but I will refer to a particular session you chaired earlier this year when the "Big Eight" appeared before PIC and PAC. I believe your office and the Office of the Clerk, as well as the Office of the Director of Public Prosecutions (DPP), the Directorate of Criminal Investigation (DCI) and the Ethics and Anti-Corruption Commission (EACC), will facilitate the implementation of the recommendations that are contained in this particular Report.

We would like the DPP, the DCI and the EACC to consider the proposal that we discussed at that time with regard to seconding officers to PIC and PAC.

Hon. Speaker, you realise the challenges that we have as a Committee. As much as we analyse all the audit reports that come to the two Committees, as Committees we have no powers to prosecute or do anything beyond making the recommendations that we bring to this House through these reports for debate and adoption. I must thank the Office of the DPP. Yesterday I mentioned the case of the Youth Enterprise Development Fund (YEDF), where the Office of the DPP moved with speed, following the adoption of the Report by this House, and took two people to court. I hope they will look at all the Reports of this Committee and act in a similar manner.

More importantly is the implementation of the recommendation that was made following the round table discussion of PIC and PAC with the “Big Eight”, under your chairmanship, so that we can have officers seconded to the two Committees. Yesterday *The Star* published an article, challenging the work of PIC and PAC. The writer said that the work that PIC and PAC do is superfluous, and that it has no real value to the people of Kenya. However, it is important for Kenyans to understand that PIC and PAC make recommendations for this House to adopt. Thereafter, the authorities charged with the responsibility of prosecution should do their work.

Hon. Speaker, I urge the House to adopt this Report, hoping that the Implementation Committee will move with speed and take up the recommendations that we have included in this Report as we work on the 21st PIC Report.

With those many remarks, I beg to reply.

(Hon. Mirenga and Hon. Nassir shook hands)

Hon. Speaker: Member for Kisumu Town East and Member for Mvita, could you take your seats? I want us to proceed to the next business. This also goes to the Members who have a habit of shaking hands with everybody. Member for Sirisia, take your seat. The Member for Sirisia has a penchant for shaking hands, apparently.

(Question put and agreed to)

APPROVAL OF SESSIONAL PAPER ON THE
NATIONAL CHILDREN POLICY

Hon. Serem: Hon. Speaker, I beg to move the following Motion: -

THAT, this House adopts Sessional Paper No.6 of 2014 on the National Children Policy, laid on the Table of the House on Tuesday, 25th August, 2015.

Hon. Speaker, I would like to take this opportunity to give a short brief on the Policy. The aim of the policy is to create an environment where children will grow and strive out of the socio-economic challenges presented by poverty, disease, HIV and AIDS, violence, sexual abuse, neglect, child trafficking, child labour, harmful culture---

(Hon. A.B. Duale stood up in his place)

Hon. Speaker: What is it, Leader of the Majority Part?

Hon. A.B. Duale: Hon. Hon. Speaker, I stand to raise a point of order under Standing Order No.259, which says:-

“There shall be reserved seats in the Chamber of the House for the exclusive use of each of the following:-

- (a) the Deputy Speaker;
- (b) the Leader of the Majority Party;
- (c) the Leader of the Minority Party; and,
- (d) Members with disabilities”.

Based on that Standing Order, is Hon. Ken Obura in order to sit on a seat reserved for the Leader of the Minority Party? I seek your guidance.

(Laughter)

Hon. Speaker: The Member for Kisumu Town East aspires to be the Leader of the Minority Party.

I encourage him to aim beyond that but since he seems to aspire only to be that, for the time being, when the Leader of the Minority Party is out of the Chair, he can consult the Deputy Leader of the Minority Party, but he is advised that as soon as the Leader of the Minority Party appears, he should move with speed to his usual place. Proceed.

(Laughter)

Hon. Serem: Thank you, Hon. Speaker. Before I was interrupted, I was discussing social-economic challenges caused by poverty, diseases, HIV and AIDS, violence, sexual abuse, neglect, trafficking, child labour and harmful cultural and religious practices such as Female Genital Mutilation (FGM). As I discuss this, let me mention that a young girl was killed in my constituency last night after being raped. So, this Sessional Paper is very important for us. The main objective of the policy is to provide for a specific framework for addressing issues related to children’s rights and welfare and provide a regulatory framework to coordinate various legislations aimed at promoting children’s rights.

The Sessional Paper is also important because it provides for comprehensive institutional framework through effective institutions dealing with children issues and provide direction and purpose in establishing social and children protection mechanisms while mobilising resources for such actions.

The content of the Policy includes, highlights on children survival, development, protection and participation. On the same note, the Committee observed the following:

- a) The Kenyan population is characterised by high fertility rates, which is a challenge to poverty eradication
- b) There is a need for a comprehensive policy to address vulnerable categories of society through comprehensive and coherent institutions, legislative and enforceable framework

The Committee, therefore, recommends that the House adopts the National Policy as contained in Sessional Paper No.6 of 2014.

I beg to move and ask Hon. Kobado to second.

Hon. Kobado: Hon. Speaker, I beg to second Sessional Paper No.6 of 2014 on the National Children Policy.

In recognition of the numerous obstacles standing in the way of the full realisation of children’s rights and welfare, this policy document outlines interventions and initiatives for the

improvement of children's status in this country. The Paper creates a paradigm shift. As a nation, our future lies in the youth and children and therefore, we need to think outside the box. In doing so, we need to create a new worldview to make sure that the future is safe. This Paper is anchored on four pillars.

The first pillar is that of child survival. It calls for provision of ante-natal care, safe motherhood, immunisation, balanced nutrition, safe drinking water, sanitation and management of the HIV and AIDS pandemic. Provision of quality health has so much in it. We are talking about quality services in the health sector. We are aware that the health sector is a function that is devolved. Already we have serious problems with hospitals across the country. When we talk about provision of quality health, we are talking about accessibility. Are the services accessible? We are also talking of affordability. You may access the service but will you be able to pay or are the services pocket friendly? So, there is a lot that this Paper will have to bring out. We also look at the responsiveness of the services. If you look at what happens in our health sectors, the turnaround time to provide service to the sick is so much to the extent that in the process some children lose their lives.

Reliability of the services is another challenge that we need to look at. Are the services consistent with what is expected or are they predictable so that we are able to reproduce them each time we get a different patient? These are areas we need to critically look at.

The second pillar is child development. This entails physical, social, emotional, mental and moral development of the child. It is the total development of the child across the board. We want to create an enabling and conducive environment for learning so that in the process of learning, whether formal or informal, the environment must be conducive. We are aware that Early Childhood Development Education (ECDE) is also a devolved function in the education sector. It is what prepares the workforce of the future. Unless it is done properly and facilities are provided ---Most ECDE buildings which were started in the counties were never finished. We need to look at this critically so that at this level we prepare children who will move in as they proceed to other levels of education.

The third pillar is child protection. Every child has a right to be protected from any form of harm that may affect their growth and development. This needs protection against drug abuse, sexual abuse, exploitation and neglect. These also need to be looked at very critically.

Last, is the child participation pillar. We need to give children the right to participate in issues that affect their lives. They need to make decisions on their future. We need to empower them through the process of participating in decision making.

With those many remarks, I strongly second this Policy Paper.

Thank you.

(Question proposed)

Hon. Speaker: Member for Nakuru Town East.

Hon. Gikaria: Thank you, Hon. Speaker. I rise to support the Policy Paper regarding children matters. I thank the Departmental Committee on Labour and Social Welfare for the good work they have done. As it has been said, this Policy Paper is intended to assist our children to grow in an environment where they can be what they want to be. It has been highlighted by the Mover.

If you look at our communities, poverty has denied children progress. The statistics we have on the per capita income of every family, most of them do not work and cannot provide for

their families. This results in many things. Because of poverty, children do not go to school and parents require them to fend for the family. This Policy Paper, as it has indicated, is going to address poverty issues by urging the Government to have programmes that can alleviate poverty so that the children can access standard lives.

It is also about diseases. It has been mentioned by the Mover and the Seconder. Looking at health services, our Departmental Committee on Health has proposed and recommended, on several occasions, that this very important function of health should be brought back to the national Government. It is so pathetic. In Nakuru County, for example, just barely less than four months ago, we lost over 80 children because of a pandemic which affected children. We lost so many children yet the county was not even bothered with what was happening. They never even bothered to find out where this plague came from and what the cause was. In fact, we had to get people from the Ministry of Health to do the work that is supposed to be done by the county government.

It is important that as we look forward, as the National Assembly, we re-emphasise the aspect of healthcare which is a function of the county government. The other day in Nakuru, doctors just ended a three-week strike. Governors are so stubborn. We are now hearing that in Meru County they are at it again. Just the other day, it was Machakos County. At the end of the day, it is the kids who will suffer because when they get sick, they are not able to get any services at the public health institutions.

Third, is about violence. In Nakuru, there is a Non-Governmental Organisation (NGO) that is trying to assist street children and families. Most of those children on the street are as a result of violence within our homes. You find a husband had children, he remarried and there is no peace. Most of those children run away from their families because of the violence that emanates from either the husband or the wife. Some of these things need to be addressed by this Sessional Paper.

The other issue is sexual abuse. Just the other day we found some hon. Members of the Kisii County Assembly manhandling some young people. This is a vice. We hope that the prosecution and the Judiciary will do something. Those young girls will be exposed to early prostitution. It is not right a member of a county assembly who is supposed to protect children to prey on them, it becomes a problem.

Lastly, it is about child labour. There was a documentary about the *miraa*-growing area of Meru where many people have had their hands chopped off for stealing *miraa*. There is a lot of child labour going on in Meru where children pick *miraa*. These are things that I hope this Sessional Paper will address.

Hon. Speaker: Let us have the Member for Ndhiwa.

Hon. Oyugi: Thank you, Hon. Speaker. I would like to support the adoption of this Sessional Paper.

If you read the Executive Summary of this Paper, it has things that are very worrying. It says that the population of Kenya is characterised by high fertility rates, a young structure, a youth bulge, high dependency burdens and high population growth rate. Those are not very good things for a country that is constantly not growing well economically. This Policy speaks to the various problems that we tried to respond to with regard to issues of HIV and AIDS that have created very many orphans and vulnerable children. We now have very many children-led households. If this particular Policy was to be implemented, it will go a long way in helping children of Kenya realise their rights.

Article 55 of the Constitution shows that children of Kenya have rights. The State is supposed to take progressive steps in helping the children of Kenya realise their various rights. This Policy seeks to respond to facilitating the enjoyment of quality life for all children in Kenya. As we speak, children in far-flung areas and in various parts of this country; northern Kenya and the Lake region included are dying of cholera, malaria and malnutrition. These children of Kenya are not enjoying the quality of life that is their constitutional aspiration.

The second thing this Policy seeks to do is to recognise and provide assistance to vulnerable children and their households so as to guarantee their socio-economic needs. When I started, I said that the number of orphan-led households is on the increase in this country. There are very many parents who died of HIV and AIDS and other diseases. There was a fund that was put in place for orphans and vulnerable children. If we are to ensure that the children of this country enjoy quality life, then we must ensure that the fund for orphans and vulnerable children is no longer a pilot project. It ought to be cascaded to the various family households so that at least the orphans and vulnerable children are able to realise their socio-economic needs. There are those children who have special needs and are always in conflict. I am talking about children in pastoralist communities, those subject to cattle rustling and those who are always in warring and feuding communities. Those children ought to be protected from the various dangers and perils that they are subjected to in those various communities.

I would like to speak to something that the Member for Nakuru West almost spoke to. We should ensure that children are protected from abuse, neglect and exploitation. There is a rise in cases of young girls being subjected to all manner of abuse from male adults. We have also seen very many young boys being subjected to all manner of treatment by female adults. We need to stop this country from being savage. We recently saw elected leaders in Kisii County performing very deplorable acts. We need to do whatever is possible within the meaning of the law to ensure that children of this country realise their rights.

I took a tour a couple of months ago to Mt. Elgon and sections of Trans Nzoia County. The acts of female genital mutilation and early child marriages are still on the rise. You find that in communities amongst the Marakwet and Mt. Elgon regions, young girls are being subjected to marriage and taken away from school. I hope that if this particular Policy is put in place, we will bring those acts to rest.

Because I see the warning light is on, I would just like to say that it is good to fast-track implementation of this particular Policy. We hope that this Policy will respond to the needs and aspirations of the Constitution, the Convention on the Rights of the Child as well as the African Charter on the Welfare of the Child.

With those many remarks, I support the adoption of this Policy.

Hon. Speaker: Let us have the Member for Igembe North.

Hon. M'uthari: Thank you, Hon. Speaker. I rise to support this Policy. It is important as it looks at children's issues. If I can quote from this Sessional Paper, its aim is to facilitate enjoyment of the quality of life of the children of this Republic. That is an important right within our own Constitution. It also promotes the health of our children. That is very important. A society that does not look after its children and the young is one that is dying. This Policy in particular is very important considering the fact that Kenya has a young population. It is a juvenile population where, as indicated in our population census of 2009, the youth make up more than half of our population. This means that there is need to look at the direction our country is moving to. If we take care and invest in these children, we will create possibilities for the greater majority of this Republic. Not taking this into consideration means that we are a

society that does not take care of itself. It is also worrying to realise that out of our total population, there are about 2.6 million children who are orphaned which means that they are in dire need. I would like to ask this House to appropriate more resources to the vulnerable children. This is to ensure that children who do not have the care of both parents can be properly supported by the Government. Education of children is also enshrined in our Constitution. Children are entitled to quality care and education.

On accessibility, despite the fact that we have free primary and subsidised secondary education, acquiring education is still a big challenge for the majority of Kenyans. As we look at this policy, we should also consider the general welfare and interests of the people. Poverty is especially pushing more people to vulnerable situations. We have the responsibility of coming up with laws. For example, the Children Act is more comprehensive. It provides for protection of children from abuse, as it has been highlighted. In this country, there are many children who are involved in child labour. This Act also provides for guidance of children. There are certain practices such as female circumcision that has persisted despite the ban. As we look at this policy framework, we should also consider empowerment and involvement of communities using traditional structures to stop these practices. We may also need to look at how various areas and communities deal with the issue of children. This policy framework also looks at the family unit and how societies are organised. For instance, in Meru we should look at ways of involving the *Njuri Ncheke* to take care of children.

With those many remarks, I support this Policy. I believe it will go a long way in bringing coherence in the care for our children.

Hon. Speaker: Member for Mvita.

Hon. Nassir: Ahsante sana, Mhe. Spika. Nimesimama kuiunga mkono Ripoti hii ambayo ilitungwa mwaka wa 2014 and kuletwa hapa Bungeni mwaka wa 2015. Kwa ufupi, Ripoti hii iliandikwa kulingana na hesabu ya Wakenya iliyofanywa mwaka wa 2009. Katika idadi ya Wakenya ya milioni 38.6, Wakenya milioni 19.15, ambao ni asilimia 50, ni watoto. Katika idadi hiyo ya watoto, milioni 17.66 ni wale walio chini ya umri wa miaka mitano, ambao ni asilimia 20. Watoto milioni 1.92, ambayo ni asilimia tano, ni watoto ambao wako chini ya umri wa mwaka mmoja. Ripoti hii inaonyesha kuwa watoto milioni 8.81, ambayo ni takriban asilimia 46 ya watoto wote nchini Kenya, ni maskini hohehahe. Utafiti huu ambao ulitekelezwa mwaka wa 2012 umedadisi na kuonyesha kuwa Kenya ina watoto milioni 13.6 ambao ni mayatima na maisha yao yamo hatarini.

Ripoti hii inataka nchi ya Kenya kuhakikisha kuwa ofisi husika za Serikali zinaangalia afya za watoto wote. Vile vile, Ripoti inataka hali za watoto ambao wako taabani ziangaliwe wakiwa nyumbani. Ni sharti mambo ya kifedha yachunguzwe pia ndiyo kusitokee jambo lolote kuhusiana na usalama. Watoto hawa, kwa njia yoyote ile, wasitukanwe wala kudhulumiwa kimwili. Ripoti hii pia inasema kuwa watoto hawa wasifanyiwe dhuluma za matendo ya chumbani.

Kama Bunge, tunapitisha sera kama hii ili Serikali itekeleze. Ni jukumu la Serikali kuhakikisha kuwa yale tunayopitisha hapa yanatekelezwa. Ripoti hii ililetwa Bungeni mwaka wa 2015, na leo tuko mwaka wa 2016. Ndio tunaanza kuijadili. Ninamuomba Mwenyekiti wa wasimamizi wa Bunge kuhakikisha kuwa Ripoti nyingi ambazo Wakenya wanazisubiri, ikiwemo ile ya Tume ya Ukweli, Haki na Maridhiano, zinaletwa hapa tuzijadili ili Wakenya wapate haki yao.

Ahsante sana, Mhe. Spika.

Hon. Speaker: Hon. Isaack Mwaura.

Hon. Mwaure: Thank you, Hon. Speaker. I rise to support the approval of the Sessional Paper on the National Children Policy tabled in Parliament today. It is very interesting that we waited until now to have a Sessional Paper on children. Laws should be preceded by policies so that Acts of Parliament can then try to put into life the provisions or the aspirations of the policy. A policy is basically a statement of good intentions that will be enshrined in a legally acceptable document.

Children in Kenya continue to suffer from many things. They are not homogenous because they represent various facets of life. Therefore, it is important to look at them from that perspective. We need to protect them from the time they are born, all the way to the age of 18.

Just before I came for this session today, I had a conversation with a legal counsel about a very interesting phenomenon that is happening in relation to the Sexual Offences Act. The Act provides for minimum sentences to offenders on rape and on issues around consent. There is something that is obtaining. For example, you have a 19 year old university boy taken to court for having a sexual relationship with a 16 year old girl. As a result, then the minimum sentence for this offence, if at all there is to be an offence based on the Sexual Offences Act, is actually 20 years. So, you are talking about incarcerating this individual until they are in their 30s or 40s. Is that really what we would want to have? I commend Wanjiru Karanja for appearing before the Judicial Service Commission (JSC) to express herself on this issue. This is because it is even confusing the judges. These are some of the things that we as Parliament need to look at so that we do not just legislate because we know we are going for the kill. It is very different if such a situation were to be in relation to a 40-year old man and a 16-year old girl.

A very good example is the case of those Members of County Assembly (MCAs) from Kisii County who are accused of having molested underage children. We need to put some of these things into perspective. In a highly patriarchal society, the issue around consent may be debatable. I think we need to also interrogate that because if you look at the other generation, especially the age of our grandmothers, they were married before they were even 18 years. So, it is something that we need to discuss when we codify some of things into law.

There is a fundamental question here. Do laws respond to the people or is it the people who respond to laws? That is a million dollar question. If it is both, then where is the balance? This is because we would then make policies and laws that are not applicable. As a Parliament, before we pass any form of legislation that may emanate from the policy and/or any other origin, we may want to imagine that we have a socio-economic audit of our value systems so that we do not have a situation where we have a formal non-functional state and an informal non-functional state. This is because of creating a legal regime that is impracticable and that makes people to see that we are in a dysfunctional country and yet we have a value system in this country.

I support.

Hon. Speaker: Before we proceed, allow me to recognise the presence of pupils and students from the following institutions sitting in the Public Gallery:-

Karura Primary School from Kiambaa Constituency, Kiambu County and Kathagara Secondary School from Chuka/ Igambang'ombe Constituency, Tharaka Nithi County.

They are welcome to observe proceedings of the National Assembly. Let us have the Member for Homa Bay County.

Hon. (Ms.) Nyasuna: Thank you, Hon. Speaker, for giving me this opportunity to contribute and support the adoption of this Sessional Paper No. 6 on the National Policy on Children.

This Paper has been long overdue. It has been pending here for a while and I am happy that there could be no better time to have it come for adoption on the Floor of this House. This is the week that we have seen some very serious violation of children in this country. I cannot proceed without really condemning the act by MCAs in Kisii County, taking children for a weekend outing. I condemn that in the strongest terms. I want to tell them that if they want to educate children, they must do it with white chalk and not black chalk.

Children are threatened by many factors. My colleagues have cited the statistics within this Policy, including that children are 50 per cent of Kenya's population as per the 2009 census. Also, very importantly, 80 per cent of children live in rural areas. Therefore, we must really focus. The pillars of this Policy, which include child survival, are very important to look at. We cannot talk about children without talking about families because getting strong children or getting well moulded children is very dependent on having strong and well-founded families. When we talk about child survival, we know that life begins at conception and that we must look very seriously at antenatal care. We must also look very seriously at this free maternity service that was started. Is it really working? Are our mothers truly giving birth for free or are they still required to bring cotton wool, basins and to pay money for gloves? That is a big question that we have to ask.

When we look at child development, there is the very important aspect of Early Childhood Development Education (ECDE). This is a devolved function. We challenge our counties to take very seriously the role of putting up ECDE centres. If the paediatrician, Hon. (Dr.) Nyikal, was here he would tell us that a lot of development and a lot of the things that we carry along in life begin at this very early stage. So, our counties must take very seriously the issue of early childhood education because when you go to some of these ECDE centres, many of our children are learning under trees and under very difficult circumstances. Thanks to the National Government Constituencies Development Fund (NG-CDF), many of the upper primary classrooms are very well developed but ECDE is still wanting. When we look at child development, we must also look at the ethical issues. When we demand to know how our children are performing in school academically, we must also discuss issues of how they are developing ethically. What values are they carrying along? Are our children going to church, mosques and temples to also have that element of spiritual development?

On child protection, I have already said that our children must be protected from sexual abuse as much as we can. We are looking forward to any amendments to the Sexual Offences Act so that we can make it more punitive. I think we have made a lot of progress on child participation. We see that schools now have presidents, governors, women representatives and senators. We also have a children's parliament that is up and running. I think as far as enhancing participation of children is concerned, there has been a lot of progress.

This is a very welcome move and I support the adoption of Sessional Paper No. 6 of 2014 on the National Children Policy.

Hon. Speaker: Member for Bondo.

Hon. Ogolla: Thank you, Hon. Speaker. Allow me to support the adoption of the Sessional Paper. I want to quickly mention two or three things.

First, when we talk about children of ages up to 18 years and you look at the life expectancy of some of our counties, you realise that we are talking about a population of up to half of those counties. There are quite a number of counties whose life expectancy ranges between 40 and 50. When we talk about ages of children up to 18 years, we are actually talking close to a half of the population of certain counties.

The other thing that we are talking to is that there is a correlation between childhood experiences and the behaviour of many of us in adulthood, particularly when you look at this in relation to leadership. A lot of research found out that the most oppressive and dictatorial leaders we have had on earth are people who passed through difficult childhood experiences. They were either abused as children or they lived in environments that were not very conducive for them to grow up as children. So, what we are talking about is really a very serious issue. We are talking about the future of very many situations that we experience in the world, including that of leadership; that if we do not have a situation where children are allowed to be children and a situation where they are protected and are supposed to develop in a manner that is good enough for the country, we are going to have threats in future. This is the experience we have now. We are talking about 8 million children who are in poverty in this country. They are suffering from deprivation and destitution in one way or the other. We are basically courting a very serious problem in future for this country because chances are that one time leadership will emerge from this group of people. Like I have mentioned, whenever leadership emerges from a person who experienced difficulties in childhood, chances are that we are going to have very difficult leaders in future.

So, these are some of the things that are important to look at when talking about childhood issues. The phenomenon is new in terms of policy development in this country but it is so critical that it is looked at and the Government takes it more seriously as we move forward. We need to allow our children to grow normally. Children need to be given an opportunity to be children. There is one thing that is happening that is not right in this country. In as much as we are talking about examples such as recent happenings in Kisii, some are not as direct as those we are quoting. When we talk about child development, and we look at the situation such as the case of parallel degree programmes where parents are competing with children for the little resources they have in their homes, to an extent that sometimes a parent will chose to go to university and pay for the parallel degree programme and leave a child in Form Two without fees, it is a challenge. So, in as much as we are talking about those that are direct, there are many other indirect challenges that children are undergoing.

I believe that many of us are experiencing this. As we look at issues of bursaries in our constituencies, you realise that somebody looks for a bursary because he or she is a primary school teacher and is also doing a parallel degree programme and his or her children are also in school. So, they are competing in the same house to an extent that the parent chooses to be in school other than the child who is in Form Two. That is one thing that needs to be looked at and we have to guard against that.

There is the issue of the Early Childhood Development Education (ECDE) programmes. We know that our Constitution has given this function to the county government but then, there is a distinction between the service and how it is offered. The teachers who teach in ECDE are employed by the Teachers Service Commission (TSC), but the programme is under the county governments. This confusion has caused a bit of competition. Many governors are not looking at a situation where there is supposed to be a kind of a relationship between what the county government does and what the national Government does. So, to an extent, they look at the ECDE teachers as helpers and not as teachers.

Hon. Speaker: Let us have the Member for Sirisia.

Hon. Koyi: Thank you, Hon. Speaker for giving me a chance to also talk about this Policy. Many families in this country cannot afford to provide for their children because of poverty. Despite protecting our children, they have their own problems. For example, burning of

schools happens because of too much protection. This Motion is long overdue. We need to impose strict laws on parents who neglect their children because there are parents who do not care about their children. There are many street children because of indiscipline or poor parenting. We need to enact laws that directly affect parents who neglect their children.

For some time children of this country have been neglected by parents. This is the time when laws should be put in place to ensure that we take care of our children in a responsible manner.

With those few remarks, I support.

Hon. Speaker: Let us have the Member for Butula.

Hon. Onyura: Thank you, Hon. Speaker for giving me an opportunity. At the outset, I support the adoption of this policy. As the policy points out, 50 per cent and perhaps more of the population is made up of children. They form an important part of our population and it is only right that laws, systems and structures are put in place to ensure that the challenges that our children face can also be addressed in a systematic way and in a much organised manner. Obviously, the 50 per cent of the population, who are children, will grow to become adults. So, the way they are treated and the opportunities they are given to grow, both in terms of physical or mental growth as indicated in the policy, will determine the quality of adults we shall have in future.

Hon. Speaker, I was reminded of Article 53(1) under the Bill of Rights and it is something that we need to keep reminding ourselves about. It states:-

“(1) Every child has the right—

- (a) to a name and nationality from birth;
- (b) to free and compulsory basic education;
- (c) to basic nutrition, shelter and health care;
- (d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour;
- (e) to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not; and
- (f) not to be detained, except as a measure of last resort, and when detained, to be held—
 - (i) for the shortest appropriate period of time; and
 - (ii) separate from adults and in conditions that take account of the child’s sex and age.”

All these things are very well anchored in our Constitution under the Bill of Rights. There are many challenges that our children face when we come to medical issues. This is an area where children are most vulnerable either due to poverty or lack of access to a medical facility. We are grateful for the provision of free maternity care because that has come in very handy to help right from the child’s birth.

However, I would wish to urge that Government moves further and provides for free medical attention of children. This can be done progressively. We can have free medical attention for children under five years and we go progressively to children under 12 years until we attain universal healthcare.

The other area that needs to be addressed here is the entire education curriculum so that we allow children to be children and not to overburden them with books and heavy learning stuff.

Hon. Speaker, I support the adoption of this Policy. Thank you.

Hon. Speaker: Let us have the Hon. Member for Mbita

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Speaker for giving me this opportunity. Indeed, I support this Motion as an ardent child rights advocate. This is a policy which I have worked on for many years when I was the Director of The CRADLE, the children's foundation and when I was representing the Child Welfare Society of Kenya (CWSK) in the Adoption Committee. This is something I have worked on for many years and I am happy that it has finally come.

Currently, I am the Chairperson of the Parliamentary Caucus on Children and the Parliamentarians for Global Action which is a caucus working on human rights and the rule of law. It includes issues of children. I am very passionate about children's issues. I know that Policy is meant to follow the law. It may appear as though this Policy is late, but it is not too late in the sense that since the Constitution was passed, we must align our law to it.

This Policy, therefore, provides a framework under the Convention on the Rights of the Child using the four pillars of protection, survival, participation and development. I know under that framework there are many laws which have been passed especially on the issue of child protection. We have the Sexual Offences Act, The Victim Protection Act – which I pushed in this Parliament - and even the Counter Trafficking in Persons Act. All those provide for protection. We also have other laws on survival, participation and development.

My concern is especially on issues of equality. I have just come back from Mbita and sometimes it is a challenge. I know we provided the Equalisation Fund, but the framework within which it is provided excludes areas like my constituency, and yet if you go there, you will find that it is one of the places that deserve it if children are to be treated equally. If you go to a place like Remba, you will find that the Government declared that it should be one of the places that are considered as extreme hardship areas. Despite that the Government has not implemented that.

They told me when I come here that I should raise this issue because many teachers do not stay there. People are using my constituency as a ground for seeking employment. As soon as people from other areas are employed there, because of how distant it is, they seek for transfers and go away. I think places like my constituency deserve very special attention. I want to speak, specifically to the issue of children protection. I am glad that this law is coming at such a time when we are seeing increasing number of cases of sexual violence against young children.

I want to speak specifically on the issue of the alleged abuse of girls by Members of County Assembly (MCAs) from Kisii County. I am glad that they were arrested and I want to congratulate the public for being very vigilant and for taking action against errant people who are leaders. These are the people who are supposed to protect children. We know how our criminal justice system works. As we speak now, I have people who want to auction my house. This is because I have refused to pay a court order on a matter where somebody represented a person who defiled a child.

I am going to follow up this matter. After I leave here I am going to instruct The CRADLE to file a civil case against those MCAs. So, if the bar is too high in criminal proceedings then we must hold them accountable in civil proceedings. They should be disallowed and disqualified from even attempting to ever vie for any public office. This includes

the guy who was arrested for posting pictures on social media. We must tighten our laws on social media especially those which allow people to abuse children online.

I support this Policy, but I want us to be serious as a country on protecting our children.

Thank you, Hon. Speaker.

Hon. Speaker: In keeping with the decision taken, such Reports will be moved within one hour. It is five minutes to one hour. The Mover may now reply.

Hon. Serem: Hon. Speaker, as I reply let me sincerely thank the Members of this House for taking time to contribute to this Motion. It is also fair to remember the institutions that these kids are entrusted to either family, schools, religions institutions, colleges and anybody else who has been given responsibility to protect our children. Our children are our future, and anyone who has ill motives against them should consider this.

Finally, allow me to remember the young girl whom I mentioned was killed yesterday in my constituency after being raped by a very nasty young man who did not see the value of our children's lives. I hope that the institution that has been given the responsibility to protect our children will take the necessary action to make sure that they are protected wherever they are.

Hon. Speaker, let me thank you for the time you have given us to discuss the same and I beg to reply.

Hon. Speaker: Very well. For obvious reasons, we will not put the Question. It will be done on Tuesday, next week.

Let us move on to the next Order.

ADOPTION OF SESSIONAL PAPER ON THE NATIONAL POLICY ON ELIMINATION OF CHILD LABOUR

Hon. Speaker: I am informed that Hon. Jones Mlolwa, the Member for Voi is the one to move this Motion.

Hon. Mlolwa: Hon. Speaker, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No.1 of 2015 on the National Policy on Elimination of Child Labour, laid on the Table of the House on Wednesday, August 19th, 2015.

I take this opportunity to give you the background of this Policy Paper. First, the Constitution of Kenya defines a child as an individual who has not attained the age of 18 years and protects children from child labour, which at times assumes other forms including slavery, servitude, forced labour and trafficking.

Secondly, child labour is an engagement of a child in paid or unpaid work and all activities that are mentally, physically, socially or morally dangerous and harmful to children. It involves work that deprives children of opportunities for schooling or participation in vocational and other training programmes. Children are not required to perform hazardous work and all worst forms of child labour.

Thirdly, Kenya, as a member of the International Labour Organisation (ILO), has ratified ILO Convention No.138 on the minimum age of entry into employment which was adopted in 1973. In 2007, the minimum age of entry into employment in Kenya was 16 years.

Fourthly, the country has also domesticated ILO Convention No.182 which has outlawed certain activities in which children below 16 years cannot work.

Fifthly, elimination of all worst forms of child labour by 2020, establishment and maintenance of an up-to-date and reliable database on child labour, mainstream elimination of

child labour in national, county and sectoral policies and programmes and harnessing stakeholder's efforts towards elimination of all forms of child labour.

Sixthly, the selected policy issues are:- Child labour statistics, child labour free zones, enforcement of legislation, education reforms, financing of child labour interventions, institutional mechanisms, undertaking awareness, sensitisation programmes, promotion of social dialogue, expansion of social protection systems and integration of child labour in corporate social responsibilities.

Seventhly, in considering the Sessional Paper, the Committee observed the following:-

- (i) Comprehensive and up-to-date child labour statistics which are a key component in sustainable child labour interventions.
- (ii) There exist several legislations touching on child labour with weak capacities and enforcement.
- (iii) The Policy proposes to promote and deepen resource mobilisation through public-private partnerships.

The Departmental Committee on Labour and Social Welfare, therefore, recommends that the House adopts the National Policy on Elimination of Child Labour as contained in Sessional Paper No.1 of 2015, and increases budgetary allocation to the Ministry of Labour, Social Securities and Services to fast-track the implementation of the Policy.

Hon. Speaker, I beg to move and ask Hon. Metito to second.

Hon. Katoo: Thank you, Hon. Speaker. I rise to second the Policy Paper on the National Policy on Elimination of Child Labour. It is almost the same thing we have just concluded under Motion No.10 on the Sessional Paper on the National Children Policy. Nevertheless, let me just highlight some of the key issues on this Policy Paper. First of all, I like the vision. It is very clear. It says; "to have a child labour free society". The policy objectives are four. They are:-

- (i) to eliminate all forms of child labour;
- (ii) to establish and maintain an up-to-date and reliable database on child labour;
- (iii) to mainstream elimination of child labour in national, county and sectoral policy programme; and,
- (iv) to harness stakeholders' support towards elimination of all forms of child labour.

If you look at the principles on which the Policy is anchored, you will find that they are very clear and straightforward. They are all in the best interest of a child. A child's best interests are of paramount importance in every matter concerning him or her. The other one is for a child to have equal opportunity, partnership and participation. That is children have a right to participate in formulation, implementation, monitoring and evaluation of strategies, interventions and policies that seek to eliminate child labour.

On sustainability and decent work, children above the legally set minimum age of employment must work, and the employment must be available in condition of freedom, equity, human security and dignity.

If you look at the situational analysis according to the Policy Paper on the Global Trends on Child Labour, you will find it very shocking. It is said that child labour is a global challenge. For example, in 2008, it was reported that there were 215 million children in child labour globally. This is very shocking. The Policy also says more boys than girls are exposed to child labour. About 51.9 million girls compared to 64.4 million boys were involved in or exposed to child labour.

In our continent, Sub-Saharan Africa has the highest incidences of child labour and hazardous work. The global estimate is 13.6 per cent and 7.3 per cent child labour and hazardous

jobs respectively. However, out of that, Sub-Saharan Africa has 25.3 per cent. This is a very big percentage.

In Kenya, child labour has always been characterised by exploitative and hazardous work conditions. It is manifested in long hours of work, little or no pay for services rendered, physical and sexual abuse, trafficking and exposure to hazardous chemicals. Some of the children involved in child labour also perform tasks which are either inappropriate or beyond their capabilities. In most cases, the conditions under which children work are not only unregulated but also infeasible. Therefore, this Policy Paper tends to regulate all that.

Some of the things the Policy Paper is discussing are what they call “child labour free zones”. “Child labour free zones” are being undertaken by some institutions in elimination of child labour. They especially take a geographical area where children are systemically withdrawn from work, rehabilitated and reintegrated into formal education or vocational training. Under this approach, the community is mobilised to track children who are out of school, withdraw them from child labour and get them back to formal education system or vocational training.

Hon. Speaker, I beg to second this Policy Paper because time is very short.

(Question proposed)

Hon. Speaker: Let us now hear the Member for Ndhwa.

Hon. Oyugi: Thank you, Hon. Speaker, for the opportunity. I would like to support the adoption of this Policy. I like the fact that the Cabinet Secretary is honest that issues of child labour are crosscutting. We need to deal with the low levels of economic development, high incidences of poverty, unemployment, the challenges that are facing our education sector, the inconsistencies in the laws, issues like urban-rural migration and the negative socio-cultural practices.

Hon. Speaker, you also appreciate that the Ministry of Labour, Social Security and Services has not been sufficiently facilitated and as a result we do not have up-to-date statistics on child labour. When you talk about child labour issues, someone will ask: How many of these fellows are engaging in child labour because there are no proper statistics?

The other problem is weak enforcement of laws and regulations. We already anticipate child labour to be on the rise and yet these laws and regulations have not been enforced in a manner that helps reduce the vice.

I will look at what the policy proposes in the strategies. I will look at 4.1 which is the enforcement of the Employment Act. I want to look at a couple of ingredients. The first one is that children below the minimum age for employment, but are out of school will be required to undergo a compulsory vocational training and apprenticeship. You will appreciate that the reason some children end up in child labour is because half of them come from poverty-ravaged families. Some of them live in squalor and some have no training. If the Government, in line with Article 53, wants to realise the rights of children and ensure that all children have sufficient rights and have compulsory vocational training, and to that extent, money is allocated to the various sectors, I think we are headed in the right direction.

The second thing is that this Policy hopes the Government, in collaboration with the private sector, social partners and other labour market institutions, will promote decent work for all who have attained this age. I think the Government, on its own, is not able to help in realising the right to work.

In all countries, you need to have good and organised private sectors supporting government policies to ensure there is good employment for those who have attained vocational training and apprenticeship.

The other thing is to build capacity among the labour inspectorate staff. Right now, we lack enough labour enforcement persons. Half of them lack in terms of capacity and if the Government is honest, we need to allocate some money for building their capacities so that they are able to enforce the various laws in existence.

The other thing is that child labour is a community issue. The people who subject children to child labour are members of a community. So, if the Government is honest, it should sensitise or create awareness in families and societies about child labour issues. Communities should be encouraged to support orphans and foster children. Like I said when I was speaking on the children's policy, half of the children are already orphans and are heading orphans and vulnerable children's households. So, the only way they are able to fend for their brothers and sisters is by engaging in work so that they can put some money and food on the table. If at all we are able to ensure that communities become the Africans that we are to at least accept the children and become foster parents, it will help us.

Lastly, Hon. Speaker, because I can see that time is running out, there is the issue of trafficking in persons. The important thing is for law enforcement agencies to be trained so that they can know what trafficking in persons is all about so that we can identify it. Most of the time, you will see that trafficking in persons is part of the reasons we have an increase in child labour issues.

Since my time is up, I would like to support the adoption of this Policy. I thank you.

Hon. Speaker: Let us now hear the Member for Kiharu.

Hon. Kang'ata: Hon. Speaker, I rise to support this Policy but I would like the following to be considered in moving forward. First, there is the issue of poverty among children and the fact that we do not invest much in human development, particularly in our education. Much of the money that we invest in our education goes towards payment of salaries of teachers and other Government employees in that sector. There is very little that is invested in matters that can help our children not engage in child labour. I strongly believe that investments in education will be the best way to curtail child labour.

My county is currently implementing a free lunch programme for nursery schools. As a result, the intake of children has tripled in our devolved schools. So what is the impact of that? If that was to be done in primary and high schools, I would imagine the same positive outcome would be yielded. Therefore, my point is that the best way to counter child labour is to provide free lunch programmes in our primary and day schools. That way, we will see schools luring children from child labour. Otherwise, even if we come up with very good policies and laws but we do not provide mechanisms to lure children to schools, there is no way we shall achieve that which we are debating now.

You all know the impact of free primary education after it was introduced in 2003. There was a huge increase in enrolment. However, since 2010, the positive aspect of free primary education appears to be chipping away progressively. For one, I have seen the reintroduction of school fees in our primary schools. I have also seen, particularly from last year, an increment in secondary school fees.

In my constituency, parents were paying about Kshs12,000 in day schools last year, but this year, they are paying about Kshs25,000 in each school. Therefore, the impact of that is that you will have many children dropping out of school. I, therefore, urge the Cabinet Secretary for

Education to find what the problem is. Why is it that the cost of education has now started going up just like it was during the Moi days? Why is it that instead of education becoming free, it is becoming more expensive? We now have a reason for children to engage in child labour.

Hon. Speaker, from my own investigation, there was a circular that was issued by the former Cabinet Secretary for Education, Prof. Kaimenyi. That circular appears to have been interpreted to mean that there should be an increment in fees at the secondary school level. So, I would have urged this Committee that prepared this Report to have looked at that issue in a holistic manner to ensure that fees in primary and secondary schools is not being increased. If fees is increased, this policy will come to naught. There will be an increase in child labour if children do not go to school and there is no free lunch programmes. I also believe that child labour will be rampant if children will go out to look for money to help their siblings.

Finally, we have vulnerable children, particularly those who roam about in towns. We call them in Kiswahili or street lingo, *chokora*. These two Reports ought to have paragraphs addressing the so-called problem of street children. There are various ways in which the Government can intervene to help the so-called *chokora*. One way is to provide free or open kitchens for such children where they would eat for free in our urban centres. They can also get education as they get food.

Hon. Speaker: The Member for Machakos County, you have the Floor.

Hon. (Ms.) Musyoka: Thank you very much, Hon. Speaker. I rise to support this Policy. Children are our future, heritage and hope. A nation that does not care about its children does not care about its future. The shaping of a nation starts at childhood. Child labour should not be associated with a nation that is moving forward.

Recently, I went to a school and asked very young children what would make them not succeed in their schooling. They told me that one of the things that would hinder them is child labour. Of course, they did not know what they were talking about. When I inquired further, they talked about the little things they are made to do at home.

On further inquiry, I found out that some of them, especially those from areas with coffee plantations, are subjected to child labour. This is not good for our children. It is important that this Policy is enforced so that our children can be children, get good education and have a culture where they are independent. Child protection can work in our nation. It is important that children grow up in freedom with the knowledge of what the future has for them and develop a culture of excellence right from an early age.

I support this Motion and hope that it will be enforced and that our children will live freely, grow, develop and take care of this nation the way it should be.

Thank you very much, Hon. Speaker.

Hon. Speaker: Let us now have the Siaya County Women Representative.

Hon. (Ms.) Ombaka: Thank you, Hon. Speaker for this opportunity. I support the adoption of this Policy because it touches on the children who live under difficult circumstances. These are disabled children - physically handicapped - living in poverty, suffering from HIV and AIDS, and go through hell in the families where there is a lot of violence. They are also neglected, go hungry and do not go to school. The list of their afflictions is very long.

This country has tried to put some programmes and policies in place that will protect children. I am talking about cash transfers for children who are orphaned or children who live in poverty. I wish that the cash transfers can be implemented well. It is a good programme, but it is not being done properly. The cash is not flowing to the children. Somebody else is taking this money and using it as the children continue to live in poverty. That is a programme that we

should not lose. It is a good attempt, but it is poorly managed. Therefore, the children still suffer even though we talk about cash transfers to orphans. The same goes for cash transfers for the elderly.

The elderly are very critical in looking after children, especially in communities where they are care-givers or care-takers of orphaned children. Many of those children live with elderly people and when you deny elderly people the cash that the Government has allocated them, you affect the children as well. This is because they live under the care of the elderly people. We have programmes like maternal and child healthcare that the First Lady runs. That should be supported. These are fantastic programmes for child survival. A lot of effort is being put and money is being allocated but the practicality of this work is not being seen. If you go to hospital and walk into the children's ward, you will find that there are no beds. You will find that they are sleeping on the floor. You will also find that there is no paediatrician to look after them. We need to strengthen children's health.

In conclusion, we need to learn from other countries that have done very well in terms of children's survival and protection. In other countries, when a young girl gets pregnant and she comes from a poor family, the state takes care of that child. The child has an allowance right from the pregnancy stage to the time the child is delivered. The state takes care of that fully because there is an allocation for that. The doula system in the United States of America (USA) helps. We need to borrow a lot from countries that have done very well in child survival and looking after children. This will enable us improve in child development.

There is child labour in this country. We do not talk about it very often, but if you walk along Lake Victoria, you will see small children fishing. They are there 24 hours a day. Child labour is part and parcel of what we do and yet we think that when a child works for long hours, that is part of growing up. We do not see it as child abuse. Sensitisation is also required as we make these policies so that programmes are put in place to address them.

I support this Policy.

Hon. Speaker: Let us have the Member for Mosop.

Hon. Bitok: Thank you, Hon. Speaker for according me this opportunity. I would like to support this Sessional Paper on Child Labour. Child labour is practical especially in the rural areas and towns in this country. At the end of the day, we will breed people who will not go to school, are not self-reliant and will eventually become thugs. I consider this Sessional Paper an important tool towards implementing policies that will assist the country alleviate this problem.

The Government needs to allocate funds to the Ministry of Labour, Social Security and Services to assist those children, especially orphans, who have been left alone and have nothing else to do but to fend for themselves in the society. We need to provide food, finance their education and provide guidance and counselling. We need to have structures within the county governments and the national Government to see to it that child labour and the census of these children are taken into account. This is especially in areas where we have cash crops, so that companies or organisations protect children. I advocate for the funding of this area so that we can take care of our children.

I support the Policy.

Hon. Speaker: Let us have the Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Speaker. I wish to support the Policy although I am a little disappointed that whoever addressed this Policy was not brave enough to take the bull by the horns.

Having worked a lot in the child labour sector, the challenge we face as a country is whether to outlaw child labour completely or allow it to some extent. The Children's Act is not very clear so that even when people are misusing children, sometimes it is difficult to prosecute them. I hoped that this Policy would address that issue once and for all.

We fear and the reason for that is because we are not brave enough to deal properly with the issue of corruption. If we seal all the corruption loopholes, we will be able to deal with the issue of social security. You cannot address the issue of child labour without dealing with the issue of social security. Many children are engaged in child labour because they do not have alternatives.

I was involved in a programme called "Mainstreaming in Action" where we advised about seven Government ministries on the issues of children and women. One of the greatest challenges we faced was dealing with the issue of child labour. How do you deal with children who are very poor and must work and yet the Government policy states that all children must go to school?

Two days ago, I was driving along Mbita Causeway at around 10.00 p.m. and I saw little boys fishing. I wondered whether they would go to school in the morning and if they went, whether they would be awake. We are dealing with many child-headed households because their parents have died.

I thought the Social Protection Bill by Hon. Joyce Laboso that was passed in the last Parliament would have been implemented instead of us now hearing that the Ministry wants to propose a new policy and throw away the Bill that was moved by Hon. Laboso. Even if they want to do that, can it be fast-tracked so that we better protect our children? I know we have cash transfers but they are not sufficient. They are not holistic. We need to look at children who live on their own and are being exploited.

This is one of those rare moments where I must congratulate myself since you will not congratulate me and neither will the House. I want to congratulate myself for going ahead of policy. I proposed the Counter-Trafficking in Persons Bill which is now an Act. I am ahead of the Government because it has failed to implement that law.

The Policy says that we should provide a legislative framework, which is already there. The Government needs to implement that law instead of providing another legislative framework. As a Government, we need to be brave enough and deal with the issues that are challenging us. We need to prioritise issues that are important.

I am very disappointed in this House. Today, we are many but not sufficient. Yesterday, I was not here. When we want to discuss and politic about the state of the Kenya Airways (KQ), the House is full, but when we are discussing serious issues that concern the country, especially issues of children, most of us are away. I do not know whether it is this Political Parties Bill that has threatened people. It is a double edged sword. It is good because it brings discipline but on the other hand it has scared members out of the House. Next week, if you do not see me here, I will be at the Pan-African Parliament. I would not have been scared by that Act. I want to encourage members to be in the House when we are dealing with serious issues relating to children.

I support the Policy.

Hon. Speaker: I cannot be the one to congratulate Hon. Millie Odhiambo because when she moves legislative proposals in this House, she is congratulated by all the members contributing. I do not have to do it. You are in order to congratulate yourself as well if nobody else is willing.

Let me give an opportunity to the Member for Wajir South. Maybe he can find time to congratulate Hon. Millie Odhiambo.

Hon. Mohamed Diriye: Thank you, Hon. Speaker. I also wish to support Sessional Paper No.1 of 2015 on the National Policy on the Elimination of Child Labour. I want to congratulate Hon. Millie Odhiambo for her bold move in sponsoring that law. I agree with her fully that this country has laws but we lack implementation. I hope the passage of this Policy will not be in vain because it has very important components. If we implement it, it will have a big impact in terms of elimination of child labour.

A number of interventions have been taken up to address the issue of child labour in Kenya. However, no sustainable progress towards total elimination has been realised. The challenges to effective and sustainable reduction include low levels of economic development, higher incidences of poverty, unemployment, challenges in the education sector and inconsistencies in legislation. Other factors include rural-urban migration, socio-cultural practices, lack of up-to-date data on child labour and weak enforcement of laws at the institutional level. I want to speak on very few of these challenges.

We have challenges in the education sector. You cannot separate children and education. For us to eliminate child labour, we must reform our education sector. As I speak, children from nomadic communities are looking after livestock instead of going to school. They are being subjected to child labour and abuse. After analysis, you will realise that these children are not in school because of lack of enough supportive mechanisms.

In the arid and semi-arid areas, we have low cost boarding schools. They have been there. They gave many children an opportunity to access education and helped reduce child labour. This is because education officers went out and took children to the boarding schools supported by the Government through the low cost boarding school funding. In doing so, children were protected from labour. The Ministry of Education, Science and Technology has neglected the funding of low cost boarding schools. The ones that are there are very few because the population has also grown. Children in rural areas, whose parents are nomads, have no option but to look after their livestock.

Reforms in the education sector have been cited as factors to eliminate child labour. The Ministry of Education, Science and Technology should take deliberate policies to increase access to education.

I also want to talk about orphans and the vulnerable children support programme. It is a very good programme. It has spread out to many parts of the country.

Hon. Speaker: The Member for Westlands, you have the Floor.

Hon. Wetangula: Thank you, Hon. Speaker. I also rise to support this Sessional Paper. I would like to point out that when children are engaged in illegal labour because of poverty, they grow up with a missing link in their life. This Report says that there is no comprehensive or up-to-date child labour statistics which is a key component to sustainable child labour interventions. We cannot address these issues without statistics. The Ministry of Education, Science and Technology must take up this matter very seriously so that it can heavily invest in investigation of intervention measures to curb child labour. We will fail our society and the future of this country if we do not carry out comprehensive research.

One time, I listened to the late Michael Jackson say that when he was growing up, he never enjoyed his childhood. He never celebrated his birthday because he was always engaged in practising for presentations. He started entertaining the world at the age of 10. Most of our children are either house helps or they work in farms. They are also denied opportunity to go to

school. We should allow them to enjoy their childhood. That is why our prisons are full and we are fighting criminals on our streets.

Our streets are frequented by boys and girls sniffing glue. During the implementation of this policy, the Government must allocate funds to address child labour. If we fail to do that, our children will be roaming the streets and growing up to become dangerous criminals. We will have an increase in criminal activities.

Hon. Speaker, we must support poor families living in informal settlements, especially in urban centres like Nairobi. Children in those areas already have babies when they are aged between 10 and 12. I was shocked to establish that fact when I was campaigning. When parents are engaged in liquor business, they sell off their children to their customers. Children go through a lot of abuse that might not be seen.

Children do not go to school in areas with large coffee and tea plantations. They would rather be engaged in picking tea and coffee than go to school. They are sometimes hired out to work and earn money for their families.

Hon. Speaker: The Member for Bondo, you have the Floor.

Hon. Ogolla: Thank you, Hon. Speaker. I support the approval of this Policy because it supports the position of the Constitution and our child-related legislations.

Secondly, when we talk about a child's life, a lot of the time of a child is naturally spent in eating, sleeping or playing. Those are the three activities that engage a child's life. We then add what we now call child improvement or development in the name of education. The interplay of all these four factors negates or puts aside what we call child labour. Immediately we miss out in the four, then it becomes almost automatic that child labour creeps in. This is because when a child is not in school, he or she must be engaged in doing something like playing, sleeping or eating. For a child to eat there must be a provider; for a child to sleep there must be somewhere to sleep and for a child to play there must be, at least, some engagement between the child and other children around. So, the interplay of all these really indicates that if we miss out, then we get into a situation where we talk about child labour.

We have many incidents of child labour. If we look at education, which has been alluded to, we will note that the Ministry does not have any fee that is formal or clear on the education we are paying for primary schools. However, there are all manner of levies in primary schools to the extent that if you look at them, you will find that they are more than the school fees we were paying. A pupil in Standard Seven pays close to Kshs3,000.

These are things that are known by the Ministry of Education, Science and Technology and yet it does not do anything, or they are illegally charged by schools or by teachers sometimes with the knowledge of the Ministry of Education, Science and Technology officials. When we charge levies and yet we know that the economies of the rural areas cannot support that, then we are definitely taking children out of school. When we take them out of school, they must find how to eat. Definitely, they will engage in some activities to fend for themselves. These are some of the things we really have to look at.

When we talk about economic situation, there are community learning arrangements that are also not very far from what we call child labour. A child will go to school in the normal school days, but on Saturday and Sunday, the child is in the field herding livestock. To the communities of that child, that is learning. We also have all manner of domestic chores that they engage in. To many of us, that is learning. So, one does not look at them in the name of child labour.

I had a very funny experience one time when we were experimenting rice growing in some parts of my constituency. Unfortunately, I was told that the best people who do manual planting are children. You do not know how to separate between what we call child labour and the community economies we are talking about. I was really surprised but apparently, that was the thing. Definitely, I could not engage children in coming to plant rice for purposes of that experiment, but I learnt that children are the best labour when it comes to planting rice. It is very unfortunate.

How do we reconcile all these things in terms of community economies in the name of taking children to learn how their economies work and the issue of child labour? The whole issue of rehabilitating somebody who had been engaged in child labour and now you want to get them out becomes a problem if the Government does not have a very clear way of doing this.

That is similar to child-headed homes and families. We are giving support that helps some adults who are handling or have children that are not theirs. They are supported by the Government. When it comes to child-headed homes, there is no support completely. That data is with us. There must be deliberate arrangements to identify the children-headed homes and get the children who are heading them. The Government should put in place proactive engagements for purposes of making sure that child-headed families are supported.

Thank you, Hon. Speaker.

Hon. Speaker: The Kisumu County Women Representative, you have the Floor.

Hon. (Ms.) Nyamunga: Thank you, Hon. Speaker for giving me this opportunity to contribute to the approval of the Policy Paper on child labour. Kenya is known worldwide for writing the best policies by any standards. The problem that bothers me is we may have policies but if we do not put structures in place for implementation, the many policies we put in place or pass will not add a lot of value. So, before I contribute, I would like to tell everybody in authority that the most important thing is implementation. We should be implementing all the issues that we deliberate in this House.

Let us take an example of the problem of poverty that we have in Kenya. In my view, we should, first of all, address the issue of poverty because it is poverty that brings about child labour. Nowadays, there are very many households that are headed by women. Women are overworked and they extend part of the work that they should be doing to children. They do it without knowing.

We cannot draw a line between the type of work we used to do as learning or as being prepared as young girls or boys. We participated in community work and the actual child labour but things have changed. In my view, it is very important that we address the issue of poverty and leadership of households by women. They are overworked. All of us know that most men have left the responsibility of taking care of their homes to their wives.

In most cases, you will find that we are dealing with widows and orphans. Most households do not have the man head. It is only the woman. As I have already stated, the woman extends her responsibility to her children without knowing. If we do not address the issues of poverty and corruption, this will continue.

In my view, the Government has put in place enough funds. You talk about the Youth Enterprise Development Fund, the National Youth Service Programme, the Women Enterprise Fund and the Uwezo Fund. The funds are there but it is the management which is faulty. The funds are also there but they do not reach the people that they should reach. There should be a lot of education about the use funds and the people that are targeted, like the youth. The youth do not even want to sit together to form groups so that they benefit. We should put a lot of emphasis

on educating boys and the youth so that they access the Fund and use it wisely. If the Fund is not used properly and if the issue of corruption is not taken care of, we will pass very many policies but the problems will persist.

Kenya is being ranked as moving into the middle class economy. To me, I do not see that middle class economy and yet I am a Member of Parliament. If I cannot feel it, will the person in the village feel that Kenya is now in the middle class economy? Is it just left for a few individuals who have access to excess funds when they want? Is that why they say Kenya has moved or is moving towards middle class economy? Middle class economy must be felt at the grassroots level by somebody like me and everybody else. That is when I can stand and say that Kenya is truly moving from a Third World country or a developing world to the middle class economy.

I believe that the policies are good. We are going to pass them but if we do not implement them and deal with the issues of poverty and corruption, we will not be doing a lot of service to this nation. We will just be sitting here contributing and passing policies, but not adding value to our nation and people.

With those remarks, I thank you very much. I support the Policy Paper.

Hon. Speaker: Let us now have the Member for Mathira.

Hon. Kinyua: Thank you, Hon. Speaker for giving me this opportunity to contribute to this Motion. I support the adoption of Sessional Paper No.1 of 2015 concerning child labour.

At the outset, I want to say that there has always been confusion on what child labour is against responsible parenting. We should never get to a point that when parents are teaching their children life skills depending on the different places and areas they come from that is treated as child labour. This is because that is part of learning process.

The bit we need to look at and ensure we move forward is eradicating child labour that is exploitative and takes our children in a vicious cycle of poverty.

If you look at areas which are conventionally coffee or tea areas particularly the big farms, you will find that they have very high poverty levels because children were made to harvest tea, coffee and sisal. What happened in effect is that the children were deprived of the opportunity to get to school and they are unable to cater for their needs as adults because they were put in a disadvantaged position.

Hon. Speaker, the future of this country depends on our children. Therefore, we must put them on the global map of labour force which is more oriented towards technology and sharing of information. This can only happen if we give them an opportunity to go to school.

I had an opportunity to meet the former President of Israel, the late Shimon Peres - may God rest his soul - at the Water Technology & Environment Control (WATEC) in Tel Aviv last year. One thing that he told us that I will keep for the rest of my life is that he believes in the youth. This is because the youth who are our children are the people who can come up with innovations and implement things that have never been done. They are the people who do not have the bad experience that we have had in our counties. These are the people that we must give opportunity to develop life skills so that they can move to the global market with a lot of knowledge.

Hon. Speaker, I thank the Jubilee Government which has been very instrumental in supporting free primary education. It is now looking at how we can fund free secondary education in the long run. This gives an opportunity to any child to be in school without necessarily citing poverty as a factor. By introducing the Technical Vocational Education and Training (TVET), we are moving towards ensuring that children who do not excel in academics

can be given life skills through proper interventions. However, this can only be done if we are very strategic and systematic. We should take a scientific approach towards this problem.

There are cultures that support child labour and we need to mention them. We should look at the causes and interventions that the Government comes up with, but most importantly, look for the remedy for the people who are already affected.

Hon. Speaker: Sorry, this is time bound. The Mover should reply. It is a decision you took as a House. So, there is nothing I can do about it. Maybe Hon. Mlolwa can donate one minute to any other Member like the Member for Rangwe.

Hon. Mlolwa: I can donate to *Mheshimiwa*---

Hon. Speaker: Which one?

Hon. Mlolwa: The one down there; the one who is raising her hand.

Hon. Speaker: Which one?

Hon. Mlolwa: Hon. Sabina, Hon. Speaker.

Hon. Speaker: It is okay. She has one minute. As she rises to speak, let me recognise the presence, in the Public Gallery, of pupils from Mukima Primary School, Laikipia North Constituency, Laikipia County. You are welcome to observe the proceedings.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Speaker. I rise to support. As we speak about child labour, the only thing I would like to mention is that we need to define what child labour is. In my county where we have tea and coffee farms, we have many children who are normally sent to the coffee estates to pick coffee. This is the case and yet some of these children need to go to school. We should take measures against parents who do not take their children to school.

As the Chair of the Departmental Committee on Education, Research and Technology, the Government provides free primary education and so it is the role of parents to ensure that their children are not going to coffee and tea farms but go to school. It is also important that we look at the coastal regions where we have children working in hotels and others practising prostitution. So, we should protect children because they are the future of this nation.

Hon. Speaker: Hon. Mlolwa, take the Floor.

Hon. Mlolwa: Thank you, Hon. Speaker. I take this opportunity to thank all the hon. Members who have contributed to this Motion. I note that the two Motions are the same and need to be implemented the same way.

So, I urge the Ministry to move with speed and implement the two policy papers so that we protect Kenyan children.

I beg to reply.

Hon. Speaker: Very well, for reasons well known to the House the Question may not be put.

Let us move on to the next Order

BILLS

Second Reading

THE WITNESS PROTECTION (AMENDMENT) BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Witness Protection (Amendment) Bill, 2016 be now read a Second Time.

Hon. Speaker, the Witness Protection (Amendment) Bill, 2016 is basically meant to amend the Act to align it with certain provisions of the Constitution and other legislations. It is supposed to ensure that the agency operates within the purview of the Constitution and any arrangements for reciprocal protection with other foreign states. It might involve other states, international courts or tribunals to confirm that the Constitution and the relevant legislations are in place.

Clause 2 of the Bill proposes to amend the Act by redefining certain existing terms and inserting new definitions.

Clause 3 of the Bill proposes to amend the Act by completely repealing Section 3 and replacing it with new sub-section 3. The purpose of new sub-section 3 is to increase the scope of the application of this Act in terms of the law. It provides for who qualifies for protection owing to specialised nature of that witness operation. It ensures the autonomy, the covert capability and confidentiality of the agency in the process of discharging its mandate of protecting persons in possession of important information. So, at what stage do we protect? Who do we protect? What autonomy do we give? What kind of confidential information does the person have?

Clause 4 proposes to amend Section 3A of the Act by inserting a new sub-section 3. This is meant to exempt the agency from the provision of any State corporation. So, Section 3A exempts the agency from the day to day operations of other State corporations that function under the State Corporations Act.

Clause 5 of the Bill contains a proposal to amend Section 3D of the Witness Protection Act. This amendment proposes to include among others the power which is given to the Agency in terms of the ability to establish the instruments to enable it to discharge its mandate. This will ensure that the agency is flexible in adopting the ever-changing environmental prevailing circumstances.

The Bill further proposes to amend this section by inserting a new sub-section (3) which criminalises disobedience to summonses issued by the agency to protect its dignity and decisions. Once, you become a witness under the protection of this agency you must abide by the rules and regulations. This law is very important because there is always false witness procurement as was the case with the International Criminal Court (ICC) by civil society groups and some characters who were paid by Bensouda and her cohorts.

Clause 6 of the Bill contains a proposal to amend Section 3E and this is to make it clear on how the Director of the Agency is to be appointed and removed so it is a bit administrative. Ensuring the predictability and steady funding of this agency in discharging its mandate is very important.

Clause 7 of the Bill proposes to amend Section 3F of the current principal Act to provide for the agency to be funded out of the Consolidated Fund. This is very important because it can receive grants and donations from other lawful agencies.

Hon. Speaker, Clause 9 of the Bill proposes to amend Section 3J of the current principal Act. This is just how the agency will prepare its annual budget. All these are operational.

Clause 15 of the Bill further proposes to amend the Act by inserting new Section 3V. This is to provide clarity for the functions of the Witness Protection Complaints Committee as established under the proposed Section 3U.

More administratively, Clause 20 of the Bill proposes to amend the principal Act by inserting new Part IIIA and this is just to provide reciprocal protection arrangements between Kenya and other countries.

This ensures conformity with our Constitution and emerging international best practice in the wake of the new forms of organised and complex drug dealing and all the terrorism witnesses we protect.

Finally, Clause 23 of the Bill proposes to amend the Act by repealing Section 36 and replacing it with new sub-section 36(a) to conform to the provisions of Article 94(6) of the Constitution.

With those few remarks, I beg to move and ask the Member of the Departmental Committee on Justice and Legal Affairs, Hon. Waiganjo to second.

Hon. Waiganjo: Thank you, Hon. Speaker. I rise to second the Witness Protection (Amendment) Bill 2016 as moved by the Leader of the Majority Party. I want to urge the House to support this amendment Bill because it aligns the Witness Protection Bill with the Constitution. The amendments which are proposed in this Bill are in about 23 clauses.

The amendments are to make sure that the Witness Protection Agency operates in a free and efficient manner, its operations are consistently well funded and that the membership of this agency is drawn properly from different professions. This Bill demonstrates that we need to pass a law in the current situation in our country, particularly in the criminal justice system. It is the Witness Protection Bill that takes care of the witnesses who go to our courts to give evidence and testify particularly in matters related to murder and other inquiries. This includes even those that are done outside the country where Kenya is a party, or in different treaties that the Kenya Government has bound itself. So, this is an important Bill.

Contemporary and currently, we have examples where a witness goes to court, testifies against a suspect or an accused person. Subsequently, that witness is murdered in dubious circumstances or is harassed, intimidated, some are raped or ripped. This is an important agency and we must look into the law that creates it to make sure that whenever witnesses come to court, they are not only protected but also give evidence in an environment that will not expose them to criminals or other people who may come to listen to the proceedings in courts.

This Bill is explicit. It defines who a witness is and shows its application. It also shows who can qualify to be protected. It says that where a witness gives evidence in court, for example, evidence that relates to another person who is not necessarily a witness, but it is evidence that can attract and is risky, that person qualifies to become a protected witness. It is important for Kenyans to know and understand that this is a Bill that is coming to help people who withhold evidence from the police, law enforcers and State agencies because they fear recriminations or threats to their lives.

This Bill is quite contemporary and one that we need to look into. Even as it aligns itself with the Constitution, it seeks to change the definitions of some of its provisions so as to align them with the current Constitution. For example, under Section 2 of the 2006 Bill, the “Committee” is defined as a State Corporation Advisory Committee.

This Bill seeks to remove the agency from the provisions or purview of State corporations. Therefore, it is important to pass the amendment Bill. What it seeks to do is, instead of having a committee going by the name “State Corporation Advisory Committee” we will now have “Witness Protection Complaints Committee”. This is a standby Committee and it is very important because it is the Committee in which a witness will air or give his or her complaints.

Hon. Speaker, the other thing this Bill seeks to change in its definition is the word “Minister” to provide for the Attorney-General (AG). As you know, before the new Constitution,

we had the Minister for Justice but now we have the AG. So, this is just on terminology. Now, we will have the AG standing in for the Minister.

Section 3 of this Bill is also important in its application in relation to the witnesses. Its application is explicit because it defines a witness as, “a witness giving evidence in criminal proceedings”. It also goes ahead and says: “Also a person who has reported to the police and has written a statement and thinks that his or her life is in danger”.

It also goes ahead to say in Section 3(b) that a witness who is required to give evidence in an inquiry before a commission, court, tribunal outside Kenya - where Kenya is signatory to a treaty can also be said to be a protected witness in the circumstances that are prescribed by regulation. This means that when we come to define or create regulations for this law, we will remember that we are required to define, in further terms, a witness. This is because the Bill limits the definition of a witness profoundly. In these regulations, we need to expand the definition of a witness or who else can become a witness. In Section 3(ii), it also shows who can be protected. A person is protected if he qualifies for protection by various virtues. It may be by virtue of being related to the witness who is testifying.

Hon. Temporary Deputy Speaker, you will notice that a witness may not be harmed in some instances but, they may go after the family of the witness or a person related to the witness. So, when we say that a person can be protected by virtue of being related to a witness, we are saying that any other person who has a relationship with the witness can be harmed and can therefore qualify to be a protected witness. It may also be by virtue of the testimony given by a witness. A witness may appear in court and give testimony that has far-reaching implications so that even before the end of the trial, certain people or suspects may want to eliminate that kind of a witness because of the evidence coming forward. What we are saying is something that happens every day even in our courts. A witness starts testifying and, later on the witness disappears. It is because the witness is not protected and the nature of the evidence he is giving is enough to show that the suspect is guilty and that testimony may lead to conviction. Therefore, the testimony given by witnesses can qualify a witness to be a protected witness.

It also says any other reason the Director of Public Prosecutions (DPP) may consider. So, that does not necessarily limit it to Section 3(ii) but gives leeway for regulations to come and create situations where a person may be declared as qualified to be protected by this law.

Clause 11 which amends Section 3P is very important and profound because it seeks to reconstitute the Witness Protection Advisory Board to align the titles of this board with the new Constitution. If you look at the earlier Act that we seek to amend, it shows that the minister is the chairperson of the Witness Protection Advisory Board but, as I have said, this minister is now the Attorney-General (AG). It also says another member of the board is the Cabinet Secretary (CS) of the Ministry of Justice. We do not have that now. Instead, it brings in the CS, Foreign Affairs but the CS of Finance remains the same. The inclusion of the Registrar of the Judiciary is an important amendment.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Waiganjo, I do not want to rush you. I want you to know that I can see that you had prepared quite well for this presentation. I will give you a little more time. So, expound on your points quite broadly.

Hon. Waiganjo: Very well, Hon. Temporary Deputy Speaker. I am happy to know that.

I was looking at the Witness Protection Advisory Board. I was trying to explain that for this board, even though the amendment we are seeking literally wants to amend the terminology “to align it to the Constitution”, it has also introduced some new people into this board. One of the introductions is the Registrar of the Judiciary. I was explaining that this is an important

inclusion because witnesses testify in courts. So, if we do not have the Registrar of the High Court or of the Judiciary here, we are missing an important person in this board.

The other member of this board is the Director-General. In the earlier Bill, they call him the Director of National Security Intelligence Service who is also an important person to sit in this board. Now, the terminology is the “Director-General of the National Intelligence Service.” That is purely terminology and of course, the Commissioner of Police. We do not have a Commissioner of Police now. What we have is the Inspector-General of the National Police Service. So this amendment is about terminology. Of course, we have the Commissioner of Prisons who is today the Commissioner-General of Prisons. That is another amendment. The other two are the Director of Public Prosecutions (DPP) and the Chairperson of the Kenya National Commission on Human Rights (KNCHR).

I want to say something about the DPP. The DPP is the one who procures and brings witnesses to court. He is the person who prosecutes. As you know, until recently and we still have that problem, Kenyan courts, particularly the lower courts, are prosecuted by police prosecutors. So, the contradiction here is that the police are the ones who arrest a suspect. Then the police come with the suspect and give evidence but---

The Temporary Deputy Speaker (Hon. Omulele): Hon. Waiganjo, you have five more minutes.

Hon. Waiganjo: Thank you, Hon. Temporary Deputy Speaker. I will try to quicken. As they prosecute, they also become witnesses. It is an important inclusion.

In conclusion, I want to look at Clause 14 which establishes a Witness Protection Complaints Committee. This one comes to replace the Witness Protection Appeals Tribunal. This is purely when you want to make a complaint about this agency. This one is also important because the earlier one had only three people: A chair who qualifies to be a judge of the High Court and two others who, in the opinion of the Cabinet Secretary, had experience. That is not a very good qualification. The amendment here brings in a committee of nine members and removes the name “tribunal” and simply calls it a Witness Protection Complaints Committee. This one has a chairperson who qualifies to be a judge, four other people, an advocate of the High Court of Kenya with five years standing; two members of relevant experience on human rights and intelligence and one member who is a retired senior witness protection officer.

Hon. Speaker, this is a very important and timely Bill. The amendments proposed here are profound. They are important and this House should second and support those amendments.

I second this Bill and I thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. Omulele): Hon. Ayub Savula, Member for Lugari Constituency.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker.

First of all, I beg your indulgence. I have lost my voice but I will contribute effectively to this Witness Protection (Amendment) Bill.

First, I thank the Departmental Committee on Justice and Legal Affairs and the Leader of the Majority Party for bringing this important Bill to this House. It is to ensure that we standardise our criminal justice system to the international levels and at the same time align it to our current Constitution. This is important in the sense that, whereas voice and tone of witnesses against a criminal suspect are concealed at the International Criminal Court (ICC), it is totally

open in Kenya. This Bill brings in a new mechanism on how to protect the witnesses through the Witness Protection Complaints Committee that comprises of individuals with high standing morals and qualified to manage witness protection issues in the society.

Secondly, at the ICC, the physical identities of witnesses are also concealed but, witnesses are totally exposed in the Kenyan judicial system. If they lose the case or are not behind bars, the suspected criminals can retaliate. This is totally dangerous to witnesses. This Bill brings in new issues or instruments that discharge issues that will protect witnesses from being subjects of murder.

Thirdly, the Witness Protection Bill as amended also brings in new issues in regard to regulations in the criminal justice. The fear of witnesses to go and adduce evidence in court will be a thing of the past because witnesses will use the same law to ensure that they are protected. In the Kenyan judicial system, we have lost many cases because of the fear of individuals going to adduce evidence in court. With this new law, we are going to see many criminals or suspects put behind bars. There will be sufficient evidence to lock them in. Many suspects of corruption cases have gone scot-free because when they appear in court for the first, second and third mentions, the judge or magistrate has no option to continue prosecuting the case because there are no sufficient witnesses to provide evidence. There was no clear way on how a witness can be protected in such circumstance. The witnesses were totally exposed and they were at large living like animals in the jungle. Once a suspect is set free, he or she goes back home and makes sure that he puts in place mechanism to retaliate, hence leading to murder in the villages. Examples are in land cases.

Hon. Temporary Deputy Speaker, I know you come from a place which leads in murder cases: Emuhaya and Luanda. This Bill is going to ensure that we protect our fellow Kenyans who are willing to expose criminal suspects, including the corrupt elements in the society. It will also ensure that the institutions of justice protect witnesses and ensure criminal suspects are jailed because of sufficient evidence.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Francis Waititu, the Member for Juja.

Hon. Francis Waititu: Thank you, Hon. Temporary Deputy Speaker. I wish to support the amendments. If you look at our courts today, many witnesses do not come to court because of various reasons. They are under threat, especially on land issues, which has been a big problem in our country.

If you look at cases in Kiambu County, there are land criminals who try to take land from our people. I like going to the courts and sometimes when I visit the courts, I find witnesses around the court yard, but they cannot go into the court because they fear for their lives. When this Bill which protects them gets enacted, the work of the Judiciary will be easy.

In other countries, witnesses are paid to come to court. They stop going to their places of work to help the country as witnesses in the courts. In some countries, witnesses are paid some travelling allowance to go to courts. The court may be away from their county or constituency. When we pass this Bill, we will see a lot of changes in this country.

Many people would like to be witnesses in court. At the police stations where witnesses are assigned to go and give evidence in court, you find that even the police get a rough time to bring the witnesses to court. If we all support this Bill, we will have people going to courts and giving evidence.

In other cases, witnesses are compromised because their lives are threatened. We have seen many witnesses being killed in this country. Sometimes they are told: if you do not go to court, we will give you money. They take the money because they do not want to die. So, with the enactment of this Bill, this country will change.

I support, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): Could we hear from Hon. Muhia, the Member for Nyandarua?

Hon. (Ms.) Muhia: Thank you, Hon. Temporary Deputy Speaker. On a light note, at least, Hon. Okoth has come. I was sympathising with their side, as all Members seem to be around discussing other matters.

This is a very important Bill. We just concluded The Hague cases. Some of the witnesses claimed they could not give evidence because they were not properly protected.

I would like to start with the issue of hired witnesses. We had the experience of several hired witnesses in The Hague cases. It also happens even in our normal courts. A lot of evidence is lost. Due to insufficient evidence, cases are never concluded. As cases are never concluded, justice is denied, especially on rape cases. As a County Member of Parliament, I come across many rape cases. Unfortunately, today even the boy-child is at a risk of being sodomised. Every morning and lunch hour when you listen to news over the radio, parents are crying; rape cases are all over. These people live with us, but no single woman or elderly person is willing to go to court or police station to testify. People are afraid to express or explain the real situation for fear of their lives. As a result, crime has continued to increase day by day. At the end of the day, criminals enjoy because no one can go to court or police station and report them.

When we talk of rape which happens to people we live with, we cannot forget to mention terrorism. Life has changed and you can easily know that children are being radicalised. But there is no one strong Kenyan able to come out in the light and say that children are being radicalised. As a result, when something happens, every other person says: "I was suspecting it would happen", when the damage is already done.

It is important to have the Witness Protection Act amended. It should continue to be amended until it suits us because life is changing, criminals and crimes are changing time and again and people live in fear on a daily basis. They do not compare the fear to the crime or to the threat to their lives, but only because they feel threatened because they are not protected. Justice can now be done because evidence will be there and cases will be concluded well.

As I finish, even our policemen and women, the men and women in uniform, are also afraid of their lives in spite of their job training. At the same time, these people still live with them in the camps, villages and towns and they are also exposed. The issue of exposure will be minimised. As a result, crime will be curbed.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Omulele): We shall now hear the Member for Kibra.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker. I am happy to contribute to this Bill and support the amendments proposed. This Bill is very important because it applies to all manner of crimes and criminal cases where we seek the course of justice, from very low-level, petty crimes to very major international crimes and crimes against humanity.

Let me give you some pertinent examples. This Sunday, the *Sunday Nation* published a major story about supposed extra-judicial killings in my constituency of Kibra. There exists squads of officers who take the law into their own hands and act as the jury, judge and

executioner, and cases of mob justice. But we have to think through the context. It is an issue that has bothered people in my constituency.

Often times, young men predominantly accused of crime in Kibra Constituency and many places like Mathare and Korogocho, are arrested by the police and their cases are supposed to be processed. As soon as they get bail, they come back to the community and intimidate witnesses and the cases are dropped, which leads to a high sense of frustration and miscarriage of justice and therefore, the society loses faith in the system. The witnesses do not testify because of harassment, consequently they withdraw the cases and crime seems to continue. There is a sense of victimhood. That desperation leads some citizens in the constituency to engage in acts of mob justice and lack of mercy. They say: "We do not trust the due process and we will take the law into our hands." We should make sure we have a robust witness protection regime in this country which makes sense. It should be practicable, well-funded and that which applies at all levels, from the issues of petty crimes. I have given examples of Kibra where, if witnesses are protected cases can proceed in a proper manner and witnesses can testify and it would make a huge difference and promote the question of access to justice.

On the global level, the questions of access to justice and the rule of law are not new. It is actually an international issue being debated now. Just two weeks ago, the world community converged in New York to discuss the 17 Sustainable Development Goals (SDGs). Goal No. 16 pertains to the rule of law and access to justice. This is an issue that, for me as a member of the Human Rights Caucus, is very critical.

We recently passed the Access to Information Act in this country. I must applaud the Members of the 11th Parliament and members of the Human Rights Caucus who made sure we pushed through and passed the Legal Aid Act. Access to justice and the rule of law issues are very fundamental for sustainable development when you think about it holistically.

Kenya was a champion last year in leading the agreement of the community of nations to the UN SDGs. As we marked the first year of those goals, I think it is high time the National Assembly created a Select Committee or a special caucus on the SDGs, which will look into not just this goal on the question of access to justice and the rule of law, but also into other important goals such as the right to food, elimination of extreme poverty, quality housing, access to education and gender equity. These are important issues under the SDGs arena. I think the House will be well served to do so.

I like this Bill because it matters in the contribution towards goal No. 16 on access to justice. I will give you another story in our headlines right now. Without proper mechanism of witness protection, a lot of cases end up with intimidation.

The Member for Juja has just given the example of issues of land cases. He spoke very articulately about that. But it is even in cases of rape. Hon. Muhia has also mentioned those issues.

Today the headlines in our media are about Members of the Kisii County Assembly who, it seems, engaged in statutory rape by spending weekends away and doing things that I cannot mention on record with underage school girls. This is what is called statutory rape. Without attorneys acting in brief and watching over that case carefully, those girls are at risk of being intimidated by these powerful MCAs and community forces to make sure that they drop their complaints or they do not appear as witnesses and let the case collapse. We need this law to work well so that the course of justice can run. The girl-child and all other vulnerable members of society who may seek justice in Kenya, but have major fears must be protected.

When we talk about access to justice and the rule of law, this Bill is not the only one that goes in there. When you talk about witness protection, there is a set of complicated issues for which I will not just lament. I am proud to report that I am taking steps. I have successfully, through the Departmental Committee on Justice and Legal Affairs, proposed two Bills that are pending publication. Hopefully, sooner than later, they will be tabled in the House for debate.

There is the Protection Against Torture Bill. The anti-torture Bill is important because Kenya is a signatory to the Convention against Torture Treaty, but we have not had a law that deals with those issues. Torture does not start from simple issues. Torture, in its logical end, is often perpetuated by some of our law enforcement officers, security agents and some private actors. Torture conclusively ends up in death and murder of witnesses. Recently, we had the cases of lawyer Willy Kimani and his client in a case in Mavoko. An innocent taxi driver was also caught up in that scenario.

So, we need a prevention of torture Bill that reflects not only the convention against torture, principles we have signed up to, but also the requirements of our Constitution. Our Constitution in Articles 25, 29 and 52 talks about torture, dignity, proper treatment and prohibits torture, but the Constitution prohibiting torture needs an enacting legislation. We are pushing for that. Once we have the Prevention Against Torture Bill in place, I am sure it will work in tandem with the Witness Protection Bill which will be more robust through these amendments to make sure that people's rights are protected.

The other part is seeking of evidence. I have proposed a National Coroner's Service Bill. A coroner is a medical official, quasi-judicial official who is required by the State to investigate, manage scenes of crime involving unnatural death, document and give official rulings, even request for inquests and give rulings on the causes of deaths that are considered unnatural. This is another Bill that is very important because if you think about inheritance law, family law and insurance issues, the number of Kenyans who die in suspicious circumstances that cannot be properly explained is very high. We need the National Coroner's Service Bill. I will plead with the House as soon as Departmental Committee on Justice and Legal Affairs has brought the Bill for the First Reading to help us to understand it and support its passage in this Parliament before it dies and we go for elections. That Bill will help Kenyans in all sectors of the country.

I would like to finish by pointing out the provisions of Clause 29(3)(b) of this Bill, to give another example of the amendments that are coming here and which I support very much. It talks about the use of foreign and cooperation of foreign witnesses and foreign agencies in cases within Kenya. These provisions give us guidelines and mechanisms under which witnesses and agencies from other countries can cooperate and get their witnesses protected to pursue the course of justice and promote it in Kenya.

There was a case of the Chickengate Scandal in the Independent Electoral Boundaries Commission (IEBC). It was prosecuted in the United Kingdom. The evidence, the court records and files were granted to Kenya but no prosecution has happened yet the witnesses and co-conspirators in that case are sitting in jail in the United Kingdom. The Government of Kenya has already accepted compensation arising out of those cases. So, the money will be given back to Kenya, but no prosecution has happened in Kenya. Clause 29 of this Bill provides for that in a very important manner.

I support this Bill fully. It is timely so let us pass it and make sure that in the whole context of sustainable development goals, access to justice and rule of law we will have a more robust regime. It not just this law by itself. It is important to help us enjoy access to justice, have a proper legal system and the validity of cases that run in our system, probability that cases will

be fully prosecuted and not knocked out on technicality of missing witnesses. I dedicate myself to make sure that other parallel Bills that ---

The Temporary Deputy Speaker (Hon. Omulele): You can have a minute more.

Hon. Okoth: As I conclude, this Bill is timely and important, but like the feet of an African three legged stool, we cannot have a stool with one leg. It will need other legs and laws. It is our duty to do that. I commit myself to the passage of other relevant Bills such as the Prevention Against Torture Bill and the National Coroners' Service Bill that will work together to make sure that we have a stable and successful legal system.

With those remarks, I beg to support. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Omulele): That is a very good presentation. Could we have the Member for Murang'a?

Hon. (Ms.) S. W. Chege: Thank you, Hon. Temporary Deputy Speaker. I ask you to protect me from the Hon. Member for Nakuru Town East Constituency.

I support this Bill. Witness protection is a very sensitive issue. We have incidences in this country where people cannot give information because they are not sure once they give the information what will happen to them. We have had sad incidences where lives have been lost. We had the recent case of lawyer Kimani. It is high time as a nation and with the new Constitution, we came up with proper amendments to this Bill to protect witnesses.

We have had issues of terrorism and even minors getting molested, especially in my county where we have many cases of sexual offences. Parents and neighbours are afraid to talk about them because they think they are going to be victimised. We have the drugs issue which is a big elephant and disaster in this nation. The nature of business and the money that changes hands on drug trafficking makes it impossible for anybody with information to even mention names or give it because they do not know what will happen to them.

It is high time this nation took up issues of drug abuse and trafficking as a national disaster, and provided protection to people who can give adequate information about who the drug barons are and where the drugs are sold. Sometimes, when it comes to issues of terrorism, we might as a nation need to protect witnesses and even evacuate or move them outside the country. It is important that we pass this Bill so that we have a proper way of securing witnesses even outside this nation. We have had cases where witnesses' homes have been burned and where parents have lost lives and livestock. It is also important we make sure that the agency has a proper budget. Relocation and protecting these people and giving them a secure place to live require money.

I support this Bill. It is high time this National Assembly supports and passes it. The saddest part is that sometimes we pass many good laws in this House, but their implementation takes ages. I hope the relevant agency will take it up as soon as we pass it and start its implementation.

Thank you.

The Temporary Deputy Speaker (Hon. Omulele): Let us have the Member for Nakuru Town East. I am thinking of protecting you from the Member for Murang'a. She will not harass you.

Hon. Gikaria: The Member for Murang'a is my friend. Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity and more so the Committee for proposing some of these amendments.

We will start with the other things that we need in the Committee of the whole House to propose some amendments.

Clause 17, for example, provides for how long a witness can be protected. It must be clarified. It must be very clear on how long the Government can protect a witness. After a while, they can be released to normal life. It is important for us to think in line with what Ms. Wanjiku Muhia said that at The Hague people were recruited to be witnesses because of financial gain. It is important for us to be very specific. The Act should be very clear for how long a witness can be protected. If we allow this country to protect a witness forever, it may not be tenable.

The issue of change of names needs to be looked at. Whether you call somebody a director and they are going to sleep on their jobs, it will not change anything. The most important thing for us to do in this Bill is not to change titles and names of people, but for the officers to know their mandate and responsibilities; what they are supposed to do. I remember in one water company in Nakuru, a meter reader was made a water analyst. It does not change. They will still continue with their corruption deals whether you call them meter readers or water analysts. Even if we change these names in this Act, will it bear fruit? Just as the County Women Representative from Murang'a has said, it is important for us to get the results. We make very good laws but the implementation aspect becomes a problem. Some of these laws are repeated. We also need the services of our Parliamentary Legal Department to look at some of these laws to ensure that we do not repeat them. You find that we introduce issues which are already in law yet they have not been implemented. It is important that as we move to amend this Act so that it becomes law, the people bestowed with the responsibility to implement the law do so. Otherwise, as it has been said, most of the people who have been given this responsibility end up taking sides when they are supposed to make a certain decision.

In Clause 22 where the Attorney-General (AG) has been given powers to delegate, we must be very careful up to what level the Attorney-General should delegate. If we allow the AG to delegate almost everything, he might not want to work. If he is given blanket powers to delegate under Clause 22, he might sleep on his job. Because he is the one who is answerable as the Government adviser on legal matters; those delegated powers must also be limited. If we allow him to have those powers, he might not be able to do his normal work.

Generally, witnesses are supposed to be protected in this country. Other than the protection, there must be some financial element involved in protecting a witness. This is important. We have said that the agency must get its money from the Consolidated Fund, which is a very good idea. We have seen the Director of Public Prosecutions (DPP), the Auditor-General and many other offices complain that they cannot undertake their work because they do not have enough funding. It is also important that as we make laws, there must be equal funding provided so that they do not have a limited budget and are unable to undertake their mandate. It is important for us to do that. If we do not give enough money to the agency bestowed with that responsibility then it is going to be---

We will need to discuss the audit aspect of this security organ. It has been there in the past but it has never seen the light of day. We want to audit security organs. There has been huge resistance from the concerned departments. We need to determine whether it is tenable for us to audit those security organs. It is important because security matters are very sensitive. If we allow it to be audited, it might jeopardise the good work that the agency is supposed to undertake.

There is a clause in this Bill to criminalise any person who harasses a witness. It is something that should be encouraged. We have seen people who, whenever they receive their summons, say that they do not want to attend. This country loses a lot of money through

wastages in court time because of lack of evidence since people refuse to go and give evidence. This is because they were harassed or threatened.

In conclusion, as it has been indicated, the qualifications for a witness to be protected must be quantified. We need to determine the levels of protection, who will be protected and in what case they will be protected. Maybe we can make an allowance for those huge criminal cases. Everybody might want to be a witness and seek protection. The Act needs to identify the cases in which witnesses can be protected under the law.

With those few remarks, I support the Amendment Bill

The Temporary Deputy Speaker (Hon. Omulele): Since there is no more interest in this matter, could we have the Mover replying? Let us have Hon. Waiganjo.

Hon. Waiganjo: Thank you, Hon. Temporary Deputy Speaker. I want to thank the Members who have made very insightful contributions to this Amendment Bill.

Most of the debate has revolved around how we can harness and make the Witness Protection Bill much better. The amendments proposed seem to have covered most of the areas. Clause 22 on giving the Attorney-General powers to delegate has been deleted. The AG does not have blanket powers to delegate.

Clause 23 seeks to amend Section 36 of the parent Act by creating a new proviso that provides that the AG may make regulations for or with respect to any matter which by this Act is required or permitted to be prescribed or which is necessary or expedient for the carrying out or giving effect to this Act. What we are saying is that even as this Act is amended, some regulations need to be created that will not only operationalise it but depending on what is in the mother statute, the regulations that we make must be very expansive so that the carrying out or the operationalisation of this Bill must be grounded on very firm statutory provisions. Therefore, the new Section 36(2) has brought in the Chief Justice (CJ) because most of these matters are heard in court. The Chief Justice is not only the president of the Supreme Court but he is also the head of the Judiciary. The Registrar of the Judiciary has also been looped in to sit in the board. In this Bill, the Chief Justice is also required to make practised rules so that even in the proceedings of these matters in court, he will from time to time make rules but in consultation with the AG. This is important because as the law is applied, jurisprudence is created. When you create jurisprudence, it follows necessarily that you have to also make amendments to the law, create case law or create practice rules to harness and to bring a good symbiotic working or application of the law.

This is a law that will not only amend certain provisions but make sure that the practice within our courts is well taken care of. The application of this law is the key to our criminal justice system. It is the key to the provisions that will make sure that the mandate of the bill of rights in Chapter 4 of the Constitution is clearly carried out.

In our courts today, most criminals are acquitted. This is not because they did not commit crimes but sometimes when judges are giving judgment, they normally say that their hands are tied because the evidence that was produced was not enough to convict the suspect. Criminal jurisprudence requires that a conviction must be done when evidence is beyond an iota of doubt. The onus is on the victim. Most witnesses are also victims of crime. If you are a complainant or a rape victim, you will be the first witness. So, if you give evidence without protection and you do not know that there exists the Witness Protection Act, then you are more likely to lose.

Secondly, the police officer might not be sufficiently abled in terms of capacity to bring out your evidence. On the other side, the accused person has a defence counsel who is an advocate of the High Court of Kenya. You will realise that evidence is abused. As a victim of

rape, you will not even have any other witnesses who are willing to testify. Criminals are set free in most cases because witnesses are reluctant to testify.

Hon. Temporary Deputy Speaker, this is not just a matter of making the law. I agree with Hon. Gikaria that we have laws but we need to enforce them. These beautiful pieces of legislation require concerted efforts for them to be implemented. Concerted efforts can only come from the agencies that make sure that criminal justice is served. The Judiciary must expedite matters before them. The Judiciary has the role of determining matters that can be heard in-camera or in open court depending on their sensitivity. The Judiciary must create infrastructure where witnesses can testify without being seen. As the Judiciary rolls out the infrastructure of our courts, they must make sure that the dock where the witness stands is protected. They must determine matters that are open to the public or even the media. This law creates an environment where we will have more convictions of criminals. We will also encourage more people to come out and testify.

Hon. Temporary Deputy Speaker, we have *pro bono* lawyers in our courts. In murder trials or crimes that attract capital offences, we have the Chief Justice with a panel of advocates coming to represent murder victims on *pro bono* basis. We now have access to justice because we passed that law. The Access to Justice Bill should be expanded. Our system requires that prosecutors are given more capacity. We need to give attractive remunerations to advocates who join the Office of the Director of Public Prosecutions (DPP). I am happy that the Departmental Committee on Justice and Legal Affairs has committed a lot of funds to the Office of the DPP to attract more advocates who are in private practice to join the Office of the DPP as prosecutors. That will ensure that whenever there is a matter in court we get proper convictions.

I am happy that every effort is being made but we must make sure that the criminal justice system is regularised so that we get more convictions. We should get more people going to court without fear or favour.

In some cases, you cannot just protect a witness for a while. It is a lifetime responsibility. Even if a criminal is given life imprisonment, it does not mean that the witness is safe. This is because there are people out there who might harm the witness. We talked about drug trafficking. The Member for Murang'a said that drug traffickers or human traffickers have a cartel. One drug trafficker might go to jail but the others will be out hunting witnesses who testified in that case.

I am happy that the membership of this House has debated this Bill. I believe the Attorney-General will create profound and good regulations and bring them to the Committee on Delegated Legislation so that we can operationalise the Bill. We should make sure that Kenya gets a good Bill: One that encourages our witnesses to be free to go to court to testify, but not ending up as victims of crime.

We must also give proper allowances to our witnesses. We have few instances where witnesses are compensated. This country must budget for the witnesses fund so that witnesses are properly funded when they come to court.

I want to thank Members who ably contributed to the Witness Protection (Amendment) Bill.

I beg to move.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Waiganjo, you have spoken from a wealth of experience obtained from the practice of law. I am enriched by what you have presented.

Hon. Members, for obvious reasons, I will not put the Question. I will direct that this matter be set down at the next sitting of the House for purposes of putting the Question.

Next Order!

(Putting of the Question deferred)

Second Readings

THE COMPETITION (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, I note that the Mover of the Bill is not present. Therefore, I defer this business to the next sitting of the House.

(Bill deferred)

THE INSURANCE (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, I note that the Mover of the Bill is not present. Therefore, I defer this business to the next sitting of the House.

(Bill deferred)

THE NATIONAL YOUTH SERVICE BILL

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, I note that the Mover of this Bill is not present. Therefore, I defer this business to the next sitting of the House.

(Bill deferred)

THE COUNTY EARLY CHILDHOOD EDUCATION BILL

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Speaker, I beg to move that the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) be now read a second time.

This Bill is a linkage with the Constitution on the Basic Education Act 2013. Article 15 of the Constitution provides for the rights of a child, which includes the right to free and compulsory basic education. The Basic Education Act gives effect to that constitutional provision. Therefore, the Bill provides a welcome linkage between the Constitution and the Basic Education Act 2013, to provide an integrated framework for a comprehensive strategy for Early Childhood Development Education (ECDE) that has been missing.

There is provision for the involvement of the county governments in education in the Fourth Schedule of our Constitution. This Schedule addresses distribution of functions between the national Government and the counties. One of the functions assigned to the county governments is the management of free primary education and child facilities. Therefore, the Bill provides locus for the involvement of the county governments in fulfilling their constitutional obligation.

At the outset, I would like to mention that as a Committee, when we went through the Bill, we saw that the Senate did a good job. However, there a lot of amendments we will move in the Committee of the whole House. I want to bring to the attention of this House that when the Bill came before the Committee, it was meant not to be a money bill and we know that the Senate cannot originate a money Bill. However, as we went through the Bill, we found several contradicting issues within the Bill. So, as a Committee, we will seek the advice of the Speaker so that we can be very clear on the issues that this Bill should address. I would like to bring to the attention of the House Article 235 of the Constitution. This Article outlines the issues about the staffing of county governments. Article 235 (1) of the Constitution clearly states:-

“A county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—

- (a) establishing and abolishing offices in its public service;
- (b) appointing persons to hold or act in those offices, and confirming appointments; and
- (c) exercising disciplinary control over and removing persons holding or acting in those offices.”

Article 235 (2) of the Constitution says:-

“Clause (1) shall not apply to any office or position subject to the Teachers Service Commission.”

So, we will seek the advice of the Speaker because when you go to Article 237 of the Constitution, the mandate of the Teachers Service Commission is clear. Part of it is that there will be establishment of TSC. It says that the functions of the Commission are to register and train teachers and to recruit and employ registered teachers. Sub-article (c) says: “To assign teachers employed by the Commission for service in any public school or institution.” The big question the Committee is asking itself is whether the ECDE teachers are meant to be employed by TSC. I am a trained teacher by profession. We have ECDE teachers who have even gone to Masters and PhD level and they are registered by TSC. That is where the Bill will turn to become a money Bill, because if we say all teachers should be recruited and deployed by TSC, that then means that the ECDE teachers should be included. They cannot be discriminated because they are trained just like any other teachers. Actually, some of them are better trained.

Let me just go back to the Bill. The objects and purpose of the Bill is to provide a framework for the establishment of a comprehensive ECD education system and infrastructure that is needed to support the provision of quality education. It is also to provide the delivery of quality early childhood education and to provide a framework that enhances the quality of efficiency in the early childhood education.

Hon. Temporary Deputy Speaker, if you go back to your village and try and locate an ECDE centre, you will find that majority of them are either privately owned or those that are owned by the public are not well managed. They are left out. Until some of the governors have taken up the role to rehabilitate these schools, they have always been left out. The big question is: Are we serious with education as Kenyans? The foundation of education is at the ECDE centres at the early childhood level. The Government should be more serious to take care of the ECDE centres. The whole push and pull on who should be responsible should stop. We should advocate for all the ECDE centres to enjoy free education. The guiding principle we have is the constitutional right to free and compulsory basic education, but you find that in a lot of the ECDE centres, the parents are paying. It does not make sense for you to pay for a child when they are in nursery school and when they get to class one, the Government provides free

education. That means that if there is any child who is not allowed access to education at that ECDE level, they cannot access class one education. It is important for that harmonisation to be done by the Government.

Clause 5 expands the right to free early education and articulates the issues under Article 53 of the Constitution. That is why we actually would like ECDE to be free for all.

When you go to Clause 7, it is the duty of parents and guardians to ensure that all children attend school. We give the parent this duty to ensure that all children attend school. We should not limit the children of the poor parents from having access to these institutions. We have a duty. I said this Bill had called the heads of these institutions principals. As we move to the Committee of the whole House, we will amend that because all ECDE heads of institution are head teachers.

Clause 8 gives the head teachers the duty to investigate when a child fails to attend classes in an education centre. There is also a provision in this Bill where children with special needs--- It actually gives an obligation to education centres to make sure that these children are not discriminated against but have access to not only the ECDE centre but safe and child-friendly education. So, this Bill also looks at the structures of the schools or institutions that want to become ECDE centres. What kind of facilities and curriculum is there? Clause 9 provides that, especially for the children with special needs.

Clause 10 provides for establishment of public ECDE centres by county governments. This is an obligation that makes sure that none of the county governments will be left out in having public ECDE centres. I say public because a lot of our ECDE centres are private institutions.

Clause 11 sets out the procedure for registration of ECDE centres, the criteria for registration and circumstances under which the registration of such a centre may be revoked. At this point, it is good to mention that all registered centres before this Bill comes to effect--- When the Bill comes to effect, there is a transition clause on how they will make sure that they conform to this Bill.

Clause 13 provides the requirements for registration, which is very clear. Clause 14 makes it mandatory for those who offer basic education under the Basic Education Act to apply to the County Education Board for registration for purposes of offering early childhood education.

(Several Hon. Members consulted loudly)

Hon. Temporary Deputy Speaker, I wish to ask my colleagues to consult in lower tones so that I am not distracted.

The Temporary Deputy Speaker (Hon. Omulele): The Member for Murang'a will be heard in silence.

Hon. (Ms.) S. W. Chege: Thank you, Hon. Temporary Deputy Speaker, for that protection. I will move to Clause 22, which deals with changes of premises of an ECDE centre. The changes must be notified to the County Education Board. Hon. Temporary Deputy Speaker, you have heard people coming up with centres and within a short time, they relocate or change and this affects children.

Clause 25 deals with cancellation of registration certificate and provides for circumstances where this may be done and steps to be taken before the cancellation. I also want

to mention that within the Bill, there is an appeal tribunal, where in case you feel the closure of such an institution is unfair, you can appeal.

Part IV of the Bill provides for the management of ECDE centres and establishment of a board of management. When we sat as a Committee, we actually agreed that these institutions will be run independently, whether there is a public primary school or not. This is because many times, we take ECDE centres as a second thought.

When you go to Part V, there is a provision for administration of early childhood education system in the county and a section that deals with the recruitment of ECDE teachers. This is where I said I will be looking for guidance because the issue is who recruits the teachers. Is it the county governments or the national Government through TSC?

Part VI deals with accreditation of an ECDE centre intending to offer a foreign curriculum under Clause 54. We have had incidences of institutions that offer foreign curricula in this country. This part gives a clear guideline of anybody who intends to offer foreign curriculum. The guidelines are there and how the application of accreditation should be done.

Clause 61 in Part VI gives the requirement that a certificate of accreditation is to be returned to the County Education Board on expiration. Again, we are going to amend this because if a certificate expires, you just need to apply for another one. It has expired and you do not have to physically return the certificate to the institution that offered it.

Part VII sets out the quality of education and standards required to be maintained in the ECDE centres. It also provides for the establishment of an Early Childhood Quality Assurance Committee to ensure the implementation of policies, and we will be still doing further amendments on this. We do not want duplication of duties. We have a whole department under the Ministry of Education, Science and Technology dealing with quality assurance.

Hon. Temporary Deputy Speaker, curriculum is a national issue, it is not a county government issue. When you look at the education standards and when you look at the national standards, we should not have different quality assurance groups. They can be assisted but we have a whole department where quality of education in this country is dealt with and implementation of policies done. This is under the Ministry of Education, Science and Technology.

Part VIII provides for maintenance of safety in an education center and the management board is mandated to ensure this by providing various safety tools such as firefighting equipment, first aid kits and a list of emergency contacts among others. We are dealing with children who are vulnerable at that age and so safety cannot be over-emphasized in this Bill.

Part IX on transitional provisions is in relation to existing education centres or schools offering education services, where existing centers will be deemed to be operating in accordance with the requirements of the new law for a period of one year, but the County Education Board may require such a center to apply for registration again just to ensure that they conform to the set standards.

Part X is about the establishment of a fund to sustain ECDE centers. That is where we are going to compel the Government of Kenya to make ECDE centers free so that each and every child in this nation can access early childhood education.

If this legislation is enacted, ECDE, which is part of the basic education, will be free and compulsory. Through the Bill, a mechanism for establishment of infrastructure for children with special needs will be put in place, in line with Article 54 of the Constitution. The Bill recognises the need for learners to join early childhood centers without being subjected to any entry interviews as outlined in the Sessional Paper.

I remember at the time we were joining ECDE centers at my area, we were required to put a hand across our heads. If you could not touch your ear that meant you could not access education. Some of us have some challenges. Others have special needs so we will have clear regulations and laws on who should join. There will be no limitation or interview at that early age to join an ECDE center.

The Bill recognises the need to strengthen school inspection and ensure service delivery at ECDE centers. To equip ECDE centers to ensure that all free primary schools meet minimum quality standards of teaching and learning and provision of ECDE to marginalised hard to reach areas and vulnerable schools through provision of mobile schools is pointed out in Sessional Paper 24.

So, there should be no child in this nation who should miss education because of their locality, marginalisation or background.

Finally, the Bill discriminates in the provision of feeding programmes targeting only cases of malnutrition or children with special nutritional needs. So, we will be looking at the amendments because we feel that we should obligate county governments to feed these children at this early age.

Sessional Paper No. 14 pointed out the need to provide health and nutritional support of children between zero to five years old attending day care centers and schools. The Bill also fails to recognise the learning language to be used by the learners and we will be moving an amendment. The Sessional Paper observed that the language of the catchment area which is the mother tongue shall be used for child care and I want to advocate for this.

In preprimary education and education in lower primary for children between zero to eight years where sign language is required, appropriate means of communication shall be used in the delivery of education to learners with special needs.

So, as I move, I would request that this House moves fast. This Bill is timely. We need to move with it. We need it to become law so that we can protect our young children as they enter education centers.

I beg to move and ask Hon. Ken Okoth to second.

The Temporary Deputy Speaker (Hon. Omulele): Yes, Hon. Ken Okoth to second, but, before he goes on, I just want to tell the Chair of the Departmental Committee on Education, Research and Technology that Hon. Prof. Sambili was my teacher in high school as we discuss this Bill. Hon. Ken Okoth.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker. Yesterday was World Teachers' Day. I think it is absolutely fantastic that the substantive Speaker can recognise the teachers. I argue that in this world today except maybe for mothers in the society, there is no one more deserving of honour, praise, dignity and celebration than the teachers who raise and make us. So, Prof. Sambili, for all those you have taught and for those you continue to teach including myself as your colleague, we honour you for being a teacher. I have been a teacher and I know it is not a joke. Thank you, Prof. Sambili and on World Teachers' Day we celebrate you and put you on the HANSARD as *Mwalimu* No.1.

I rise to second the Bill which my Chair has moved.

Hon. (Prof.) Sambili: On a point of order.

Hon. Okoth: Nothing is out of order. This is a point of excitement.

Hon. (Prof.) Sambili: Is the Member in order not to allow me to accept the great appreciation from the Hon. Temporary Deputy Speaker which I do? Hon. Ken, I also appreciate and I am very glad. Thank you Chair. I support in advance.

The Temporary Deputy Speaker (Hon. Omulele): Thank you *Mwalimu*. I think Hon. Okoth was just anxious to dig in but you are appreciated.

Hon. Okoth: I celebrate all the other teachers because they are heroes in this country, like the police, soldiers in the military - they really do important work- our nurses and doctors. We must celebrate them and I celebrate even the teachers who raised me up in Kibra and shaped me from a very naughty boy to somebody who is contributing positively in society today. I say thank you to all those teachers.

The timing of the Bill in front of us is very important. I wish the Senate had brought it three years ago. Be that as it may, we now as the National Assembly must tackle it and make sure it is done and implemented. It is really one of those core Bills and things that our own devolved county systems and county government need guidelines to fulfill their constitutional obligation. We have been remitting money for basic education to our counties but we have not been sure that our counties have had a standard and guideline by which to implement the basic education provisions of early childhood education.

In the Basic Education Act that exists there are alternative providers for basic education and training guidelines. County education officers and quality assurances officers in this country and in the Ministry have been failing in registration. I see Section 17 of the Senate Bill is actually touching very clearly on the regulations and making sure it will be clear as required. I hope that the people who will be tasked with registration of early childhood centers, will not be lethargic and weak in fulfillment of their mandate. This is because of the way we have seen the Ministry failing in registering the alternate providers of basic education that exist for primary schools and other secondary schools.

Since those regulations were passed in March, the Ministry of Education, Research and Technology has not registered, even one school. This is very sad because we pay people in that Ministry to do a job and for over six months they have not registered even one school. As we look at Section 17 of this Bill that establishes modalities like the transition clauses which talk about a one year transition for all schools and Early Childhood Development Education centres to be registered, I hope that these people will be very diligent, committed and efficient to make it happen.

The second thought that comes to me as I think about this Bill is the question of access, quality and innovation. We have seen that Kenya spends a lot of money in education. I sit in the Budget and Appropriations Committee and the Departmental Committee on Education, Research and Technology. We push a lot of money into our education system. In the 1970s and 1980s, the Kenya education system was a gold standard in the Sub-Saharan Africa and in fact, in many places in the global south. Today, sadly our results have been on the decline. We are not the gold standard anymore despite the amount of money we are investing in education. We are not getting full value for money. I think there is lack of innovation, issues about unions, teacher accountability and results.

Studies that have been done recently show that absenteeism by our teachers is very high. That is why we are not getting quality pass rates and outcomes from our children in public schools. We must think about ways to innovate, bring in technology, different modes of holding teachers accountable and making sure that access to education and the quality of education is available to every child and at every level as a basic human right.

Hon. Temporary Deputy Speaker, this is why I want to tell you that I will soon be proposing, as they have done in the United States of America, charter schools; as they have done in United Kingdom (UK) with what are known as the academy model, that public-private

partnerships exist even in education. I have seen the capitation models which the Ministry of Education, Science and Technology provides to Government schools have been embraced for 10,000 young people, to go to private universities in Kenya which will be funded by the Higher Education Loans Board (HELB). We really need to think about this at the county level for Early Childhood Development Education (ECDE), primary education and secondary education. Where parents choose to send their children to what is not a Government school, they should move to the private provider with a capitation voucher. That private provider must be regulated and meets certain standards. I think that will help. We must cap it at 15 per cent to bring more players, provide capacity, quality and innovation in the education sector. I will be moving a Charter School Bill to copy that and bring that model to our primary and secondary schools.

As I look at this County Early Childhood Education Bill from the Senate, I have sections that I want to commend. I think they are very important. The recruitment of ECDE teachers on Section 38 will be very important. We have to be careful to avoid the issue of ghost teachers and inflated recurrent expenditure of the county governments. We must make sure that the way we recruit teachers at this ECDE centres will be performance based. They can be evaluated for their outcomes and that they will also have mobility to teach across different counties based on their experience.

The second issue we are talking about is administration. From a human rights perspective---

(Hon. Tong'i gestured to Hon. Okoth)

Hon. Richard Tong'i, I am seconding. I am seconding on substance. Please allow me, do not rush me.

The issue of human rights, access and best processes is very important. This Bill is good. I must commend the Senators for including feeding programmes in education centres in Section 51. Holistic development of children is part of the Sustainable Development Goals (SDGs). There is a goal on food and nutrition and it will be important.

Section 69 of the Bill touches on prohibition of corporal punishment. Corporal punishment is a crime. It is a crime as designated in the Constitution of Kenya and in the Basic Education Act and I am happy it has been clearly reiterated in this Bill. It is something we hope will be implemented in our Early Childhood Development Education centres.

There is a lot to speak about in Section 4(c) of this Bill and I know time is running out. It talks about the principles of early childhood education. One of the principles I found very commendable is in 4(c) which talks about holistic approach. Under that, for the Kenyan education system, we must rethink it. We have been so academic and test-oriented. It is time we embraced it not just at early childhood education levels but at all levels; a holistic approach that takes care of issues like sports. Our Olympian athletes are some of the best but, there are other sports we need to do.

On issues of culture, arts and identity, we must make sure that our early childhood education addresses that. The spiritual needs, values and morals as well as the academic foundation should be considered. In countries such as Norway, learning through play and learning the skills of joint effort, working with teams and things like that is so important. But, we must also give flexibility for regional appropriateness and adaptation of our early childhood education. The local language used in certain areas, the lifestyle and the economic heritage of the

people is important. It is something that must be looked into as we consider what a quality and holistic childhood education will look like.

Hon. Temporary Deputy Speaker, I am going to mention something on Section 7. I am concerned with where it says “parents will be liable for not taking their children to school to a fine or possible jail term.” Parental choice is important in the education of their children and protection of that right. We must consider procedures for home schooling because there are parents who do home schooling. Home schooling can be equivalent to formal schooling which we must make sure we do not criminalise. I think there is an overlooked thing there that we must pay attention to.

I had prepared many things to say but I know that time is not on my side. So, I will go to one last section which I thought is important to touch on. It is the question of Section 17 and 20 of the Bill; the criteria of what a school should look like.

I like Clause 17, which is very clear except when it goes to Clause 20 and it limits the size of a school and ties it down to the acreage of land. That is unfair and untenable. In a place like Kibra, I have 13 villages where to get land even the size of a postage stamp to set up a school will be very hard. When you think of young entrepreneurs who cannot afford much land, but have the idea to set up a small school that will be of high quality, we will be locking them out of this game. So, we need to review that.

The size of a school is not determined by how much land they own especially in some urban areas like Mombasa and Kisumu.

The Temporary Deputy Speaker (Hon. Omulele): Hon. Okoth, you have less than a minute to second.

Hon. Okoth: Hon. Temporary Deputy Speaker, you will find that even public schools find it hard to meet the criterion that is set for the minimum acreage of land. So, this Bill is timely. Let us support it and ensure that it is inclusive and it helps Kenya to rise again because the foundation of our children in the first few years is very important.

Let us make sure it is inclusive and where there is talk about fees, let us not discriminate. There are poor people in this country like refugees, asylum seekers and stateless persons who under the current guidelines proposed in the Bill in Clause 39, for instance, will be required to pay fees to send their children for basic education. We must make sure that we take a step back from that and make sure that any child who lives in Kenya can go to school and not just a child whose parents are Kenyan citizens.

With those few remarks, I beg to second and hope that the House will do justice to this Bill in the coming week. I am certain they will and promote education as my policy and philosophy is education first or *elimu kwanza*.

Thank you.

(Question proposed)

ADJOURNEMENT

The Temporary Deputy Speaker (Hon. Omulele): Hon. Members, the time being 6.30 p.m., the House stands adjourned until Tuesday, 11th October 2016 at 2.30 p.m.

The House rose at 6.30 p.m.