

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 10<sup>th</sup> February, 2016

The House met at 2.30 p.m.

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### DISCHARGE OF MEMBERS FROM COMMITTEES

**Hon. Speaker:** Standing Order No.176 relates to the discharging of Members from Committees of the House. Specifically, it states as follows:-

“176. (1) The parliamentary party that nominated a Member to a select committee, may give notice, in writing, to the Speaker that the Member is to be discharged from a select Committee.

(2) The discharge of a Member shall take effect upon receipt by the Speaker of a notice under paragraph (1).”

To this end, I wish to report to the House that I have since received correspondence from the Minority Party Chief Whip conveying the decision of the CORD Coalition to discharge the following Members from their respective Committees:-

1. Hon. Regina Ndambuki, MP, from the Departmental Committee on Administration and National Security and the Joint Committee on Parliamentary Broadcasting and Library;
2. Hon. John Munuve, MP, from the Departmental Committee on Energy, Communication and Information and the Departmental Committee on Justice and Legal Affairs; and,
3. Hon. Joe Mutambu, MP from the Departmental Committee on Energy, Communication and Information, the Procedure and House Rules Committee and the Constitutional Implementation Oversight Committee.

The House and, indeed, the affected Members are accordingly informed. These discharges take effect immediately.

I thank you.

### PETITIONS

**Hon. Speaker:** Hon. Bishop Mutemi, please take your seat.

*(Hon. Bishop R. Mutua shook hands with an Hon. Member)*

Hon. Bishop Mutemi, I was allowing you to take your seat but now you have decided to first of all shake hands.

*(Hon. Bishop R. Mutua took his seat)*

Hon. John Muvu, you may take your seat.

Hon. Members, I have the following two Petitions to present.

#### AMENDMENT TO THE CONSTITUTION OF KENYA 2010

The first Petition is to the National Assembly to amend the Constitution of Kenya 2010 by introducing a comprehensive Bill that incorporates all the constitutional amendments proposed by various individuals and bodies.

In accordance with the provision of Standing Order No.225(2)(b), I wish to convey to the House that my Office is in receipt of a Petition signed by Major (Rtd) Joel Kiprono Kiprop, a resident of Kericho County praying for introduction in the National Assembly of a Bill to amend the Constitution in accordance with Article 256(1) of the Constitution. That is amendment by parliamentary initiative. The Petitioner prays that Parliament publishes a Bill which incorporates all the constitutional amendments being proposed by various individuals, civil society groups, political parties and organizations.

The Petitioner prays that the National Assembly undertakes to amend the Constitution while taking into consideration draft proposals from himself, *Okoa Kenya*, *Tunza Kenya*, *Boresha Katiba*, *Pesa Mashinani* and *Punguza Mzigo* initiatives.

*(Laughter)*

The Petitioner also proposes several amendments to the Constitution in particular Articles 6(1), 7(3), 62(2), 63, 81, 89, 91, 97 and 98 which touch on the structure of the national and county governments, land, official languages and devolution among others.

Hon. Members, the prayers sought by the Petitioner require thoughtful consideration as they propose to fundamentally alter the architecture of our Constitution. This Petition, therefore, stands committed to the Constitution Implementation Oversight Committee (CIOC) for consideration. The Committee is requested to consider the Petition and report its findings to the Petitioner and the House in accordance with Standing Order No.227(2). The Committee should also undertake to hear the Petitioner with a view to hearing the basis of his unique prayers.

I thank you.

Hon. Members, let me read out the second Petition so that if there are any comments you can make them.

#### WAIVER OF VAT LEVIED ON TEXTBOOKS, JOURNALS AND PERIODICALS

**Hon. Speaker:** Pursuant to the provisions of Standing Orders No.225(2)(b), I wish to convey to the House that I am in receipt of a Petition signed by a Mr. Njoroge Waweru regarding Value Added Tax (VAT) levied on textbooks, journals and periodicals.

The Petitioner is concerned that the Value Added Tax Act of 2013 imposed a blanket VAT on textbooks, educational materials, journals and periodicals. He believes that this is an impediment to the realization of the free basic education initiative. The Petitioner further highlights that only two percent of all public secondary schools possess well equipped libraries which affects education standards in Kenya and leads to the parents bearing the burden of purchasing textbooks and other educational materials.

The Petitioner, therefore, prays that the National Assembly, through the Departmental Committee on Finance, Planning and Trade, legislates to waive the 16 per cent VAT levied on textbooks, educational materials, journals and periodicals and makes any other order or direction that it deems fit in the circumstances of the prayers sought.

Hon. Members, pursuant to the provisions of Standing Order No.227(1), this Petition, therefore, stands committed to the said Departmental Committee on Finance, Planning and Trade for consideration. I urge the Committee to engage the Petitioner and report to the House within 60 days.

I thank you.

As usual, if there are any Members who may be desirous of commenting on any of the two Petitions--- Let us have Hon. Aden Duale.

**Hon. A.B. Duale:** I want to comment on the first Petition which brought together *Punguza Mzigo, Boresha Kenya, Okoa Kenya, Pesa Mashinani* and many other stakeholders.

The 10<sup>th</sup> Parliament went into history for enacting the new Constitution. This Parliament will also go into history for implementing the second phase of the Constitution. I am sure the Petitioner from Kericho is a person who believes in the unity of Kenya because he has brought together in his Petition people of different political views. Members of Parliament of this House have different issues on the Constitution. This is because all of us agree in principle that the Constitution needs certain amendments after implementing it for about five years.

All of us across the board agree that now that we have worn the suit of the Constitution of Kenya, we can take it back to the tailor to do the stitches.

I also want to welcome Hon. Munuve to our side.

*(Applause)*

Do not worry. We will sort you out in due course. You have come to the people who love you.

I think Hon. Kamama and Hon. Kuria who was spearheading the Punguza Mzigo Initiative---

*(Hon. (Ms.) Muia crossed the Floor)*

*(Applause)*

Welcome Hon. Regina. I am sure Hon. Regina is also coming to a place where she is loved. We will sort you out in due course. It is about amending the Standing Orders. I am sure if we amend the Standing Orders, we will find a Committee for Hon. Regina, Hon. Munuve, Hon. Olum and Hon. Mwashetani.

Hon. Speaker, this is a very good Petition---

**Hon. Wandayi:** On a point of order, Hon. Speaker.

**Hon. Wandayi:** Hon. Speaker, I am just seeking your guidance. You have just seen two members of CORD cross the Floor formally at the prompting of Hon. Duale---

*(Loud consultations)*

**Hon. Speaker:** Order Members! We must listen to Hon. Wandayi. He is a new Member.

**Hon. Wandayi:** Hon. Speaker, I am not necessarily new. However, the issue here is that I know every Member of this House is free to sit anywhere. That much I am aware of. However, the manner in which those two Members have crossed the Floor is such that it amounts to a formal defection to the other coalition. Could you, therefore, make a ruling as to whether or not those Members have formally crossed to the other parties?

Thank you very much.

**Hon. Speaker:** I am sure Hon. Wandayi wanted to excite himself. That is why nobody else is excited except himself. Which Floor has been crossed and by whom? There is no Floor being crossed, Hon. Wandayi. You rightly said you know that Members are at liberty to sit anywhere in the Chamber. So, there is really nothing for me to rule on.

Let us have Hon. Maanzo.

**Hon. Maanzo:** Thank you, Hon. Speaker for giving me an opportunity to comment on the Petition---

**Hon. A.B. Duale:** Hon. Speaker---

**Hon. Speaker:** You had not finished? Sorry, Hon. Maanzo. Hon. Duale, conclude your contribution.

**Hon. A.B. Duale:** Hon. Speaker, I had not finished because Hon. Wandayi stood on a point of order. He should be ready because as we come closer to the end of the 11th Parliament, the numbers will reduce on that side and increase on this side. So, there will be many people crossing over.

*(Applause)*

Hon. Speaker, it is a good day because the Jubilee Coalition is becoming the preferred option in the Chamber. It is the best network to use - like Safaricom.

This is a fundamental Petition. Amendment of the Constitution through parliamentary initiative is provided for in the Constitution. We can amend certain Articles of the Constitution if we all agree. The Okoa Kenya, Boresha Katiba, Punguza Mzigo and many other initiatives can take advantage of this opportunity. If we amend the sections, we can amend through parliamentary initiative and then whatever remains can be taken to a referendum.

This Petitioner is also uniting all of us from different political views. So, I support him. Hon. Speaker, through your office, the Petition should be given priority so that all these stakeholders, including ourselves and those who want to change the election date, even though I am not one of them, can be part of this Boresha Katiba Initiative. Those who want to have Cabinet Secretaries (CSs) appointed from the House, you now have a brilliant Kenyan who, because Parliament could not act for three years, is now asking us to amend the Constitution. I urge you to tell the relevant Committee to give this Petition first priority so that the various groups can sit together and have a cup of tea for the benefit of the people of Kenya.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Maanzo.

**Hon. Maanzo:** Thank you, Hon. Speaker for giving me an opportunity to comment on the Petition on the amendment of the Constitution. All those initiatives show that there is need to amend the Constitution to make it better so that it may serve the interest of the people of Kenya.

When we passed the Constitution, we all agreed that 80 per cent of the document was good and 20 per cent needed to be amended so that Kenyans could be served better by the Constitution. There have been many constitutional amendment proposals with which all of us agree. The CORD Coalition launched the Okoa Kenya Initiative. A draft Bill was prepared and over one million signatures were collected. Now the time within which the Independent Electoral and Boundaries Commission (IEBC) should have verified the signatures has expired. We hope the IEBC will complete verifying the signatures quickly. On the part of the CORD Coalition, we have taken a step.

Now that there is a greater need for constitutional amendment from all parts of the country, it is time Parliament took the challenge and brought our heads together. Ideas are already in place. We are moving forward to make sure that we have a better Constitution. Were it not for the new Constitution, the 2013 elections would have torn this country apart. Because of the new Constitution, the country was held together. So, there is greater need to make the Constitution better so that the country can be stronger together.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have Hon. Kamama.

**Hon. Abongotum:** Thank you very much, Hon. Speaker. I welcome the Petition by the former military officer from Kericho. As the interim chairperson of the Boresha Katiba Parliamentary Initiative, I wish to inform Members that we have done a lot. We have written to you as a caucus of over 185 Members of Parliament. We have met experts that have looked at this matter and we have discovered that over 80 per cent of what we want amended can be done in this House through parliamentary initiative.

I want to remind Members that when we were doing the last amendments for the Constitution, we had a lot of sycophancy. We had over 300 amendments but we could not do it in this House. We tried to effect the amendments at the then Kenya Institute of Administration (KIA), but the same sycophancy prevailed. We tried in Naivasha but we could not manage. So, this House was bypassed. This included a situation where Hon. Musila wanted to protect our salaries but could not. The judges managed to protect their salaries while Members of Parliament could not do it. However, let me forget about the issue of salaries because it is not part of what we are discussing.

If we amend this Constitution through parliamentary initiative, we are going to save this country close to Kshs30 billion. We all know what happened in 2005. The momentum that prevailed led to what we experienced in 2008. So, let us do what we can in this House and then what is supposed to go to a referendum, let us consider taking it to a referendum during the elections of 2017 and have it as ballot No.7. This has been done elsewhere, even in America which can vote for over 22 positions. So, seven ballots are not too many.

Hon. Speaker, I am yet to convince Members and agree with the Leader of the Majority Party that *Boresha Katiba* Parliamentary Initiative is on course and the amendments are ready any time. We will table them in this House. We are also ready to meet Hon. Chepkong'a's Committee to discuss these issues. So, we are ready to amend this Constitution through a

parliamentary initiative - the way Inter Parliamentary Parties group (IPPG) did and the way other initiatives have done. This will not polarize the country. We will not be playing politics day in, day out from today up to 2017. This will save the country and promote a situation where we will be focusing on economic transformation of our country. We should play politics next year. So, I support that Petition whole heartedly.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, the Member for Suba.

**Hon. Ng'ongo:** Thank you, Hon. Speaker. I wished you happy 2016 while you were away. Now that you are on the Chair, allow me to just repeat that I wish you a very industrious 2016. Since I had already wished the rest of my colleagues a happy 2016, I do not want to repeat it because they were here. Let me also make my short contribution to this Petition.

The Petition looks very good at the surface of it because as a country, we need to come together. This is what CORD has been calling for from 2014. We have been calling for dialogue and working together so that we correct the 20 per cent that we said in 2010 that needed to be corrected in our Constitution. However, my fear is that for *Okoa Kenya Initiative*, the train has already left the station. I do not think that whatever the Committee will do will help harmonise *Okoa Kenya* with other initiatives that have not even finished collection of signatures.

Our Constitution is very clear on how to amend the Constitution through popular initiative. So, as CORD, together with other members of the civil society and other organizations that are supporting *Okoa Kenya Initiative*, we will only say that it is a good Petition. But it is too late. We wish this Petition came earlier on. We also wish that our colleagues who have seen sense in working together with us to amend the Constitution saw that sense a little earlier. This includes the Leader of the Majority Party who is a very good friend of mine. So, that is the only regret, but it is alright for any Kenyan to Petition this Parliament. I only hope that this initiative from my friend, Hon. Kamama, is not *Okoa Bunge Initiative* because we are interested in saving Kenya as a country and not just helping *Bunge*. The *Boresha Katiba* is just *Okoa Bunge* kind of crafted initiative. Kenyans are very hostile to Parliament especially now that we are nearing---

So, I hear Hon. Kamama who is a very good friend of mine. He has never been a heckler except today. I do not know what is forcing him into that habit which he is not used to. At least, he is better than I am on that. So, I want to conclude by saying that it is a good Petition. But for *Okoa Kenya Initiative*, the train has left.

The IEBC now owes us an explanation. By Tuesday next week, we will lead our troops, as CORD, to the IEBC offices to ask them to tell us whether they have already sent this draft Bill to the 47 counties. I know that the counties are waiting for it. People will be shocked. This is a Bill that is going to be supported by more than 40 counties in this country, including those that were thought to be unlikely. In fact, the wind of change is sweeping this country. Wait and see what will happen with *Okoa Kenya*. Wait and see what will happen in Nyangores Ward in Kericho on Friday and in Malindi.

Thank you, Hon. Speaker. For those who are crossing the Floor, the writing is on the wall. Please do not dig your political graves. Asanteni sana.

**Hon. Speaker:** Yes, Hon. John Munuve.

**Hon. Mati:** May I take this opportunity, Hon. Speaker, to wish you a happy 2016. I would also like to give an acceptance speech on behalf of my colleagues who were de-whipped today if the Speaker allows me to do so. This is an interesting day. I feel liberated. I speak for my four or five colleagues. I feel liberated from the tyranny of dictatorship because as a democrat

who believes in free thoughts and freedom of association, I had been constrained very badly by the fact that people with obviously mediocre brains have had to masquerade as leaders, have forced me to leave them.

*(Applause)*

They decided that they have monopoly of knowledge and that I cannot think independently. I am a well-known consultant on matters of human rights and governance who has worked in among other places like United Kingdom (UK) and the United States of America (USA). I mid-wifed the first democratic election in the Republic of Libya and to be constrained and made to follow people, some of whom have never even chaired a small meeting of *muratina* gourd---

**Hon. Speaker:** Hon. Munuve, this is an opportunity to comment on one of these two Petitions.

**Hon. Mati:** Okay. Sorry, Hon. Speaker. I apologise profusely *adosa*. I would like to support the Petition that tries to bring together this country. This country went through a difficult process in mid-wifing the current Constitution framework of which I was a member at the then National Constitutional Conference (NCC) and co-convenor in charge of mass action. I led a lot of people here and some of them were on the other side. Who killed seven students at Uhuru Park on Saba Saba 2007? Those people still carry the blood of those young university students who were murdered across the road over here.

I am a good advocate and I would like to see a situation where *Okoa* Kenya Initiative agrees to come and accept that this country belongs to all of us. None of us applied to be a citizen of the Republic of Kenya. For that reason, whatever other proposals which come from other Kenyans should be the ones that can be put, juxtaposed against the *Okoa* Kenya or any other initiative. Nobody can claim to have a monopoly of knowledge. *Boresha* Kenya is an idea that has come from fellow Kenyans. These are not people from Benin or Mozambique who have come up with this proposal. If they came up with this proposal, surely, you should be big enough as nationalists and say: "Okay, let us sit together as brothers and sisters." To abrogate to one or two people the task and the right to think for fellow Kenyans and decide that Members of Parliament who were elected by their own populations in this country can be humiliated is a big shame. As I have said, I find it very difficult.

This is a great day for me. It is too bad that my goats are 300 kilometres away because I would eat a he goat for being liberated from the tyranny of mediocrity led by people who were appointed and could not be elected by anybody, but they claim and masquerade as leaders of this House simply because they beat us in sycophancy.

*(Loud consultations)*

**Hon. Speaker:** Order! Order! Order!

**Hon. Mati:** They beat us in history and a lot of things, including carrying the blood of those seven young students who were killed at Uhuru Park on *Saba Saba* day.

**Hon. Speaker:** Hon. Munuve.

**Hon. Mati:** With those few remarks, Hon. Speaker, I apologise. I wanted to say something so that my brothers and sisters who have been de-whipped today can have somebody

who speaks for them. I stood up to basically give an acceptance speech of our new status as Kenyans and citizens of this country.

With those few remarks, I want to say thank you and God bless you.

*(Applause)*

**Hon. Wakhungu:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Make your contribution.

**Hon. Wakhungu:** Thank you, Hon. Speaker. With due respect, I rise on a point of order to seek your guidance. We do know that this is a House of rules and procedures. Is Hon. John Munuve, who is my very good friend in order to refer to our colleagues or whoever wrote the letter in line with the Political Parties Act that they have mediocre brains?

*(Loud consultations)*

If that is unparliamentary, can he withdraw and apologise or substantiate? Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Wamalwa did you say that Hon. Munuve said that the person who wrote---

**Hon. Wakhungu:** Yes, he has said it, Hon. Speaker. He has said they have mediocre brains.

**Hon. Members:** No! No!

**Hon. Wakhungu:** He has said it - Mediocre brains. We are setting a wrong precedent and we must put things in order. We have just started a Session and we must start in a friendly manner. We are requesting him to withdraw and apologise. He should withdraw the words "mediocre brains".

**Hon. Speaker:** That was in reference to whom?

**Hon. Wakhungu:** He referred to the person who wrote the letter - who is the Chief Whip from this other side.

**Hon. Members:** No! No!

**Hon. Speaker:** No! Hon. Wamalwa there has not been any reference to a letter. He did not refer to a letter or a person who wrote a letter. That is why I am asking you: It is in reference to what?

**Hon. Wakhungu:** I humbly request that the language is unparliamentary. Can he substantiate in what context was that mediocre brain made. We need clarification on that context to set the records right. We are setting a wrong precedent. This is unparliamentary.

**Hon. Speaker:** Hon. Wamalwa, the word "mediocre" cannot be said to be unparliamentary. Unless used against a Member, merely using the word "mediocre" or saying "mediocre brain" is not unparliamentary *per se*. It must be in reference to something and that is why I am asking you it was used in reference to whom?

*(Hon. Kaluma interjected)*

Hon. Kaluma, I have not asked you. Does it require so much because I can see you are very agitated and you want to respond on behalf of Hon. Chris Wamalwa? I have asked Hon.



Chris Wamalwa repeatedly it was in reference to whom or what. If it is used in abstract, it is not unparliamentary.

Yes, Hon. Wamalwa.

**Hon. Wakhungu:** Thank you, Hon. Speaker. From the context of the explanation or his speech, it was referring to the leadership that made a decision in line with the Political Parties Act for him to be de-whipped. That was the reference and context which is unparliamentary because we are all colleagues here and we were elected. In that context, it was our Chief Whip who wrote this in line with the decision from the Parliamentary Group.

**Hon. Speaker:** You are now saying it is in reference to?

**Hon. Wakhungu:** Yes, to whoever wrote the letter.

**Hon. Speaker:** But, he has not said that specifically. Has he?

**Hon. Wakhungu:** No! No! You can give some clarification to a party, Hon. Speaker.

**Hon. Speaker:** Hon. Wamalwa, do not engage the Chair in an argument. We can go to the HANSARD.

**Hon. Wakhungu:** I stand guided, Hon. Speaker. We want the context.

**Hon. Speaker:** We can go to the HANSARD.

**Hon. Members:** Go out!

**Hon. Speaker:** No! No! You cannot order, Hon. Wamalwa to go out. Hon. Wamalwa, to the extent that you are unsure, I will order that by tomorrow afternoon, the HANSARD record of what Hon. John Munuve said be produced here. We will look at it and see in reference to what his statement was. This is because you are asking him to clarify and that means you are not sure it was in reference to a particular person or body. Let us get the HANSARD. That is the normal way. You may need to look at the practice of the House. We will look at the HANSARD record. I will bring it here. Should it be found to have been in reference to any Member, then Hon. John Munuve will be required in keeping with the rules, to apologise and withdraw. That is the best we can do for now.

Next Order!

### PAPERS LAID

**Hon. A.B. Duale:** Thank you, Hon. Speaker, I beg to lay the following Papers on the Table of the House, today Wednesday, 10<sup>th</sup> February, 2016:-

The Mediation (Pilot Project) Rules, 2015 and the Explanatory Memorandum therein (pursuant to section 59A, 59B and 81 of the Civil Procedure Act).

*(Loud consultations)*

**Hon. Speaker:** Order Members! Members to the right of Mr. Speaker, you must learn to consult in low tones. However excited you may be, even an old Member like Hon. Jimmy Angwenyi, you must learn to consult in low tones.

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House, today Wednesday, 10<sup>th</sup> February, 2016:-

The Witness Protection Rules, 2015 and the Explanatory Memorandum therein (pursuant to section 36(2) of the Witness Protection Act).

The Technical and Vocational Education and Training Institutions Regulations, 2015 and the Explanatory Memorandum therein (pursuant to section 57 of the Technical and Vocational Education and Training Act, 2013).

The Nairobi Centre for International Arbitration (Mediation) Rules, 2015 and the Nairobi Centre for International Arbitration (Arbitration) Rules, 2015 and the Explanatory Memoranda (pursuant to section 5(d) of the Nairobi Centre for International Arbitration Act, 2013).

The Public Service Commission Evaluation Report on the Public Service Compliance with the Values and Principles in Article 10 and 232 of the Constitution for the year 2014/2015.

The Annual Report and Financial Statements of the Public Service Commission of Kenya for the year 2014/2015.

The Office of the Controller of Budget First Quarter National Government Budget Implementation Review Report for the Financial Year 2014/2015 (pursuant to Article 228(6) of the Constitution).

The Office of the Controller of Budget First Quarter County Governments Budget Implementation Review Report for the Financial Year 2014/2015 (pursuant to Article 228(6) of the Constitution).

The Constituencies Development Fund Board Report on Projects Approvals and Disbursements Status, November, 2015 including restrictions on Constituency accounts.

The Annual Report on the State of the Judiciary and the Administration of Justice for the period 2013/2014, pursuant to Section 5(2) (b) of the Judicial Service Commission.

The Annual Report and Financial Statements of the Ethics and Anti-Corruption Commission for the year 2014/2015, pursuant to Section 27 of the Ethics and Anti-Corruption Act, 2011 and Section 45 of the Leadership and Integrity Act, 2012.

The Annual Report and Financial Statements of the University of Eldoret for the year ended 30th June, 2014.

**Hon. Speaker:** Some of those reports that have been tabled have a very serious bearing on some of the issues Hon. Members have been raising, more so, the Report from the Office of the Controller of Budget. The First Quarter of the National Government Budget Implementation Review, obviously, has a lot of implications, as well as Item No.8 on the County Governments Budget Implementation Review Report for the First Quarter of the Financial Year 2014/2015.

Nevertheless, the two Reports are referred to the Budget and Appropriations Committee. As usual, the regulations are referred to the Committee on Delegated Legislation, while the other two Reports are referred to the Departmental Committee on Justice and Legal Affairs.

Let us move on to the next Order.

**Hon. Cheptumo:** Hon. Speaker, I wanted to contribute to the first discussion which is now over.

**Hon. Speaker:** Hon. Cheptumo, are you giving notice of Motion? The current Order is on notices of Motions.

## NOTICES OF MOTIONS

### DECENTRALISATION OF REGISTRATION EXERCISE

**Hon. Wakhungu:** Hon. Speaker, I beg to give notice of the following Motion:-

THAT, aware that devolution was meant to devolve governance and public services across the country, including access to basic services like acquisition of identity cards, passports, birth certificates, voters cards among others; further noting that currently all registration of national identity cards only happens at one centre in Nairobi; cognisant of the fact that this delays the acquisition of identity cards, thus denying Kenyans their right to employment, ability to vote, access to public funds like Uwezo Fund and other crucial services, this House resolves that the Government decentralises the registration of national identification cards to the county level to expedite the process and allow Kenyans to access public services in a timely manner.

**Hon. Mwiru:** Hon. Speaker, I beg to give notices of the following Motions:-

ADOPTION OF REPORT ON LAND DISPUTE/ADJUDICATION  
IN AWENDO/RANGWE

THAT, this House adopts the Report of the Departmental Committee on Land Dispute in Awendo Township and Land Adjudication Issues in Rangwe, laid on the Table of the House on Thursday, August 27, 2015.

ADOPTION OF REPORT ON LAND DISPUTE BETWEEN KAMAE RESIDENTS  
AND KENYATTA UNIVERSITY

THAT, this House adopts the Report of the Departmental Committee on Land on the Dispute over the Ownership of Land between Kamae Resettlement Scheme Residents and Kenyatta University, laid on the Table of the House on Thursday, 11<sup>th</sup> November, 2015.

ADOPTION OF REPORT ON OWNERSHIP  
OF MOMBASA CEMENT LTD. LAND

THAT, this House adopts the Report of the Departmental Committee on the ownership of Mombasa Cement Limited land in Kilifi County, laid on the Table of the House on Tuesday, 24<sup>th</sup> November, 2015.

ADOPTION OF REPORT ON BANITA SETTLEMENT SCHEME

THAT, this House adopts the Report of the Departmental Committee on Land on Banita Settlement Scheme, laid on the Table of the House on Wednesday, 3<sup>rd</sup> December, 2014.

ADOPTION OF REPORT ON DEGAZETTEMET OF LAND OF  
CHORLIM COOPERATIVE SOCIETY

THAT, this House adopts the Report of the Departmental Committee on Land on the degazettement of Government Land belonging to Chorlim

Cooperative Society; laid on the Table of the House on Tuesday, 2<sup>nd</sup> December, 2014.

**Hon. (Eng.) Gumbo:** Hon. Speaker, I beg to give notices of the following Motions:-

#### ADOPTION OF REPORT ON THE JSC

THAT, this House adopts the Report of the Public Accounts Committee on the Judicial Service Commission (JSC) and the Judiciary Special Audit Report of May 2014, laid on the Table of the House on Tuesday, 7<sup>th</sup> July, 2015.

#### ADOPTION OF REPORT ON ANNUAL INTERNATIONAL PAC SYMPOSIUM

THAT, this House adopts the Report of the Public Accounts/Public Investments Committees Joint Delegation to the 3<sup>rd</sup> Annual International Public Accounts Committees Symposium with the theme Ensuring Accountability – the Role of the Modern Public Accounts Committee held in London, UK from 19<sup>th</sup> to 20<sup>th</sup> October, 2015 laid on the Table of the House on Thursday, 3<sup>rd</sup> December, 2015.

**Hon. Speaker:** Is there any other Hon. Member who was supposed to give notice of Motion?

Yes, Hon. Nooru.

#### ADOPTION OF REPORT ON THE CRISIS IN THE SUGAR INDUSTRY

**Hon. Nooru:** Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives, on the crisis facing the sugar industry in Kenya laid on the Table of the House on Thursday, 12<sup>th</sup> March, 2015.

**Hon. Speaker:** Let us move on to the next Order. Yes, Hon. Ali Rasso.

#### NOTICE OF MOTION FOR ADJOURNMENT

##### MOTION FOR ADJOURNMENT UNDER STANDING ORDER No.33

**Hon. Dido:** Thank you, Hon. Speaker. I rise on behalf of the Departmental Committee on Defence and Foreign Relations. Pursuant to Standing Order No.33 (1), I intend to seek leave of the House for the purpose of discussing the recent attack on the Kenya Defence Forces Camp, at El Adde by Al Shabaab terrorists.

On 15<sup>th</sup> January, 2016, the Kenya Defence Forces Camp at El Adde, Somalia was attacked by Al Shabaab terror group. During the attack, a number of lives were lost, several soldiers were injured and equipment of unknown value destroyed. Considering the sensitivity of this matter, I request that it be discussed in camera pursuant to Article 118(2) of the Constitution.

I beg Hon. Ole Kenta to second.

**Hon. Speaker:** There is no seconding. Do you have the requisite numbers?

*(Several Hon. Members stood up in their places)*

Hon. Members, you may resume your seats as the requisite number is only 20. It looks like the entire House wants to debate this matter.

Hon. ole Kenta, what was your take regarding this matter?

**Hon. ole Kenta:** Thank you, Hon. Speaker. I would like to say that Kenyans are asking questions and they need answers. This is a matter that affects everybody. It affects Kenyans from all walks of life. I believe it is something that should be heard in-camera because it involves our security and matters that are very sensitive.

I support my colleague.

### COMMUNICATION FROM THE CHAIR

#### ATTACK ON EL ADDE KDF CAMP

**Hon. Speaker:** Hon. Members, Hon. Rasso had written to the Speaker in good time requesting that the House debates the matter of the attack on the KDF camp in El-Adde, Somalia. His request complies with all the requirements of Standing Order No.33(1). He also has the requisite numbers. Looking at Standing Order No.252(2), as well as Article 118(2) of our Constitution, I have weighed the matters likely to be raised in this Motion for Adjournment. I find these exceptional circumstances that may require that the House debates this matter in-camera. While allocating time, whoever will be in the Chair, will be required to ensure that the galleries are cleared of people so that the House can debate this matter from 5.00 p.m. for one-and-half hours.

Next order!

### BILLS

#### *First Readings*

THE ELECTION LAWS (AMENDMENT) (NO.3) BILL

THE UNIVERSITIES (AMENDMENT) BILL

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

#### *Second Readings*

THE NATURAL RESOURCES (CLASSES OF  
TRANSACTIONS SUBJECT TO RATIFICATION) BILL

*(Hon. A.B. Duale on 01.12.2015)*

*(Resumption of Debate interrupted  
on 16.12.2015 – Morning Sitting)*

**Hon. Speaker:** I need to have a record of those who had contributed on this Bill. I can see that the Chairperson of the Committee had already contributed. The following Members had contributed to this Bill by the time the House went on recess. They are Hon. Abdul Dawood, Hon. Yusuf Chanzu, Hon. Joseph Kiuna, Hon. Ken Okoth, Hon. Silvanus Anami, Hon. Kathuri Murungi, Hon. Ababu Namwamba, Hon. A. B. Duale and Hon. (Ms.) Abdalla. Hon. Ferdinand Wanyonyi was on the Floor and he has a balance of five minutes. If he desires to make use of the five minutes, this is his chance, or he should forever remain silent. The Member being absent and not desiring to be present loses his opportunity. Any other Member is at liberty to contribute. The first on the list of contribution is Hon. Kaluma. I am assuming Members are looking at today's Order Paper to know the details of the Bill.

**Hon. Kaluma:** Thank you, Hon. Speaker. I had placed a request to rise on a point of order and not to contribute immediately. I am not contributing on this Bill.

**Hon. Speaker:** Hon. Kaluma, the Natural Resources (Classes of Transactions Subject to Ratification) Bill is one of the Bills seeking to implement the Constitution.

**Hon. Kaluma:** Hon. Speaker, I understand it but I am always keen to speak on matters before this Assembly fully prepared. I beg that this chance goes to another Member.

**Hon. Speaker:** The next person on the list is Hon. Tong'i, the Member for Nyaribari Chache.

**Hon. Tong'i:** Thank you, Hon. Speaker, for giving me the opportunity but I wanted to speak on the next Bill.

**Hon. Speaker:** Very well. The next person on the list, whom I know is going to contribute to this Bill is Hon. Wilber Ottichilo, the Member for Emuhaya.

**Hon. (Dr.) Ottichilo:** Thank you, Hon. Speaker. I would like to contribute to this Bill. I would like to bring to the attention of the House the fact that this is an important Bill. Members should go through it and understand its importance and why the Constitution requires that it be enacted.

Hon. Speaker, under Article 71 of the Constitution, it was reckoned that it was necessary for this House to enact a law that will ensure that the exploitation of certain natural resources of this country is subject to ratification by Parliament. There are a number of resources that are very crucial to the socio-economic development of this country. They include wildlife, on which the tourism industry is based. As a country, we have gazetted a number of parks. In fact, 8 percent of our land mass and oceans is gazetted as national parks. These are very important resources to this country. Where there is need to degazette a park or a reserve, this Bill, once enacted into law, will ensure that due diligence is followed so that we do not degazette a park or a reserve without proper assessment as to why it should be done.

It is important to point out which of these resources are subject to ratification. There are many other resources such as gas, oil and other extractive resources that this House must give a go ahead before authority is given to any company or individual to extract because such resources are of common interest to the country. So the purpose of this Bill is to look at all these resources and categorise them so that we have those that can be given a go ahead to be classified for ratification and those that we cannot allow.

Hon. Speaker, some of the resources that need real authority of this House for ratification before exploitation are like crude oil and natural gas. This country has a lot of crude oil and natural gas. Therefore, any exploitation on these resources requires ratification of this House and so are minerals. I thank the Government for having set up a Ministry for Mining because this country has many minerals. Some of these minerals have high value of over US\$500 million if extracted. For this extraction to take place, this House needs to give a go ahead. That is something that this House must take into consideration.

Other natural resources, apart from wildlife, are forests. We have gazetted forests which are spread throughout the country. Because of increase in population there is very high demand and, indeed, many Petitions have been brought to this House to degazette some of those forests so that they can be used for settlement. The purpose of this Bill is to ensure that we do not degazette some of our crucial forests which are water catchment areas without due consideration to their ecological importance to mankind. Again, this is extremely important.

Having said that, I have a number of concerns with this Bill on a few issues which I feel we need to consider. One of the issues that is in the Bill that I feel very strongly--- (*technical hitch*)--- must give a consent. I believe that is not right. I believe we cannot control research.

Research is allowed anywhere in the world. After it has been done, the outcome of that research is evaluated to find out whether it has any negative impact to human welfare or not. By categorising genetic material as one of the natural resource or material that must be ratified by this House, I believe, we shall stifle research in this country.

As we speak, most of our national universities have many programmes on biotechnology. If we were to pass this, we shall almost cripple most of those departments because they will not be able to carry out research. It is not necessarily that all genetically modified organisms that are used to engineer our crops and animals come from outside the country. Some of these materials are generated by our researchers in our laboratories. We also have regulations on how these materials are generated and how we should ensure that these materials are not released into the environment without due diligence and without serious tests. As we go to the Third Reading, I will propose that these parts be removed from the classes of materials that must be looked into by this House.

We also need to look at water resources. The classes we have been given in this Bill clearly shows that under the water resources, we must give authority for the extraction of sea water within the territorial sea for private commercial use. Again, this is an area we need to look at because people along the coast use sea water for various reasons. For example, if you go to Magarini in Malindi, you will find that we have many salt factories that extract salt from sea water. So, we have to consider whether we need to have those companies vetted or ratified here before any extraction can be done. That is an area we need to look at.

I support this Bill. It is long overdue and I urge Members of this House to support it because it is going to guard against the exploitation and pirating of our natural resources. We have a number of natural resources in this country that have been pirated and we do not have control over them.

Thank you, Hon. Speaker.

**Hon. Speaker:** Well spoken. Let us have Hon. John Waiganjo, the Member for Ol Jorok.

**Hon. Waiganjo:** I am afraid, Hon. Speaker. I had logged in to contribute to the Legal Aid Bill. I have nothing to say on this Bill.

**Hon. Speaker:** Hon. Ken Obura Mirenga.

**Hon. Mirenga:** Thank you, Hon. Speaker.

**Hon. Speaker:** Are you the current Leader of the Minority Party?

**Hon. Mirenga:** Yes, Hon. Speaker. In the absence of those who were given this responsibility, some of us who are very capable usually do the job very well.

I wanted to say that I had wished to contribute on other matters. I wish I will be given this chance much later.

**Hon. Speaker:** So, you have nothing to say on this Bill?

**Hon. Obura:** I have a lot to say but I am yet to compile--- This is a very important matter and as the Leader of the Minority side it is important I give a strong contribution. So, in a matter of minutes, I will do that.

Thank you.

**Hon. Speaker:** Let us now have the Member for Igembe Central, Hon. Cyprian Iringo.

**Hon. Kubai Iringo:** Thank you, Hon. Speaker, for this opportunity. Let me take this opportunity, first, to thank every Member of this House for having come back in sound mind and health. I also wish you and all of us here a nice stay and a nice 2016.

I support the Natural Resources (Classes of Transactions Subject to Ratification) Bill because natural resources are being destroyed now and then. We should pass a law which should protect the same and try to enhance natural resources which we have because they are limited. It takes time and a lot of expenses to create forests or to get some minerals. I support that we need to protect the same, especially the catchment and riparian areas where we get water but people have encroached. In the quest of trying to get land for settlement and in the quest to get land to put up urban areas or buildings, we are destroying our environment and natural resources slowly. In the long run, it will affect the ecosystem.

Therefore, I strongly support that this Bill should be passed so that we can protect these areas. Forests are very essential. In Kenya, the forest cover is being destroyed every day. Once we destroy our forests we will not have habitat for wild animals. We need areas for the protection of wildlife. We also need areas for flora and fauna to thrive. At the same time it is a tourist attraction.

Hon. Speaker, I will cite an example of Nyambene Forest in my county. When we were young, it had canopy such that you could not see outside. Currently, it has been destroyed due to encroachment by charcoal burners, hunters, firewood fetchers and timber for building materials. They cut trees and, therefore, the forest is almost no more.

In essence, it is affecting the streams and rivers that originate from that area. Those streams which used to run from Nyambene Forest all the way to Tana River do not even get half way. They dry upstream because of the encroachments and destruction. Therefore, putting in place laws which will protect these areas will save forest cover and rivers. The future generations will easily get water and not incur expenses of looking for water by digging boreholes and collecting rain water.

Natural water is cheaper to harvest and supply to people. We cannot protect natural water without protecting natural cover like forests and other materials. With exploration, we are talking about oil and other minerals.

However, we need laws that will say who should benefit from the same namely the county government and the local people who own the land where that has been identified. The laws should also say the way it should be apportioned to the beneficiaries so that each and every citizen can benefit from that product which is in that area.



With those few remarks, I support.

**Hon. Speaker:** Let us have the Hon. Member for Luanda.

**Hon. Omulele:** Thank you, Hon. Speaker for giving me an opportunity to speak to this important proposal of law. It has been said many times that the future wars in this world will be fought over resources. It has also been said that the Third World War will be fought over water. One of the biggest natural resources in the world is water and we all require it on a daily basis. However, as it is, we may not. The sources of this resource have been depleted and destroyed by human inhabitation and activity.

Article 71 of our Constitution seeks to protect natural resources in our country. This is a well thought out proposal. This is a Bill that we must pass and, first, I must say that I support it.

Hon. Speaker, if we do not protect this resource and continue to destroy our natural habitat for flora and fauna, the future generations of this country will have nothing to fall back on. The exploitation of our resources in this country must be debated in this House from a researched point of view. When we license the exploitation of a particular resource, we should be well informed and we should act in the interest of ourselves as presently constituted in this country and for the future generations.

The exploitation is systematic. It must be for the benefit of the current and future generations. Therefore, it is a matter of giving notice to this House that the forest cover has been depleted and climate patterns in this country have changed as Hon. Ottichilo, who spoke before me has said. He has been very passionate about climate. We all note that climate in this country is really changing. We recently experienced *El Nino* rains which caused havoc in our country. These are the efforts we should make to mitigate the effect that we may experience in our country. If you look at Article 71, you will find that this is a law that all of us must pass in one accord.

I, therefore, support we should do this.

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

**Hon. Speaker:** Let us have Hon. John Kihagi.

**Hon. Kihagi:** Thank you, Hon. Speaker. I also rise to support this Bill.

Being my first speech in this Session, I would wish you, Hon. Speaker and my colleagues, a prosperous 2016 and a very busy one for that matter.

The enactment of this Bill will definitely empower the people's representative; that is Parliament, especially the National Assembly and the Senate, to oversee the utilisation of resources for the benefit of the people of this country. We say that: "Resources are not, they become". Unless we, the people's representative are more involved in the ratification of some of these arrangements or agreements that are supposed to exploit the resources of this country, we will not have done justice to our people.

In the last few years, our country has seen heightened activities in the identification of resources. Geothermal energy is being exploited at an increased rate in the Rift Valley. Unless and until we are involved in ensuring that the licenses are given to the right companies and that those companies follow the right procedures in exploitation, we will definitely have more chaos in future.

As we speak, I am saddened by the fact that violence has erupted in Maela area of Olkaria, Naivasha due to the exploitation and the manner in which companies have been given the licenses to exploit geothermal energy.

We have also had cases of the public demonstrating against some of the companies that have been given authority to exploit geothermal energy in the Kinangop area of Nakuru and Nyandarua counties. We have also had demonstrations about the exploitation of wind power in this country. Although wind power is not listed as part of the resources that are supposed to be ratified, I personally intend to bring an amendment to this Bill to include the exploitation of wind energy because wind power is one of the resources if exploited can greatly impact on our economy. The manner in which some of the companies were licensed, especially in the Kinangop Wind Park Project, has left a lot to be desired.

As we speak, someone has died because of the conflict between the companies and the people of Kinangop. The company that was initially given the power purchase agreement has already offloaded to another company. Therefore, if Parliament had been involved from the very beginning, we would have had a better arrangement where public participation could be looked into.

With regard to the issue of forests, it is true that we need to check the way in which we utilize our forest resources. Logging in this country has at times gone beyond what we believe is sustainable. We have seen large chunks of land previously being excised from forests to the detriment of our forest cover.

We also know that some of our people have been disadvantaged especially when political interests are engaged. You would find that a large population has been evicted unprocedurally. We have one case in Naivasha where a settlement area was gazetted while people were already inside. In that case it becomes very difficult for this settlement to ever get title deeds.

Hon. Speaker, it is prudent for Parliament to be involved and debate proposals for de-gazettement of forests. This will enable our constituents get title deeds and entitlement in order to stop depletion of forest cover in this country.

I support this Bill and promise that I will be bringing amendments as we go to the Third Reading.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us now have the Hon. Member for Seme.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Speaker for giving me this opportunity to contribute to this Bill. Since I am contributing for the first time this Session, may I wish you a Happy and Prosperous New Year. But I have a feeling it will be a very hard working year for you, going by the nature of debates that we will dispense. However, I am sure you will be up to the task.

This is an extremely important Bill. People have referred to Africa as the continent with the greatest potential and resources. The truth of the matter is that those resources have not been exploited and some of them are not even known to us. Therefore to put in place a law in line with the Constitution that protects those resources so that even if they are known or not known is important. I like the generality that is in some of the clauses in this Bill.

I also support this Bill because it starts by saying what you will not need parliamentary approval for. Clause 4(2) looks at the interest of the people who may want to use these resources basically for the benefit of the country. Clause 4(2)(a) says: "So long as the exploitation is for the county or the country's needs, that is okay."

It also says that so long as the material is not taken out of the country. Clause 4(2)(d) talks about the exploitation of the resources for a family or an individual for subsistence purposes. That is extremely important as an Hon. Member has said that people who use water to

extract salt in small amount can be allowed to do so. The same part goes on to put a threshold after which then you cannot claim that you are using these resources for subsistence.

If you look at the classification itself, you will find that it is broad enough. Sometimes you do not know where crude oil is. People will pretend that they are doing some research and will take some soil, minerals and water. In life, where else do we get resources other than flora and fauna? It is through soil and underground water. That takes care of that and that is a good way to go.

I only missed out on the issue of plants which I have mentioned and is not mentioned here. There are very many plants which are resources and we may not be aware of. For example, we start with *miraa* which is grown in Meru and many times people have claimed *miraa* is a drug or it is something else. But there are many other things that can be extracted from *miraa*. If we get to that level, I am sure we can protect it.

If we look at the genetic material and we do a grand access or permit to material transfer, we will find that there is no limit to what can be done. Genetic material is the basis of most things and if we do grand transfer without any protection or without the benefit of Parliament scrutinizing it, a lot can get out of the country.

Hon. Speaker, we are happy that whenever we use this genetic material, we must make sure that it is not taken out of the country. After that classification, the Bill provides the process that you follow which makes it extremely useful. It provides for a registry to know what it is that has to be preserved through this process. It also provides for redress because when you start to control resources, obviously, there will be conflicts. The Bill provides for redress on that issue and gives provision for restitution. All in all, I think this is a well thought out Bill. I believe its strength lies in its generality. We can apply it in a broader sense in areas that we may not realize are great resources for us today.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Member for Rangwe.

**Hon. Ogalo:** Thank you, Hon. Speaker. I also rise to contribute to this Bill. This is a Bill that is required to be enacted under Article 71 of the Constitution.

Generally, I support the Bill, save for a few amendments that will be necessary during the Third Reading. The strict reading of Article 71 of the Constitution, outlaws some of the exemptions of classes of transactions in the Bill, especially the sweeping Clause 4(2)(b), which says that the grant of a concession or right by a private person to exploit a natural resources through an agreement or a contract, could mean very many things. If such concession is allowed, that could be a window to allow any other transaction as long as it is entered into by a private person to be granted without the authority of Parliament. That could also mean extraction of huge amounts of natural resources belonging to Kenya.

Hon. Speaker, the procedure of handling these agreements when presented to Parliament provides a clear roadmap of how mischief can also be avoided. This Bill, for the first time now, subsequent to the promulgation of the 2010 Constitution, makes it mandatory that the natural resources of Kenya truly vests in the people of Kenya. Exploitation of such natural resources must be ratified by elected representatives of Kenya; to exercise the sovereign will of the people, in granting such permissions.

Under Clause 13, the Cabinet Secretary makes regulations that would guide the process of application of treating all those agreements of handling transactions.

Under Schedule 4(1) subsequent to Section 4(1) and 4(2)(e), the classes of transactions subject to ratification are clearly enumerated. I have to add that, the grant of permit to conduct field trials of Genetically Modified Organisms (GMO's) needs to be treated more carefully to balance between restricting research and exposing communities to potential harmful organisms. Over-restricting permit in this regard by generally saying that GMOs require some qualifications by the CS or which GMOs require ratification by Parliament--- This is because over-restricting will discourage scientific research.

As we are aware, the world will not be able to feed its population in a few years to come. Research into technology and genetics must be encouraged to ensure that the earth retains its capacity to produce enough to feed the human population.

On the issue of forests, just as indicated in wildlife, excisional change of boundaries of a gazetted national park or wildlife protected area requires parliamentary approval. That should be the same for forests. Gazetted forests should not also be excised or their boundaries changed without ratification by Parliament. The same situation provided for under wildlife should be provided for under forests.

I am a little perturbed by what extraction of undergrounds within a water conservation area means. Some of these things could be interpreted to bar or sabotage genuine development projects when the net gain in preserving our national resources is not significant. Some of these things require proper explanations and expounding to avoid bureaucratic discretion that could make developers or those who want to invest in our natural resources a clear opportunity to engage in development. Otherwise, it is a small Bill which provides specific provisions subsequent to Article 71 of the Constitution. This Bill is sufficient save for those few amendments that we will consider during the Third Reading.

**Hon. Speaker:** There being no other Member indicating interest to contribute, I call upon the Mover to reply.

**Hon. Katoo:** Thank you, Hon. Speaker. On behalf of the Leader of the Majority Party who moved this Bill, I beg to reply.

Like the last speaker has said, this is not a lengthy Bill, but it contains a lot of important issues. I have noted what has been said by the 17 Members who have contributed on it and it is my hope that as it goes to the Third Reading, their concerns and issues will be incorporated and taken into consideration. As colleagues have stated, this is one of the constitutional Bills that are going to give effect to Article 71 of the Constitution. As we resume this 4<sup>th</sup> Session of the 11<sup>th</sup> Parliament, it is good that we move with speed and fast-track these Bills that have constitutional deadlines with a meticulous approach. I remember last year, we pushed them to August this year although I cannot remember the exact date. However, because those that concern the counties will have to go to the Senate, and this is one of them, we should not take long so that should there be need to form a Mediation Committee, then we are still within the timelines that we have set for ourselves.

I agree with my colleagues that if you look at the natural resources that are listed in the Schedule, you will find that they are in ten classes that will be subject to ratification by this House. As colleagues have said, they are very critical to our communities, for instance, crude oil, natural gas, water and more importantly, wildlife. The ratification process will look into the need to share the resources between the national Government and the county governments where the resources are found. This should be done without forgetting the communities within the counties where the particular natural resource is found especially the case of wildlife.

Colleagues who have contributed have mentioned the need for the specific communities where wildlife is found to have the trickle-down effect of those resources because of the turmoil and the hardship that they go through in living with wildlife. This is part of their natural resources. Again, and this has been mentioned, the need for these natural resources to be used for scientific research for the benefit of this country should also be included to benefit the communities where they are found. We should even build research institutions like universities in the specific areas where these resources are found. That can be of great benefit to those communities and also to the counties at large.

I do not want to belabour this because I am just replying. However, I assure the colleagues who have spoken that their contributions will be taken into account during the Third Reading of this Bill. We will have an informed Bill that will not only give effect to Article 71 of the Constitution, but also give the ultimate benefits to the national Government, county governments and the particular communities where these natural resources are found.

With those few remarks, I beg to reply.

**Hon. Speaker:** Hon. Members, for reasons that are obvious to all of us, I will not put the Question. The Question will be put tomorrow in the afternoon.

Let us move on to the next Order.

#### THE LEGAL AID BILL

**Hon. A. B. Duale:** Hon. Speaker, I beg to move that The Legal Aid Bill 2015 be now read a Second Time.

The objective of the Legal Aid Bill 2015 is to give effect to Article 19(2) of the Constitution on the rights and fundamental freedoms, Article 48 on access to justice and Article 50(2)(g) and (h) on fair hearing. Article 48 provides that the State, which is the Executive, shall ensure access to justice for all persons and if any fee is required, it shall be reasonable and shall not impede access to justice.

Poverty has been identified as one of the greatest impediments to accessing justice in Kenya. That is why the Government, in its policy document, the Poverty Reduction Strategy Paper of 2001-2004 noted that most communities and the poor in most parts of rural Kenya site lack of access to socially responsive and affordable legal and judicial services. These have been seen as critical issues that need to be addressed by the Government in the fight against poverty.

A number of Papers and documents have been introduced. A number of policy frameworks have been set in several initiatives among them the National Poverty Eradication Plan 1999-2015, the Investment Programme for Economic Recovery Strategy for Wealth and Employment Creation of 2003-2007 and, above all, the Vision 2030. All these policies put together recognise the need for access to justice as a critical fundamental pillar for economic development and poverty reduction in Kenya. These policies recommended, among others, that access to justice must be responsive and affordable. The question today is, is it affordable with the various allegation of bribery of US\$2 million? Is it affordable? Is it accessible? Is it speedy in the promotion of sustainable economic development in our country? That is why the Legal Aid Bill is seen as a cornerstone of a just society where everybody in our country, including the poor, the vulnerable and the disadvantaged members of our society have equal access to legal and judicial services in a society where we claim to have a reformed Judiciary under the new Constitution. Access to justice means the ability of all citizens, particularly the poor and the

disadvantaged groups, to have a forum to navigate effectively the legal system, seek and obtain remedies through formal and informal justice system in accordance with the human rights principles and standards.

The Legal Aid Bill, 2015 seeks to provide among others that the legal framework for the regulation of persons and institutions offering legal aid services and who have been tasked with the promotion of access to justice must at all times be ready to promote access to justice by making it affordable, accessible, sustainable, credible and within an accountable legal aid services to all the vulnerable members of our society. All this must be done within the framework of the Constitution.

This Bill establishes a scheme to assist poor persons to access legal aid. This Bill seeks to establish a mechanism that promotes legal awareness in our country. This Bill will provide an avenue for the promotion of education and research. It will support community legal services through the promotion of funding and the establishment of justice advisory centres across the country. It will also promote the use of alternative dispute resolution methods which will help us in enhancing access to justice.

Part I of the Bill deals with preliminary matters. Part II of the Bill establishes, for the first time in our country, a national legal aid service as a state corporation. The functions of this state corporation are to establish and administer a national legal aid scheme that is affordable, accessible, sustainable, credible and accountable and that will encourage and facilitate the settlement of disputes by using various alternative dispute resolution methods. This corporation will also undertake and promote research in the field of legal service, legal awareness and access to justice, among many others.

Part III of the Bill provides for how the Board is going to govern the service. The functions of the Board include formulation and review of policies, accreditation and many others.

Part IV of the of the Bill deals with how the Service will be managed by the Director who shall be recruited competitively by the Board and appointed by the CS in charge of that Ministry. It further provides that the Board may appoint officers and staff. It is more of administrative.

Part V of the Bill establishes the most important thing in this Bill, the Legal Aid Fund. The Service may use the monies of this Fund to ensure that poor people get representation in terms of granting them legal aid in accordance with this Act. They can pay remuneration of the legal aid providers for the service they have provided in accordance with the Act.

Part VI of the Bill prescribes the service to provide legal aid service in various fields of law at the expense of the State.

Part VII of the Bill sets out the requirements for application on how one can access legal aid. That Part specifies the person who can apply for legal aid, the procedure for application and the suspension or the stage at which the Service can withdraw legal aid.

Part IX of the Bill deals with the accreditation of legal aid providers who include advocates operating under the *pro bono* umbrella. So, the Bill is going to regulate the *pro bono* programme of the Law Society of Kenya (LSK) and other institutions. It is going to give accreditation to law firms, NGOs, faith-based organisations, universities and other institutions that want to run legal aid clinics. So, it is more of creating a system in law for all the organisations that want to run legal aid clinics.

Part X of the Bill specifies the terms and conditions for the grant of legal aid, which may include payment of fees. Basically the Part provides for the conditions and terms of granting

legal aid licence. Part XI of the Bill deals with award of costs in civil proceedings. Lastly, Part XIII of the Bill contains miscellaneous provisions.

In a nutshell, that is the summary of the Legal Aid Bill, 2015, which gives effect to a number of provisions in the Constitution.

Before I hand over the remaining time to the Vice-Chairperson of the Departmental Committee on Justice and Legal Affairs to second the Bill, I want to pose this question: Is access to justice in Kenya affordable, sustainable, credible and accountable? This Bill is coming at the right time when we are dealing with access to justice and its affordability. If the tribunal which the President was told to set up is set up and maybe it gives the verdict that, yes, litigants and everybody who was involved in that case paid US\$2 million bribe, then it shows it is not about accessibility. It is very expensive to access justice in our country. How many people can pay US\$2 million? Not many, I am sure. It is high time that the so-called temple of justice remained a temple of justice.

There are very many men and women in the Judiciary for whom I have a lot of respect and who I can confirm have high level of integrity, but I am sure, from the reports before this House by the Departmental Committee on Justice and Legal Affairs on the Judiciary and the PAC on the leadership of the Judiciary, from the many cases that former top leadership of the Judiciary are facing in court and from the recent developments around Justice Tunoi and his company, we can confirm that the temple of justice is cracking. It is collapsing at a very fast rate.

One night at 11.30 O'clock, I tweeted to my friend the Chief Justice (CJ). I asked: "Can the CJ, Hon. Willy Mutunga, confirm the Supreme Court and the Judiciary is faced with corruption?" Barely one minute later, the CJ tweeted back and said: "Not at the level of Parliament." I was very worried because he panicked. When he was tweeting, he was not sober. I was very happy because he panicked. When he was tweeting, he was not sober. So, I tweeted back and said that we are not talking about levels of corruption between the Judiciary and Parliament. "I am only asking you to confirm if you, as the President of the Supreme Court and Head of the Judiciary, is faced with graft allegations." So, the second time, the Chief Justice was very sober. He only tweeted back and said: "@ Hon. A.B. Duale, *usiku Mwema*" and I said: "Goodnight."

You can accuse the Executive and the Legislature of corruption because these are people who are elected. They are politicians. Even those who run the Executive are politicians. The last place that can be accused of corruption anywhere in the world is the Judiciary. That is why today, I think that my colleagues will agree with me. Let those who can pay US \$2 million pay but what about the people in the villages, who have no money and whom we represent? They must take advantage of this law to access the legal aid fund that gets grants, so that they can access affordable, sustainable and accountable justice. I am sure that Hon. Members will contribute to this Bill. The earlier we conclude it and have it forwarded to His Excellency the President for assent, the better. For those of us who represent the poorest of the poor in our country – people who cannot afford even US \$2 or US \$10 to bribe somebody – the solution is in this Bill. This House must deal with it very fast so that our people can access legal aid.

With those many remarks, I beg to move and ask Hon. Nyokabi, the Vice Chairperson of the Departmental Committee on Justice and Legal Affairs and the Women Representative of Nyeri County, to second.

**Hon. (Ms.) Kanyua:** Thank you, Hon. Speaker. I beg to second the Legal Aid Bill. It is a Bill that the Departmental Committee on Justice and Legal Affairs had occasion to look at.

Just picking up from the Mover, it is, indeed, a big question of whether justice is on sale in this country. If it is on sale, then clearly the poor will never afford it. Given the rate at which it is going, it sounds very scary.

If you use the ratio that is in the public domain and assume that Kshs200 million is the going rate for a governor's seat, it means those of us who are preparing for election petitions then need between Kshs50 million and Kshs100 million to secure justice in the next election. We cannot have a country that runs that way. We expect a lot more from our Judiciary in terms of the way they handle that particular case and all other cases of corruption. Justice is something that the Constitution of Kenya, 2010 addresses itself to. There should be justice for all Kenyans. It is, indeed, true that a country like ours, with the ethnic composition that we have, can only work with a central set of rules that are enforced in a similar way in every part of the country. For those rules to be enforced in a similar way in all the parts of the country, access to justice becomes important. So, the Legal Aid Bill that we are moving today becomes a really important part of that architecture of justice in our country.

It is a Bill that has been in the pipeline for a long time. It has been worked on since the days of the National Steering Committee on Legal Aid. There have been efforts by the Executive to provide legal aid and systems that avail legal aid in the Executive and Judiciary as well but we need a legal framework that provides for legal aid in our country. We need a legislation that houses and covers all the matters that relate to legal aid. That is what the Legal Aid Bill seeks to do. The various efforts that have existed, including the many other methods there have been of availing legal aid, will now come under one umbrella of legal aid service providers. The Board will regulate the practice in a manner that befits the dictates of Article 48 on access to justice and Article 50, which requires that if substantial injustice will result in a criminal proceeding, the person who stands to suffer the substantial injustice receives legal aid at the cost and expense of the State. Those are the matters and details of the Constitution that the particular Bill will be addressing.

Hon. Speaker, it is important for us also to note that the law follows very closely what is happening in our continent, especially in South Africa – which is way ahead on matters of legal aid. A couple of other countries in the region have also passed the Legal Aid Bill. So, Kenya which is a leading democracy in our continent, will be joining the legion of states that have passed this particular law. Those of us who practise law are aware of the practice and the problems of the *popus* briefs. They have traditionally gone to younger lawyers and given to clients who cannot afford legal fees. Many times, those clients do not get justice. We have been in court where a *popus* brief lawyer comes with no documents and memorandum of appeal and he attempts to appeal orally. Some come without amendments to any appeals that have been filed. The representation at that level has not been adequate. We want to urge that as the Legal Aid Bill comes to pass, the representation that goes to poor clients must be of sufficient standard. So, regulation and accreditation of the legal aid providers is going to be a very important process. The fact that somebody cannot afford legal fees does not mean that they are entitled to inferior justice. They are entitled to justice nonetheless. So, the scheme will have to ensure that the standards of representation are very high and well maintained, and that the accreditation system works well to ensure that the legal aid providers do a good job as they provide legal aid.

Hon. Speaker, we are also in a country where only the offence of murder has traditionally received legal aid. We have three other offences that attract the death penalty. It has been particularly important for the death penalty offences that legal aid is provided. It is not a small



matter to lose your life to the State as it happens in the penalty. In our country, in the offences of robbery with violence stroke 2, the death penalty is mandatory. Once the judge or the judicial officer has convicted a suspect, they have no choice but to issue and decree the mandatory death sentence. In a situation like that, it becomes very important that the accused persons are given legal aid so that they can go through fair trials and be able to test the evidence.

In our country, if two robbers go into a household, whether they use violence or not, they will be arrested for robbery with violence. It is a law which should be re-visited by this House at some point in time. Our law assumes that a robber must be alone. So, when the robbers are two, they are taken to stroke 2. When they go to stroke 2 with the trials that we have without sufficient legal advice, many of them are subjected to a trial that sends them straight to the death penalty without them ever understanding what it is that they are facing. The court sometimes gives them a lawyer at the Court of Appeal, but that would be too late because a lot of the evidence already would have been accumulated.

I hope that the Legal Aid Bill that we are passing today will not only deal with murder cases but also robbery with violence. Most importantly, it will deal with cases of attempted robbery with violence. We have an attempted robbery with violence crime, which is not a successful robbery but one is tried. Even just the attempt to steal can attract the death penalty. That would require that persons going to be subjected to the death penalty receive legal aid so that they can have fair trials. They should be provided with lawyers at the State's expense to ensure that such trials proceed as they should because we, indeed, need to decry the rate of robbery in our society. We have to deal with robbers who are robbing honest citizens. However, as we deal with the robbers, we must also ensure that they get fair trial as the country is fighting crime. The Legal Aid Bill will sort out that problem.

The other question around the death penalty is the moratorium. We also have questions on life sentence. A legal aids scheme can begin to allow us to test those legal questions in our Judiciary and in our legal system. The sexual and gender-based violence victims, rape, defilement and child sexual abuse need to receive legal aid for the victims and for the perpetrators. Our Sexual Offences Act, as we all know, is very punitive, so that if you go to our jails, you will find many people in jail on sexual offences.

As the offences are tight, so should the trial. The trial ought to be done in a way that those who get convicted for sexual offences have, indeed, received fairness and justice in the process. In that process, the victims need to receive fair and good advice as well. In Kenya, to convict for the offence of rape is one of the most difficult things to ever do. As we continue to look at those laws, we will have to look at the crimes. I have particularly felt very sad that rape can only be proved after ejaculation. That is way too late. The crime is finished. If we are waiting for semen to come and show that rape happened, I think there is a problem. In those trials of rape, the legal tests are so severe that both sides need to receive legal aid. The perpetrator and the victim need to receive legal aid.

The Bill is well drafted and it covers the aspects that we would all want it to cover, but the Committee has a comprehensive report on some of the amendments that we propose. The Committee particularly proposes amendments on who is eligible for legal aid - leaving it to indigent citizens, Internally Displaced Persons (IDPs) and the really marginalized groups in our society. The Committee has also done a lot of clean up of the provisions to ensure that the law promises our country a good legal aids scheme and a legal aid mechanism. In some of the matters around resettlement of IDPs, evicted persons and contracts, there will also be opportunity

for the legal aid to keep developing and growing in that direction. I urge colleagues in the House to pass this particular Law.

*(Hon. Wandayi stood up in his place)*

**Hon. Speaker:** Could the Member for Ugunja take his seat, please?

*(Question proposed)*

**Hon. Speaker:** Hon. Manson Nyamweya.

**Hon. Nyamweya:** Thank you, Hon. Speaker, for giving me this chance to contribute to this Bill. I want to note that this is a very brilliant and well-thought out Bill. However, they have not indicated to us how it is going to be funded. For any law that we pass in this House to work, we need to indicate how it will be funded. We need to indicate how much money it is going to get. This is missing in this Bill. I have gone through it and as much as it is trying to meet the threshold of the Constitution of Kenya, 2010, they have not told us how it is going to be funded.

For any institution that we create in this country, unless we indicate clearly how it is going to be funded, it will remain on paper. I urge the Committee to come up with how the Exchequer is going to fund this organisation. Who is going to contribute? Is it going to draw funds from the Consolidated Fund? How do they want to do it? They need to come up with a system of how that organization is going to be funded. Without that, it remains on paper.

The Leader of the Majority Party has talked about corruption in the Judiciary. As far as I am concerned, the issue of corruption is big. But the instrument of power to govern this country democratically and fairly is given to one man, namely, the President. This Bill speaks very well. The Bill talks of a Cabinet Minister, but in our current structure, I do not know the Cabinet Minister responsible for this. The same Bill brings out the functions of the Attorney-General. Therefore, I am not sure who they are referring to as the Cabinet Minister responsible for this. The Bill says that the Attorney-General will be there as a member, but in the current Government structure, do we have a Minister for Justice or a Minister who is going to be responsible? The Bill should be presenting the issues as they are today. They need to check into that to ensure that this Bill is operationalised and fair to Kenyans.

Looking at the proposed board, it has been taken over by the Principal Secretary, Ministry of Interior and Co-ordination of National Government. You wonder whether those people have the ability to run the Board. I expected the institution to comprise of more members from the Law Society of Kenya (LSK), which is more active - and the private sector - rather than having half of the membership from the Government. Many organisations like this one have been established. For example, there is the one which deals with prisoners under the Attorney-General, and which has not been operationalised. It is there, but it has no activities. I urge Members to look into those issues, so that we can come up with a good Bill.

The Bill provides that the headquarters of the organization will be in Nairobi and they may decide to set up offices in other areas. People who are marginalised are not found in Nairobi, but in the counties, constituencies and wards. For this to be effective, the Bill has to be very clear and specific that the offices will be in the counties of the Republic in Kenya. That way, we can reach as many people as possible.

Again, there is the hindrance of funding. We need to re-look into the issue of funding the institution. If we do not do that, the Bill will not be of much help. I need to be told which Cabinet Secretary is in charge of legal aids in Kenya. I do not know who is handling that at the moment and where it is placed. Is it at the Attorney-General's chambers? If it is at the Attorney-General's Chambers, the chambers should be included in the Bill.

**Hon. (Ms.) Kanyua:** Point of information.

**Hon. Nyamweya:** Yes, please.

**Hon. Speaker:** You want to be informed.

**Hon. Nyamweya:** Yes, I want to be informed.

**Hon. Speaker:** Yes, Hon. Nyokabi.

**Hon. (Ms.) Kanyua:** Thank, Hon. Speaker. Just to appreciate the concerns that the Member is raising. On the first one on funding, Clause 29 of the Bill addresses that. It is going to be money allocated by Parliament for the purposes of the service from year to year. On the other question of the Minister or Cabinet Secretary, it is going to be the Cabinet Secretary for the time being responsible for matters of justice. In this particular regime, it is the Attorney-General. So, the amendments that the Committee will bring will require that the Cabinet Secretary for the time being in charge of matters of justice as opposed to legal aids in particular.

**Hon. Nyamweya:** Hon. Speaker, what the Member has said is true. But I have read through the Bill and it has recognised the Attorney-General as an individual or an entity. So, the Committee needs to delete one.

**Hon. Speaker:** Hon. Nyamweya, the Vice-Chair has explained that the Committee proposes to bring that as an amendment. You cannot just quarrel even with the information.

**Hon. Nyamweya:** Thank you, Hon. Speaker. As I have said, if they get the funds directly from the Exchequer and not through the Attorney-General, that body should not be domiciled in the Office of the Attorney-General. It has to be independent and separated. Another problem is that it is not a constitutional office. If it is not a constitutional office, it may not get funding directly from Parliament. This is an issue the Committee has to look into and come up with a clear process of funding, so that the organization can help the poor people and those who have been marginalised. It should help those who cannot afford legal services in this country. As it is, justice is for those who afford to pay for it and the very poor may not be able to manage it. The current wave of corruption in the country, which even makes it worse, increases the urgency of the formation of the National Legal Aid Service.

With those few remarks, I support the passage of the Legal Aid Bill 2015 by the National Assembly.

**Hon. Speaker:** Hon. Member for Mbeere North.

**Hon. Njagagua:** Thank you very much, Hon. Speaker for giving me this chance to contribute to the Legal Aid Bill, 2015.

The Bill is very clear that for one to be given legal aid, one must be indigent, a resident of Kenya and a citizen of this country. That is because funds and monies will be used by the Kenyan taxpayers to aid such a Kenyan. If one is a child or a refugee, one can also be a victim of human trafficking and become a stateless person. We all remember quite a number of people who have been deported and they have spent almost two or three years at the airport. Those are the people who are going to benefit once the Legal Aid Bill comes into law.

There will be a list of accredited persons who will be offering legal aid or services. This is going to avoid a situation where we will have quacks masquerading as legal aid providers;

persons who might not have what we would call a *locus standi* in legal terms. The ones who would wish to just get into any matter because they know that, at the end of the day, there will be some little money for those who will be providing legal aid.

The Bill is very clear that this legal aid should be granted in areas of civil law, criminal law, constitutional matters and those of public concern. Those are matters where you would find land has been grabbed from a public institution. People who are not able to defend themselves in court or articulate their matters in court can approach the National Legal Aid Service and they can be given legal aid providers who will take over their matters.

The bottom-line of this Bill is to provide accessibility to legal aid for Kenyans. As Hon. Members who have contributed earlier have stated, it is coming out very clearly that legal aid services are way out of reach for many Kenyans. As a legal practitioner, I know we are clamouring, as lawyers, that remuneration be enhanced over the years. With the effect of inflation, those of us who offer legal services get paid far too little than what we ought to get. But now, this Legal Aid Bill will be offering services to those who are not able to visit a law firm or hire the services of a lawyer.

Those who have spoken before have mentioned the issue of corruption in the Judiciary. Not that I want to speak for the Judiciary or hold brief for them, but I know quite a number of judicial officers who are not corrupt, although some may be corrupt.

A case in point is the matter which is currently on social media and in the newspapers, where it is alleged that money exchanged hands. My take on that, as I contribute to this Legal Aid Bill, is that every person should be taken as innocent until proven guilty. Those are the provisions of the law. For now, I would suggest that we give the gentleman the benefit of doubt until the tribunal is formed. That is when the entire details will come out as to what did or did not transpire.

I support this Bill.

**Hon. Speaker:** Hon. Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Speaker for giving me this opportunity. I take this opportunity to also wish every Hon. Member a Happy New Year.

I want to support this Bill. I have worked in the area of access to justice for many years. I was in the taskforce that was established to come up with a legal aid scheme. We worked on a draft bill for many years. In many respects, this Bill has a bit that quite relates to what we discussed. I am really happy that this Bill has come to the Floor of the House when I am in Parliament. This is one of the areas that I am really passionate about - the issue of access to justice, especially for women and children.

Having practised for many years representing indigent persons, you can never truly say that we have equality in law, if you have one side having representation against another side that does not. I want to give an example of a case I once dealt with. That was one of the reasons that prompted us to come up with the Sexual Offences Act. We were in court representing a six year old girl who had been gang-raped. The law allowed for cross-examination on the sexual history of the six year old girl who did not have legal representation. The other side had legal representation. They were all cross-examining the girl about her sexual history at six years. Of course, that spiraled to a lot of amendments in the other areas of law. This is one of the areas which is still remaining, and which is on access to justice. Therefore, I am really happy. I will be supporting this Bill, but with some proposed amendments.

This law is seeking to harmonise the provision of legal aid. There are several organisations that have been providing legal aid in this country; where I have worked, including CRADLE, Federation of Women Lawyers in Kenya (FIDA), International Centre for Jurists (ICJ) and many other institutions. They provide different forms of aid. Some provide advice, some provide representation, others provide advocacy and others provide awareness. I am glad that the definition of legal aid in this Bill takes into account all that. It seeks to standardise issues of para-legalism. Even as we offer training, you find somebody who has been trained as a para-legal for two days qualifies as a para-legal officer. Others train as para-legals for three years. You will find someone saying that he is qualified to offer some level of legal advice or representation and yet, he has only been trained for a day, while another person has undergone several months and years of training. Those are very different standards. I am glad this Bill will set standards.

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

*[The Temporary Deputy Speaker (Hon. Kajwang') took the Chair]*

The other issue that I am happy about is the broad definition of legal aid, as I have indicated. I am also happy that there is provision for grant-in-aid to voluntary social services institutions. This is because we have organisations that provide legal aid and they rely solely on donor funding. This is a tragedy because access to justice should be the sole responsibility of the Government that is the duty-bearer to the citizens. However, I will be seeking an amendment so that we do not indicate it as a provision of grant-in-aid to voluntary social service institutions. This is because there has been a very clear definition of who a legal aid provider is. The grant-in-aid should be to legal aid providers.

In Clause 9, I would want to encourage that we be specific such that organisations that will be in the board of service include organisations that work for women and children. It would be a tragedy if we leave this open-ended and then you find organisations that do not have expertise in this work.

Hon. Temporary Deputy Speaker, it will be a tragedy if you do not include the Federation of Women Lawyers (FIDAs) and CRADLE of this world in this scheme and yet, they have always been there. The way it is currently defined, virtually any organisation would fit in here and beat the purpose to which this was set up.

Hon. Temporary Deputy Speaker, one of the other things that make me happy about this Bill is the recognition of public litigation. The Government, through this initiative, will try to ensure that as many people as possible access justice. Sometimes, even when you provide many lawyers, just as is the case with doctors in hospitals, they will not be in a position to provide ample representation. Even if we trained half of this country's population to become lawyers because of the number of cases that are in our courts, we cannot provide adequate representation. Those of us who have worked in the access to justice area know that the issue of public interest litigation has worked. I am, therefore, very happy that this Bill is trying to ensure that we elevate public interest litigation. If this Bill works in tandem with other laws passed by this House, such as the Small Claims Courts, many Kenyans will be able to access justice.

We can borrow from examples of countries that have made steps in this direction. When I was in the taskforce, someone shared with us the experiences of Zambia, the UK and the US.

Sometimes, there is a tendency to give a token approach. I would like to encourage that this scheme be truly a legal aid scheme that strengthens existing schemes and takes indigent persons seriously, so that when they proceed to access the scheme, they will be assisted properly.

When I was studying in the US, I was honoured to learn that they have gone a step further to ensure that in one case, you can have one lawyer representing different needs of one client. You can have a lawyer representing your psychological needs and another one representing your economic needs. We will someday get there. Before we get there, I would say that this is a step in the right direction.

With those remarks, I support and thank the Mover for presenting the Bill.

**The Temporary Deputy Speaker** (Hon. Kajwang<sup>3</sup>): Hon. Members, the debate on the Legal Aid Bill is still open. We will carry it forward to the next opportune time.

Hon. Members, the Member for Saku had requested the Speaker – and the Speaker had agreed – that at 5.00 p.m., the House takes leave so that he moves an Adjournment Motion. Before we begin, let me do a few housekeeping tasks. The Speaker had pronounced himself on this but for avoidance of doubt; I would like to refer you to the Standing Orders on public access to the House and its Committees.

In particular, I refer you to Standing Order No.252 as read together with Standing Order No.254. I will require members of the media to leave the Chamber. I ask the Serjeant-at-Arms to enforce my order and ensure that members of the media recess until the next meeting of the House.

According to the Standing Orders, we have invoked the orders pertaining to the broadcasting rules, and our official broadcasters will not take pictures, whether video or still, over the issues we will be discussing. Everything that Members will say will be recorded accurately on the HANSARD.

Hon. Members, when we are *in camera*, I beseech you not to take photos or recording of what will transpire. Nowadays, restricting information becomes difficult because everybody walks with a camera in his or her pocket. If by chance the Serjeant-at-Arms find you taking a photo or otherwise, you will be in absolute breach of privilege and you will be referred to the Committee on Privileges. Let us not fight over this as we are mature legislatures who know where we are going. So, let us have a good discussion on this matter. However, it will be on HANSARD and you will access what the HANSARD shall record. The HANSARD should be switched off from the speakers going into other offices which are not in the Chamber, including the Speaker's Office. Information should not go to the Speaker's Office.

Member for Saku has 10 minutes to move the Motion, and then every Member speaking will have five minutes.

*(In Camera Sitting)*