

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD**

Thursday, 17th September 2020

The House met at 10.00 a.m.

[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]

PRAYERS

Hon. Deputy Speaker: Having confirmed that between the Members who are in the Chamber and those in the holding areas, we form the required quorum, the business of the House will begin.

PAPER LAID

Hon. Deputy Speaker: Under that particular Order, we have the Leader of the Majority Party and the Chairperson of the Departmental Committee on Environment and Natural Resources. We will start with the Leader of the Majority Party.

Is the Chairperson of the Departmental Committee on Environment and Natural Resources, Hon. Kareke Mbiuki in the House? Proceed, Hon. Mbiuki.

Hon. Kareke Nbiuki (Maara, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Environment and Natural Resources on its consideration of Petition regarding the completion of Mzee Wanyama Water Dam Project in Nakuru Town East Constituency.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Is the Leader of the Majority Party in or is anybody holding brief for him? Then what we will do, because I am aware that the Leader of the Majority Party is committed on some issues, as soon as he comes, we will allow him to table those Papers, unless we would have gone too far and in that case, we will allow him to do so in the afternoon. Let us proceed.

ORDINARY QUESTIONS

Question No.156/2020

MEASURES TO ADDRESS DIMINISHING WATERS IN BISANATHI RVER

Hon. Abdi Tepo (Isiolo South, KPP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Environment and Forestry the following Question.

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- (i) Could the Cabinet Secretary explain the steps being undertaken by the Ministry to address the diminishing water levels in rivers, in particular River Bisanathi in Isiolo South Constituency?
- (ii) What actions has the Ministry taken against upstream water consumers who are using water extensively without any regard to those downstream, and by when?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: The Question will be replied to before the Departmental Committee on Environment and Natural Resources.

Next is a Question by the Member for Lamu East, Hon. Sharif Athman Ali. On his own request, to which I accede, the Question is deferred.

Question No.171/2020

DELAYS IN CONSTRUCTION/UPGRADING OF
ROADS IN LAMU EAST CONSTITUENCY

(Question deferred)

Next will be the Member for Malindi, Hon. Aisha Jumwa.

Hon. Members, I see there is a lot of anxiety. The reason why you are sitting slightly closer to each other today is that the seating arrangement has been reviewed as per the Hon. Speaker's order and in agreement with public health persons. So, you do not really have to worry. You are now sitting much closer to each other than you were before.

Hon. Aisha, proceed.

Question No.186/2020

ISSUES ON GALANA-KULALU IRRIGATION PROJECT

Hon. (Ms.) Aisha Jumwa (Malindi, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Agriculture, Livestock and Fisheries the following Question.

- (i) With regard to the conceptualisation and development of the Galana-Kulalu Irrigation Project, which cuts across Kilifi and Tana River counties, why did the Government proceed to lease land from residents without undertaking public participation and stakeholder engagements as provided for under Articles 118 and 232 of the Constitution?
- (ii) In which aspects has the National Government engaged the Kilifi and Tana River counties in the project, especially with regard to employment opportunities, research and infrastructural development?
- (iii) Could the National Government consider handing over the implementation of the project to the two county governments considering that agriculture is a devolved function?
- (iv) Could the Cabinet Secretary provide a report on the status of the project with regard to its viability, funds spent from inception to date, trials and actual production of crops, any feasibility and related studies conducted so far, including the involvement of Green Araya Limited Company from Israel?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Agriculture and Livestock.

Hon. (Ms.) Aisha Jumwa (Malindi, ODM): Thank you.

Hon. Deputy Speaker: The next Question is by the Member for Laisamis, Hon. Arbelle Marselino Malimo.

Question No.188/2020

STATUS OF DELOCALISATION OF TEACHERS BY TSC

Hon. Marselino Arbelle (Laisamis, JP): Thank you, Hon. Deputy Speaker. I would like to ask Question No.188/2020 directed to the Teachers Service Commission (TSC). The Question reads:

- (i) What criteria is used by the Teachers Service Commission during delocalisation of teachers in the country?
- (ii) What measures are in place to ensure that the process is carried out in a fair and transparent manner?
- (iii) Why is the Commission not delocalising officers of the TSC Secretariat who have overstayed in one station, in particular, the staffing officer at Laisamis Sub-County Headquarters who has served for more than nine years in the same station?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one is for a written reply by the TSC. So, we go to the next one by the Member for Lamu West, Hon. Stanley Muthama. Is he in? Hon. Stanley Muthama? We will go to the next one. Let us have the Member for Alego-Usonga, Hon. Samuel Atandi.

Question No.200/2020

STATUS OF FORENSIC AUDIT ON COLLAPSE OF IMPERIAL AND CHASE BANKS

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No.200/2020 directed to the Cabinet Secretary, the National Treasury and Planning.

- (i) Could the Cabinet Secretary explain the status of the emergency liquidity facility which was created following the collapse of Imperial Bank and Chase Bank to bail out banks facing liquidity challenges and confirm whether the facility is still in existence and how many banks have so far benefited from this facility?
- (ii) Could the Cabinet Secretary also report on the status of the forensic audit which was being conducted following the collapse of Imperial Bank?
- (iii) How was the firm(s) engaged in the forensic audit identified and procured?
- (iv) What were the specific terms of engagement of the firm(s) conducting the forensic audit and are they being paid by the public through the Central Bank of Kenya (CBK)?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Finance and National Planning. That marks the end of Question Time.

Hon. Members, now that we are seated very closely to each other; closer than before, you are very strongly advised to put on your face masks. I am having a specific case in mind. Hon. (Dr.) Wamalwa here and others, you must put on face masks. We are seated closer to each other than we were before. I understand, Hon. (Dr.) Wamalwa, you are not used to that because you know you are the soloist in the previous... However, you know that you cannot be a soloist here. There is also another Member there. I can see a few Members. Members must put on their face masks. It is good for them and if they do not feel that it is good for them, let it be good for others. So, Hon. Members, we will be very strict on that one. In fact, for any Member who will not be using the face mask, he/she will not catch the Speaker's eye. I can assure you of that because I would not want to give an opportunity to a Member to speak without a face mask and, therefore, spit saliva all over.

We will now proceed. Is the Member for Lamu West in the Chamber? Proceed the Member for Lamu West, Hon. Muthama. Oh! You are the one who was not having a mask. You now have it.

Question No.192/2020

STATUS OF MANDA AIRPORT IN LAMU WEST CONSTITUENCY

Hon. Stanley Muthama (Lamu West, MCCP): Hon. Deputy Speaker, I rise to ask the following question regarding development issues in Lamu.

- (i) Could the Cabinet Secretary explain the status of the renovation of Manda Airport in Lamu West Constituency considering its current deplorable state particularly the taxiway, apron facilities and general airport infrastructure, which has not been having any improvement for quite a long time?

Hon. Deputy Speaker: Excuse me, Hon. Muthama. I just want you to read the Question as it is. The explanations and other matters will be canvassed at the committee when the Question will be answered.

Hon. Stanley Muthama (Lamu West, MCCP): Thank you, Hon. Deputy Speaker. I will proceed.

- (ii) Could the Cabinet Secretary also explain the poor state of the Airport that led to the recent withdrawal of Jambo Jet and other regional airlines from flying to Lamu?
- (iii) What specific plans are there to expand the Airport including connecting it to the national electricity grid in a bid to cater for larger capacity airplanes and the expected air traffic as a result of the full development of the Lamu Port–South Sudan–Ethiopia Transport (LAPSSET) Corridor Project?
- (iv) Could the Ministry consider extending operation hours of the airport from the current 6.00 a.m. to 6.00 p.m. schedule in order to accommodate the anticipated heightened demand for air travel following completion of the LAPSSET Project as well as for handling emergency evacuations that may arise from time to time?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Transport, Public Works and Housing. What is it? I can see there is a Member who wants to say something. Who is that? Is that Hon. Jumwa? It is Hon. Washiali. Hon. Washiali, what is it?

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. I rise to seek for your indulgence on Question No.186/2020 asked by Hon. Aisha Jumwa. It is written here as Hon. Aisha Juma, but the correct name is Hon. Aisha Jumwa.

Hon. Deputy Speaker: How do you know it Hon. Washiali?

(Laughter)

Hon. Deputy Speaker: You are neither Aisha nor Jumwa.

Hon. Benjamin Washiali (Mumias East, JP): I know her very well, Hon. Deputy Speaker.

Hon. Deputy Speaker: Really?

Hon. Benjamin Washiali (Mumias East, JP): Hon. Deputy Speaker, I want your indulgence because I have been a Member of the Departmental Committee on Environment and Natural Resources and from the Presidential Order, this project that Hon. Aisha Jumwa was asking about, namely, the Galana-Kulalu Project, was at one point under the Ministry of Agriculture, Livestock, Fisheries and Co-Operatives, but as we speak, the State Department of Irrigation is under the Ministry of Water, Sanitation and Irrigation. I was just seeking your indulgence if maybe this Question may have been referred to a wrong Committee, so that it is redirected to the correct committee, which is the Departmental Committee on Environment and Natural Resources, whose Chairperson is here, so that it can be tackled within a record time.

Hon. Deputy Speaker: You really have a point, Hon. Member. However, since we have already placed it before the Departmental Committee on Agriculture and Livestock and this is really an irrigation project that still has some components of agriculture, let it just proceed that way. The Member did not seem to have a problem with it, but should we have an issue from the specific Cabinet Secretary asking that it be redirected, then we will consider. However, for now, it can be handled sufficiently by that Departmental Committee. That will be fine unless the Chairperson, Departmental Committee on Environment and Natural Resources has an issue with it because this is something that can be dispensed with quickly. What is your take, Hon. Kareke Mbiuki?

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let me hear what you have to say then take the views of two other Members and then we will make a decision quickly.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Deputy Speaker. Following the point of order raised by Hon. Washiali, I would like to add that, equally, the Speaker of this House directed that all the matters to do with irrigation are overseen by the Departmental Committee on Environment and Natural Resources.

Basically what she has asked falls squarely under the implementation of the Galana-Kulalu Irrigation Project which is being undertaken by the National Irrigation Authority which falls under the Ministry of Water, Irrigation and Sanitation. My humble opinion is that if this Question goes to the Departmental Committee on Agriculture and Livestock, it will take a lot of time. By the time it is directed, we will have wasted a lot of time.

Hon. Deputy Speaker: Agreed. I hear you. Let me give a chance to that Member at the very end there. I might need to get some aid to get to know who you are. Hon. Ali Wario, let us hear what you have to say.

Hon. Ali Wario (Bura, JP): Thank you, Hon. Deputy Speaker. I also rise to support Hon. Aisha. Galana means a river. Eighty per cent of the Galana-Kulalu Irrigation Project is in my constituency. It has turned out to be a white elephant project.

Hon. Deputy Speaker: Hon. Wario, you are actually canvassing. I really want you to speak to this specific thing on whether we are taking it to Irrigation or retaining it in Agriculture.

Hon. Ali Wario (Bura, JP): Yes, the Galana-Kulalu Irrigation Project belongs to the ADC, the Agricultural Development Corporation. That land is almost 1.4 million acres.

Hon. Deputy Speaker: Your suggestion is that it remains in Agriculture.

Hon. Ali Wario (Bura, JP): Yes, because the ADC exists by an Act of Parliament. It squarely lies in the Ministry of Agriculture, Livestock and Fisheries. But the National Irrigation Board (NIB) has taken part of the land which belongs to the ADC.

Hon. Deputy Speaker: Now that clarifies my mind completely. In fact, I do not need to have any other Member speak to it. What you have said, Hon. Wario, is that the NIB has taken over the project but the land belongs to the ADC. Now, my thinking is that, since it is the NIB which has taken over the project, we will not be discussing issues to do with land. It is about the component of irrigation. So, the best thing is for us to refer to the Departmental Committee on Environment and Natural Resources. I think it is just as straightforward as that.

Let us proceed to the next matter. Before we proceed to the next Order, what is your point of order again? On which other matter? What is out of order, Hon. Makali? I see your card is here.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Deputy Speaker. I am seeking your indulgence in terms of these Questions we keep asking this House. During the Third Session, I asked a Question relating to the monitoring and evaluation policy in this country. You directed that the Departmental Committee on Finance and National Planning takes over the matter.

Hon. Deputy Speaker: Did you say M&E which is monitoring and evaluation?

Hon. Makali Mulu (Kitui Central, WDM-K): Yes, that policy in this country. Up to now, they have not got any answer to that Question. I am worried.

Hon. Deputy Speaker: When did you ask that Question? Is it a Question you asked or a Request for a Statement?

Hon. Makali Mulu (Kitui Central, WDM-K): It was a Question. I am getting worried we are now almost getting to the end of the Fourth Session and there are high chances I might not get an answer.

Hon. Deputy Speaker: Would you remember when you placed the Question?

Hon. Makali Mulu (Kitui Central, WDM-K): Yes. It was the fifth Question this year. The issue was that I wanted to know the status of the monitoring and evaluation policy in this country and why it has not been concluded and what strategies are in place to conclude it so that this country can have that important policy.

Hon. Deputy Speaker: Okay. I am told you actually asked the Question in March.

Hon. Makali Mulu (Kitui Central, WDM-K): Yes. Just at the start of the Session.

Hon. Deputy Speaker: Okay. I see Hon. Gladys Wanga. As usual, of course violating some straightforward rules here. Hon. Wanga, you know the one I am talking about of social distancing. It is now even more critical. I just want to ask of you whether you are able to respond. Would you have an idea what the problem with the Question which was asked by Hon. Mulu Mulu is? It was on the policy on monitoring and evaluation. Did you have an idea? If you really do not have a good idea on it, we could give you time to look at it and know where the issue is.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you very much, Hon. Deputy Speaker. My apologies. I was actually passing near the other Member. That is when your eye caught me. That is when I was passing. So, I did not intend in any way to violate the Covid-19 rules. I am law abiding.

On the matter of Hon. Makali, I will just move over and have a conversation with him so that I can have a good idea and I will definitely come back with feedback.

Hon. Deputy Speaker: That is a very good way of handling it. Actually, you do not even need to report back. If that matter can be dealt with, I think Hon. (Dr.) Makali Mulu will be happy.

On the issue of you having been caught on the wrong side, you seem to be a bit unlucky recently. You have been caught a few times. But it is not you who normally violates it. It is others who violate against you. This morning you are the one who actually violated. I would easily understand the first one, but I cannot understand the second one of today. Anyway, that is an issue for another day. I am just urging Members to keep safe distance and keep your masks on until otherwise advised by the authorities concerned.

(Laughter)

We will have the Leader of the Majority Party tabling documents now that he is in. That is so that we are able to move to other matters.

PAPERS LAID

Hon. Amos Kimunya (Kipipiri, JP): Hon. Deputy Speaker, thanks for this opportunity. I beg to lay the following Papers on the Table of the House:

A report of the Auditor General on the financial statements in respect of the following institutions for the year ended 30th June 2019 and the certificates therein:

The Kenya towns sustainable water supply and sanitation programme formerly referred to as the Tana Water Services Board, ADB Loan No. 20002000000501.

The Unclaimed Financial Assets Trust Fund.

The Unclaimed Financial Assets Authority.

The Local Authorities Providence Fund.

Hon. Deputy Speaker: Very well. What is it Hon. Gikaria?

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Deputy Speaker. I wanted to ask, just before we were doing Questions, what is the role of the Committee on Implementation on matters of asking Questions where Questions have been answered by respective ministries and commitments have been done by the Executive and it is never taken up? I would want you to give a directive on what the role of the Committee on Implementation is on commitments given by the Executive and it is not done. I am saying this because I have asked a number of Questions which have been answered. A particular one was at the Departmental Committee on Environment and Natural Resources where I asked about some water pans. Commitments were made by the Ministry. They promised to be there within reasonable time, but to date, they have never even showed up. So, I do not know what that is. It will only mean that we will be asking Questions, commitments are made and it is never done.

Hon. Deputy Speaker: The Chair of the Committee on Implementation is in the House. Even on the face of it, what the Committee on Implementation mostly does is especially on the resolutions of the House. Of course, they even do the other one, but mostly, it is about the resolutions of the House. Chair, are you having an issue on your mandate, like that specific case that is being asked by Hon. Gikaria?

Hon. Richard ole Kenta (Narok North, ODM): Thank you, Hon. Deputy Speaker. In fact, I would like to let Members know that we have filed or tabled several Reports. That encompasses all ministries. I advise the Members to go to the Table Office and peruse those reports. If you do not find anything to do with what you have asked, then you can approach me and I will take care of it.

Hon. Deputy Speaker: Well. Hon. Gikaria, I think that is as clear as it is. The Chair has said you look at whether anything has been done. If it has not been done, is it available?

Hon. Richard ole Kenta (Narok North, ODM): Hon. Deputy Speaker, although we have been tabling reports, the House Business Committee (HBC) has not taken any step to list them for debate. We have even written a letter to the HBC to request them to expedite the listing of those reports for debate.

Hon. Deputy Speaker: Hon. Kenta, that will be handled. We will move to the Statement request that had been made by Hon. Haika Mizighi. The request was before the Departmental Committee on Environment and Natural Resources. Is Hon. Mbiuki ready? I think he should be.

STATEMENT

CAUSE OF INCESSANT FIRES IN TSAVO NATIONAL PARK

Hon. Kareke Mbiuki (Maara, JP): Hon. Deputy Speaker, I wish to respond to the Statement sought by the Member for Taita Taveta County, Hon. Lydia Haika Mizighi, regarding the incessant fires in Tsavo National Park and other parks in the country pursuant to Standing Order No.44(2)(c). She specifically sought for the following in her Statement:

- (i) Explanation of the surging cases of incessant fires across the national parks in the country and in particular, Tsavo National Park, that has led to destruction of more than 4,000 acres of vegetation owing to the fact that the said forest is inhabited by thousands of wildlife species.
- (ii) The causes of these fires and how the Ministry is handling them.
- (iii) The measures the Ministry has put in place to ensure the situation is contained and that such incidences do not occur in future.

Hon. Deputy Speaker, the Departmental Committee on Environment and Natural Resources held a meeting with the Cabinet Secretary for Tourism and Wildlife on Monday, 7th September 2020, to deliberate on the Statement by Hon. Haika.

(Hon. Caleb Kositany consulted loudly)

Hon. Deputy Speaker: Order, Hon. Kositany. Hon. Mbiuki, please, proceed.

Hon. Kareke Mbiuki (Maara, JP): The Ministry submitted its response to the issues raised by Hon. Haika and stated that, Tsavo has received in the past year (2019 - April 2020) continuous and heavy rains that led to accumulation of green biomass that later, during the dry spell, became dry biomass which is highly flammable. This, combined with the prevailing strong winds exacerbates the fires. Inaccessibility to the burning sites due to tough terrain worsened the situation. Lack/inadequate fire gear (fire engines, choppers, bulldozers, manpower) aggravated further the situation.

Hon. Deputy Speaker, on probable causes of the fires, the Ministry listed the likely causes of the fires which included:

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- (i) Arson by infuriated cattle herders who were driven from the protected area by the authorities.
- (ii) Poachers (bush meat).
- (iii) Honey harvesters as is the case with the Chyulu Hills National Park.
- (iv) Individuals accidentally (unextinguished cigarettes butts left carelessly) or intentionally

Hon. Deputy Speaker, on measures put in place by the Ministry to control the fires and stopping it from happening in future, the Ministry indicated that it has undertaken the following measures:

- a) Collaborating with stakeholders and partners of Tsavo Conservation Area Creation that have created fire breaks along the park boundaries and especially adjacent to the community areas;
- b) Collaborating with the Ministry of Interior and Coordination of National Government in working very closely with the County Commissioner, Taita Taveta, the Kenya Defence Forces (KDF) under the Ministry of Defence has provided a helicopter, the National Youth Service (NYS), *Kazi Kwa Vijana* initiative has a standby team in case of any fire out-break.
- c) Collaborating with other Government agencies, conservation partners, in conducting education and awareness campaign on the dangers caused by fires on wildlife and the general livelihood of the community.
- d) Collaborating with the relevant Government law enforcers in undertaking investigation to determine the root cause of these fires and if arsonists are involved.
- e) The Ministry has tasked the Kenya Wildlife Service to collect baseline information on the affected flora and fauna and advice appropriately on the same.
- f) The Ministry is also at initial stages of coming up with a fire station in Tsavo landscape.

Hon. Deputy Speaker, in summary, the Tsavo East National Park experienced four fires that consumed a total area of 51.4 square kilometre. The Tsavo West National Park had four fires that burnt a total area of 415.4 square kilometre. Chyulu Hills National Park was affected by seven fires that affected an area of 0.534 square kilometre. Most of the fires emanated from outside the parks except for one that started inside the parks. A high biomass of dry grass and herbs, and strong winds made the fires to burn intensely and difficult to contain.

The management of Tsavo Conservation area mobilised Government agencies, partners, stakeholders and the local community who assisted in fighting the fires. Most of the fires were contained within several hours, with the exception of the Lualenyi fire inside the Tsavo West National Park that took close to two days to extinguish.

Hon. Deputy Speaker, to mitigate these fires, the KWS will henceforth:

- a) Ensure firebreaks along the boundaries of the national parks are cleared to buffer the parks from outside fires.
- b) Carryout community outreach to sensitise and educate the public about not setting fires close to the boundaries of the parks.
- c) To take legal action against individuals who set fires in the parks.
- d) Ensure adequate preparedness during the fire season.

Hon. Deputy Speaker, the Ministry noted that records of fires in national parks stretch as far back as 1932. An analysis of the fires depicts a pattern where our parks experience two fire seasons, namely, January to March and July to September every year. This makes preparedness

during the fire seasons critical to prevent fire occurrences and to contain any fires that might arise in future.

Hon. Deputy Speaker, I submit.

Hon. Deputy Speaker: Very Well. Let us have Hon. Haika. Do you have a card?

Hon. (Ms.) Haika Mizighi (Taita Taveta CWR, JP): Yes, Hon. Deputy Speaker.

Hon. Deputy Speaker: Why is it not indicated here? Proceed.

Hon. (Ms.) Haika Mizighi (Taita Taveta CWR, JP): Thank you, Hon. Deputy Speaker, for giving me an opportunity to comment on the Statement issued by the Chairman, Departmental Committee on Environment and Natural Resources. From the outset, I want to congratulate the Committee for a work well done. I did not get a chance to join the Committee when the Cabinet Secretary was giving a feedback on the Statement. I appreciate them because they looked for me and submitted the Report on time. Having gone through the Report, I want to confirm that it is a good one. I want to request the relevant Ministry to move with speed to implement the Report. When such fires occur, wild animals vacate the park and occupy people's farms and many crops are destroyed, and in some cases, lives are lost. Compensation has not been done in Taita Taveta and we have so many cases of human-wildlife conflict. I want to urge the relevant Ministry to walk the talk and do the needful.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Haika, in English, they say; "Speaking from both sides of the mouth". On one hand, you are completely satisfied while on the other hand, you are still raising issues. I think you are satisfied with the mechanism in which the Committee handled the matter, but as for the results, you are still giving them a challenge, that they can move faster. I want to give a chance to two or three other Members to seek clarifications. Hon. Wamalwa, you are top on my list.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Deputy Speaker. I listened carefully when the Chairman presented the Report. One of the issues he raised was that the fire emanated from outside. Even if it came from outside, did they probe further to understand the reasons? They needed to probe further to know what the motivation was. Was it by design or was it by mistake? We need to know. It does not mean that because the fire emanated from outside, that was the end of their mandate. He talked of destruction of 4,000 square kilometres where wildlife is. I agree with him. When there is that kind of destruction in the ecosystem, obviously it will make animals to move away. The animals will go out of the park and into community settlements. Then there will be human-wildlife conflict. I am aware that, particularly if elephants go out of the park, there are people who will raid them for their valuable tusks. Might that be the intention of doing that? We need clarity.

Thank you.

Hon. Deputy Speaker: That is enough, so that we can give a chance to a few more Members. We have Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Thank you Hon. Deputy Speaker. I have listened to the latter part of the answer by the Chair. I have a question for him. There is a lot of focus on wild animals in this country. Him being the Chair of the Departmental Committee on Environment and Natural Resources, what happens when there is fire that destroys pasture in the range lands in the semi-arid pastoralists' areas? The Government should also be concerned when fire breaks out in the pastoralist areas. It should not be concerned only when it happens in parks. As much as we protect the parks and the animals, we must also protect pasture that is basic livelihood for livestock keepers and pastoral communities. So, that is the question I wanted to ask

the Chairman of the Committee. I am sure his Vice-Chair, Hon. Sophia, is also a pastoralist. Find out the way locusts have attacked that area. I hope in future we will also protect pasture and the environment in pastoralists' areas from either premeditated or wild fires.

Hon. Deputy Speaker: Hon. Mlolwa, plug in your card. Remember you have removed it.

Hon. Jones Mlolwa (Voi, ODM): Thank you, Hon. Temporary Deputy Speaker. I am interested in the last part of the Chairman's statement. The Eastern Zone of Tsavo National Park is in my constituency. For the Kenya Wildlife Service to ensure that some of these things, like fires, do not happen, they should also involve the local communities for the benefit of animals. That way, we shall all be winners. There will be no loser. At the moment, the local communities are not benefitting and there is a lot of acrimony.

Thank you.

Hon. Deputy Speaker: Hon. Chachu Ganya, is your intervention on this one? I cannot see him. Hon. Joseph Limo.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Deputy Speaker. As much as the Government is keen on protecting animals, it is also important that they take into account the interests of the people who live around there when it comes to pasture and other benefits that should accrue to the community. The same should happen in communities that live around forests. Their crops are destroyed by animals from the forests. The animals are chased away by *askaris*, but the welfare of the communities is not well taken care of. The Government should look for a way of protecting the interests of the people who live around national parks and forests, so that they live in harmony with the animals.

Hon. Deputy Speaker: Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. I have listened keenly to the response from the Chairman. The issue of fire has a pattern. In most cases, it happens in forests or wild life areas during dry seasons, for example, in Mt. Elgon National Park in Endebess. In his response, the Chairman talked of volunteers coming in to help during that time. It is important for KWS to have a budgetary allocation for emergency response to employ casuals during such seasons, so that they can prevent the fires. The most important thing is having a programme that can prevent fire outbreaks, and not just going to fight them.

Thank you.

Hon. Deputy Speaker: Hon. Washiali. I am being generous on this one because it is the last one this morning. Proceed.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. A Statement sought in this House becomes a property of the House. Therefore, whether Hon. Haika is satisfied or not, we need to raise supplementary questions.

Hon. Deputy Speaker: Hon. Washiali, I have given you an opportunity to raise your supplementary issue. Forget about Hon. Mizighi. She has done the best thing to bring it to the House. Deal with it yourself.

Hon. Benjamin Washiali (Mumias East, JP): Thank you. On measures that have been taken by the Ministry of Tourism and Wildlife to curb the fires, they have not been clearly articulated by the Chairman. All the measures enumerated here, including collaborating with the community, the Army and "Kazi kwa Vijana" are not under their department yet they raise a lot of revenue out of tourism. What are they doing as a department, on their own, to help fire fighters who are under their command? Whatever they have given as measures here are clearly not under them.

Thank you.

Hon. Deputy Speaker: Very well. Next is Hon. Rasso.

Hon. Ali Rasso (Saku, JP): Thank you, Hon. Deputy Speaker. I thank the Chairman for his response. However, I am worried. If that is where we are heading, we will be in a lot of trouble. If you have watched the international news of late, there is this fire in the USA that has destroyed towns and forests. It is almost out of control. As long as there is climate change that brings about things like strong winds and high temperatures, fires will be there. The important things are the measures we will put in place. There will always be poachers and hunters and gatherers who, maybe by default, will start fires. Whereas the answer is good, it needs to be more convincing by looking at better mechanisms of quickly putting off the fires once they start.

Thank you.

Hon. Deputy Speaker: Hon. Mbalu.

Hon. (Ms.) Jessica Mbalu: Thank you, Hon. Deputy Speaker. I want to add my voice to the Statement sought by the Member for Taita Taveta. I thank the Chairman for his response on the matter. I want to be on record that Tsavo East National Park touches part of my constituency in Mtito Andei. It is, indeed, true that when there is a fire, my constituents join the people of Taita Taveta to put it off, because we border each other.

It is true that when elephants move from the national park, they come to our area. We have had a lot of human-animal conflicts for the longest time. As the Member for Kibwezi East, I have brought a petition to this Parliament on this issue, with the same Chairman addressing us. I want to support the Member for Taita Taveta County by saying that we really need implementation of the issues that were raised. Mtito Andei is in Kibwezi East Constituency and it borders Taita Taveta. We have been more affected than the people of Taita Taveta because elephants get into our shambas and our people are frustrated. So, it is important for the Chairman and the Committee on Implementation to ensure that this matter is brought to an end.

Hon. Deputy Speaker: Lastly, let us have Hon. Wanyonyi. Be brief.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Deputy Speaker, I want to add my voice on the same. These fires affect tourism and all of us benefit from tourism earnings. I want the Committee on Implementation to come up with a matrix on how to implement the resolutions. From what the Chairman has said, these fires are periodical. They occur towards the beginning of the year when the country is very dry. Let the Ministry of Tourism and whoever else is involved train the locals.

Hon. Deputy Speaker: Put back your face mask.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): I thought you would not hear me.

Hon. Deputy Speaker: We can hear you. The mask is more important when you are speaking.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): All I am saying is that the Ministry should involve and train the locals, so that in case the fires break out, the youth can put them out. This country has many unemployed youths. We do not want to lose revenue at the rate we are losing today.

I support, Hon. Deputy Speaker.

Hon. Deputy Speaker: Chairperson, I am sure you must have been noting those comments down. For those you think need clarifications, you can proceed and do that in a minute.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Deputy Speaker. I really want to thank the Members for the supplementary questions and concerns they have raised. The highlight of this matter is the level of preparedness by the Ministry. The Ministry has been collaborating with other State agencies when the fires break out. We have been having serious challenges in terms of

human-wildlife conflict. We even have a petition that I was supposed to table a report on, but the originator, Hon. Soipan, is not around. The bigger challenge that we have is the human-wildlife conflict, which also arises out of fire outbreaks in the parks. I would like to urge this House that when the Committee comes up with a proposal to enhance the budget of the State Department for Wildlife, specifically for KWS, to support the proposal, so that KWS can acquire firefighting equipment to be stationed in various parks in our country. In doing so, the level of preparedness will be spot on, especially in the vast Tsavo National Park.

Most of these fires are premeditated, hence community involvement in firefighting and in ensuring that buffer zones are created to separate the parks and the communities will go a long way in fighting fire outbreaks especially outside the parks. I have heard the sentiments from the Members. We are going to share the same with the Ministry of Tourism and Wildlife to ensure that their preparedness is spot on. I thank the Members for raising those concerns.

Hon. Deputy Speaker: Thank you very much. We will move on to the next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

(The Deputy Speaker (Hon. Moses Cheboi) left the Chair)

IN THE COMMITTEE

*(The Temporary Deputy Chairlady
(Hon. Jessica Mbalu) in the Chair)*

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): Order Members! Let me allow the Members walking out of the Chamber to do so as we get into very serious business. We are in the Committee of the whole House to consider three Bills. We will start with the Employment (Amendment) Bill (National Assembly Bill No.15 of 2019).

THE EMPLOYMENT (AMENDMENT) BILL

(Resumption of Consideration interrupted on 15.9.2020)

Clause 3

The Temporary Deputy Chairlady (Hon. Jessica Mbalu): There is a proposed amendment by the Chairman of the Departmental Committee on Labour and Social Welfare. Please move your amendment.

Hon. Peter Mwathi (Limuru, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended in the proposed section 29A—

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

(1) Where, pursuant to section 157 of the Children Act, a child is to be placed in the continuous care and control of an applicant who is an employee under this Act, the employee shall be entitled to one

month's pre-adoption leave with full pay from the date of the placement of the child.

(b) by inserting the following new subsections immediately after subsection (3)—

(3a) Where a child is born as a result of a surrogate motherhood agreement, an employee who is a commissioning parent shall be entitled to—

(a) two consecutive months parental leave with full pay from the date the child is born, in the case of a female employee; and

(b) two weeks paternal leave with full pay, in the case of a male employee who is married.

(3b) An employee who is eligible for leave under subsection (3a) shall give the employer not less than seven days' written notice in advance or a shorter period as may be reasonable in the circumstances of the intention to proceed on parental or paternal leave, as the case may be, on a specified date and to return to work thereafter.

(3c) A notice under subsection (3b) shall be accompanied by documentation evidencing the surrogate motherhood agreement between the employee and the surrogate mother, and if required by the employer, a certificate as to the medical condition of the surrogate mother from a qualified medical practitioner or midwife.

(c) in subsection (4) by deleting the words “subsection (1)” and substituting therefor the words “this section”.

The justification is that there is need to balance between the needs of the employee and the employer while considering the best interest of the child. The Committee was of the view that provision of one month for purposes of pre-adoption leave is sufficient to enable an adopting parent to provide continuous care to the child proposed for adoption.

I thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I welcome the Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. This is the point at which...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order the Member for Kathiani! There is a point of order from the Member for Kitui Central.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. Clause 3 has a number of sub-clauses. They are (a), (b) and (c). I was just wondering whether the justification given by the Chairman applies to all of them. Are we doing (a) or all of them? That should be clear to us as we contribute.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairman, we gave you an opportunity to move your proposed amendment to Clause 3 and give the justification. We are

taking the whole clause as it is unless a Member has an issue with any of the sub-clauses. Can you be on record on the same?

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Temporary Chairlady. I gave justification for Clause 3(1). I stand guided. I can move to the next Clause.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, I propose that you give justification for Clause 3. However, in the event that a Member has an issue which I will allow, they can go clause by clause. We have that opening.

(Loud consultations)

Maybe I will guide you Hon. Chair. Order, Members! Please give the Chair a chance. The Chair is good enough to go. Chair, please, move Clause 3. It has parts (a), (b) and (c) and give justification.

Hon. Peter Mwathi (Limuru, JP): Hon. Temporary Deputy Chair, I beg to move:

THAT, Clause 3 of the Bill be amended in the proposed section 29A —

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

(1) Where pursuant to section 157 of the Children Act, a child is to be placed in the continuous care and control of an applicant who is an employee under this Act, the employee shall be entitled to one month's pre-adoption leave with full pay from the date of the placement of the child.

Now, the justification for that is that there is need to strike a balance between the needs of the employee and employer, considering the best needs of the child. To that end, the Committee was of the view that, that provision of a period of one month for purposes of pro-adoptive leave is sufficient to enable an adopting parent to provide continuous care to the child proposed for adoption.

Hon. Chairman, I move that Clause (b) be amended by inserting the following new subsections immediately after subsection (3). That is contained in the Order Paper unless you guide me that I should read all of it. I wanted to read the justification.

Hon. Members: On a point of order, Hon. Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, let the Chairperson give justification. When it becomes necessary, I will accept your points of order. Hon. Limo, what is your point of order? Or what is your wish?

Hon. Joseph Limo (Kipkelion East, JP): On a point of order. I am concerned by the way the amendments are being moved. In the interest of saving time, the best way is for him to say the amendment as per the Order Paper and then give the justification, instead of reading and reading.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order! You are out of order.

Hon. Peter Mwathi (Limuru, JP): That is what I did in the first instance.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Limo, he cannot just say. Members want to know the justifications. When you say as per the Order Paper, here we have Hon. Makali who wants to know the justification. I have heard the Leader of the Majority Party tell Hon. Mwathi to ensure he gives us the import. As a matter of procedure, I will allow the Member to give the justification because when Members are voting, they must do so from an

informed point of view. So, I order that the Chair finishes his justification - that is moving his proposed amendment on Clause 3 and then we can move to the next.

Hon. Peter Mwathi (Limuru, JP): Hon. Chairlady, I have given justification for amendment of Clause 3(1). The next one is a new one. I thought we would go one after the other.

Hon. Members: On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, allow me to guide you. I want to do it for the last time. Just move the justification on the Clause. For example, one, this is the import on Clause 3 (a), (b) and (c). Give the import and then we will propose the Question for Members to debate. Chair, I order that you move.

Hon. Peter Mwathi (Limuru, JP): Hon. Temporary Chairlady, I beg to move:

THAT, Clause 3 of the Bill be amended in the proposed section 29A —

(b) by inserting the following new subsections immediately after subsection (3) —

“(3a) Where a child is born as a result of a surrogate motherhood agreement, an employee who is a commissioning parent, shall be entitled to —

(a) two consecutive months’ parental leave with full pay from the date the child is born in the case of a female employee; and,

(b) two weeks paternal leave with full pay, in the case of a male employee who is married.

(3b) An employee who is eligible for leave under subsection (3a) shall give the employer not less than seven days’ written notice in advance or a shorter period as may be reasonable in the circumstances of the intention to proceed on parental or paternal leave, as the case may be, on a specified date and to return to work thereafter.

(3c) A notice under subsection (3b) shall be accompanied by documentation evidencing the surrogate motherhood agreement between the employee and the surrogate mother, and if required by the employer, a certificate as to the medical condition of the surrogate mother from a qualified medical practitioner or midwife.

(c) In sub-section (4) by deleting the words “subsection (1) and substituting therefor the words “this subsection”.

The justification for the new section is that there is need to accord special consideration to parents who intend to obtain leave to enable them care for and apply for adoption of a child born as a result of a surrogate motherhood agreement.

Firstly, a surrogate motherhood arrangement presents a unique situation where the primary caregiver of the newborn child is not the mother who gave birth since ordinarily, a surrogate agreement terminates upon birth of a child where a child is placed in the care of commissioning of the biological mother. Therefore, it is the commissioning of all biological parents who provide care and exercises control of the child and, therefore, require sufficient time after the child’s birth. In order to do so in the circumstances, it was noted that a period of two months would enable a commissioning mother to provide the necessary care to the newborn child before resuming work on a full-time basis.

Secondly, it was noted that in Kenya, as it is presently, commissioning of a biological mother requires to apply to the court for adoption of her biological child born out of surrogate motherhood agreement. This is because the birth certificate and notification are both issued indicating the name of the surrogate or birthing mother and not the commissioning of the biological mother. The biological mother requires sufficient time to bond with the child and also apply for adoption.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well Members. Chair, you have already moved your import.

(Question of the amendment proposed)

I can now open the debate to two or three people. Hon. Member for Saku, do you want to speak to this?

Hon. Ali Rasso (Saku, JP): Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Saku, there was an interruption by the Member for Kitui. Now that Hon. Mbui was on the Floor, kindly go ahead and then Hon. Member for Saku.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I wish to point out a few issues on Clause 3.

The first one, of course, it is important to note the language used when we are making law. In Clause 3(1), it is said: "... the employee shall be entitle to..." It should be "entitled to." I do not know whether he can correct it because it is misplaced.

An Hon. Member: It has been corrected.

Hon. Robert Mbui (Kathiani, WDM-K): It is not right for someone to correct it here if the Mover says: "As per the Order Paper."

The other one is in Clause 3(b). I have concerns because it says: "An employee who is eligible for leave under Subsection (3a) shall give the employer not less than seven days' written notice in advance..." It then goes further to say: "or a shorter period as it may be reasonable in the circumstances". You cannot have in the same law two options; that you give seven days or a shorter period. It is either seven days minimum or remove the seven days and have a reasonable period. But you cannot have the two. This is because you are already giving opportunity for someone to go against the law that is already set. So, I propose that he either goes with seven days' minimum notice for an employer or a reasonable period.

Thank you, hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Leader of the Majority Party to pronounce himself to the already corrected Clause 3(1).

Hon. Amos Kimunya (Kipipiri, JP): I thank the Member for raising the issue of tenses in terms of "entitle" and "entitled". Usually, those are some of those that are picked up anyway at the point of doing the very final copy because they may not come out here.

In terms of the second issue of whether you can have seven days or a shorter period, we are talking here of seven days of when we are expecting a baby to be born. What happens if the child is born earlier than within those seven days? I think that amendment caters for that kind of situation.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well.

Hon. Amos Kimunya (Kipipiri, JP): It is not poor legal drafting because this has gone through the legal drafters. Rather, it is a provision that recognizes a potential reality.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Leader of the Majority Party you pronounced yourself on the typo. Let me go back to the Honourable Member for Saku.

Hon. Ali Rasso (Saku, JP): Thank you very much, Hon. Temporary Deputy Chairlady. I stand to support this amendment and also thank the Chair of the Committee. I think this law, being a living document, shows the progressive nature of our laws. This is because the idea of surrogacy and adoption has always been considered to be a normal thing that can just happen outside the normal birth by mothers and the issue of parenthood. Therefore, the idea of bonding is really important. However, as the Chair has also said, this is a delicate balance between parenting and the employee. This is because the employer is not going to just give leave to his workers at will because some of those workers might be holding very key appointments in those organizations.

However, the Chair of the Committee on Labour and Social Welfare, I still want to request what Honourable Mbui has said. The idea of seven days or any shorter time, I think we are making a loss and seven days might be short or long. However, it is important for us to put our hearts somewhere as opposed to almost border on ambiguity. Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Chairlady. I want to support the amendment by the Chair. They are actually Committee amendments. In the first one, the idea was to expand the leave for people adopting a child. However, we thought it was important to balance between the employer's interest of always wanting the employees to be at work and also the human aspect of taking care of a child. That is why the Chair is settling on one month.

However, in the second case of surrogacy, there is no law that really governs surrogacy in this country. In addition, like the speaker before me has said, this is a very strong attempt to try and start adopting surrogacy within the laws of Kenya. Moreover, I believe this will move on. In this case then, we are saying that because the child being born will be reflected in a certificate of somebody else and there is a period where the court must do something for that name to be changed for the parents who invoked the surrogacy, then we have given them two months. This is because the two months can make them hold and actually bond. Therefore, I want to strongly support this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You strongly support the amendment. Lastly, let me give it to the Hon. Wangari. I am aware you have no card but...

Hon. (Ms.) Martha Wangari (Gilgil, JP): Thank you, Hon. Temporary Deputy Chairlady. Moreover, I want to thank the Committee. I wanted to speak earlier to give a background of the Bill as the Mover of the Bill. In addition, I thank the Chair of the Committee on Labour and Social Welfare because it has been a long process to even get here. Moreover, we had dealt with the Committee before it was reconstituted and now after it was reconstituted. However, the basic explanation is that more and more people are adopting children nowadays. There are many reasons why that is happening.

I know most of us have someone who has adopted a child and if you get a child through surrogacy, by law, you still have to adopt it. The argument was that if you adopt even a six-month old baby, you do not get any leave at all by law. That is discrimination depending on and looking at Article 53 of the Constitution on the rights of the child and also Section 157 of the Children Act. Therefore, this amendment is to correct that. My desire was to get three months to equal with the biological birthing. However, during public participation of this Bill, the employers also made their case and said that three months is a lot and we scaled it back to one month. Therefore, I want to thank the Committee for going out and taking public views.

However, that is basically what it is meant to cure because as it is, that is a prerogative of an employer. You can decide to give leave; some do, others do not, regardless of what age of a child you adopt. Therefore, as we protect the lives of children, we cater for all of them whether you birth them, whether you adopt them, or whether you get them through surrogacy. Therefore, thank you Hon. Temporary Deputy Chairlady. I just wanted to make that clarification.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Thank you for that clarification Mover. However, this has again become the Committee amendment, with Hon. Wangari being the Mover.

Hon. Members, with that import, I want to put the Question.

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

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

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

(Clause 3 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members we are through with the Committee of the whole House on the Employment (Amendment) Bill, (National Assembly Bill No. 15 of 2019). As I said before, it was fairly a short Bill. I now call upon the Mover to move reporting.

Hon. (Ms.) Martha Wangari (Gilgil, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Employment (Amendment) Bill, (National Assembly Bill No. 15 of 2019), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The reporting of all the Bills will be done later. We move on to the next Bill so that we carry the three Bills together.

Hon. Members, we now move to the next Bill.

(Several Hon. Members walked into the Chamber)

Order, Members! The next Bill is the National Youth Council (Amendment) Bill, (National Assembly Bill No. 8 of 2019).

THE NATIONAL YOUTH COUNCIL (AMENDMENT) BILL

Clause 2

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have an amendment to Clause 2. Hon. Peter Mwathi, move your amendment.

Hon. Peter Mwathi (Limuru, JP): Thank you Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, the Bill be amended by deleting clause 2 and substituting therefor the following new clause 2—

“2. Section 2 of the National Youth Council Act (in this Act referred to as “the principal Act”) is amended by deleting the definition of the term “Minister” and substituting therefor the following new definition in proper alphabetical sequence—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to youth affairs.”

This is with the justification that the proposed amendment seeks to correct the typographical errors in the current clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well.

(Question of the amendment proposed)

The mood of the House is that I put the Question. It is just a correction.

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

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

(Clause 2 as amended agreed to)

Clause 3

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Peter Mwathi. Please, move it.

Hon. Peter Mwathi (Limuru, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 3 and substituting therefor the following new clause 3—

“3. The principal Act is amended by deleting Section 5 and substituting therefor the following new subsection

(1) The Council shall consist of—

- (a) a non-executive chairperson, who shall be a youth, appointed by the President;
- (b) the Principal Secretary responsible for matters relating to youth or his or her representative nominated in writing;
- (c) the Principal Secretary responsible for matters relating to youth or his or her representative nominated in writing;

- (d) the Principal Secretary responsible for matters relating to finance or his or her representative nominated in writing;
 - (e) the Attorney General or a representative nominated in writing;
 - (f) ten persons, being youth, appointed by the Cabinet Secretary; and,
 - (g) the Secretary to the Board, who shall be the Chief Executive Officer and an *ex-officio* member of the Council and shall not have a vote.
- (2) The members under subsection (1) (f) shall be appointed through an open, transparent and competitive process through the procedure prescribed in the Third Schedule.
- (3) In appointing members to the Council under subsection (1) (f), the Cabinet Secretary shall ensure that—
- (a) there are equal opportunities for persons with disabilities, persons from marginalized communities and persons from professional bodies;
 - (b) not more than two thirds of the members of the council are of the same gender; and,
 - (c) the membership of the Council reflects the regional and ethnic diversity of the people of Kenya.
- (4) A person is qualified for appointment as the chairperson, if the person—
- (a) possesses at least a Bachelor's degree from a university recognized in Kenya;
 - (b) has at least five years' post qualification experience;
 - (c) is not a holder of any other public office;
 - (d) is a member of an active registered youth group;
 - (e) meets the requirements of Chapter Six of the Constitution and any written law relating to integrity; and,
 - (f) is a youth.
- (5) A person is qualified for appointment as a member of the council under subsection (1)(f), if the person—
- (a) possesses at least a post-secondary education certificate from an institution recognized in Kenya;
 - (b) has at least three years' post qualification experience;
 - (c) is not a holder of any other public office;
 - (d) is a member of an active registered youth group;
 - (e) meets the requirements of Chapter Six of the Constitution and any written law relating to integrity; and,
 - (f) is a youth.
- (6) An appointment under subsection 1(a) and (f) shall be by name and notice in the Gazette.

The justifications for this amendment are that one, we replace the terminology "Permanent Secretary" which is obsolete, with "Principal Secretary".

Two, we ensure that the Council has an odd number for voting purposes; and three, reduce the bloated membership of the Council to 15 members. It currently comprises of 22 members contrary to the stipulated numbers under the State Corporations Act which gives a maximum of 15 persons.

There is need to ensure that the appointment of the youth to the Council follows a competitive process and promotes the values and principals of public service contained in Article 232 of the Constitution by requiring fair competition and merit as the basis of appointment.

Finally, the amendment provides the qualifications to be held by youth members of the Council so as to guarantee a competitive and merit-based recruitment. As it is presently, the current Act only stipulates qualifications to be held by the chairperson.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I welcome comments by the Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. At one point, I was the Secretary to the Ministry of Youth and Sports.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Were you the Secretary or the Minister then?

Hon. Daniel Maanzo (Makueni, WDM-K): I was the Secretary in those days during the Kibaki administration. This idea of an executive chairman was very troublesome at that time. So, the amendment of a non-executive chairperson, who shall be a youth, appointed by the President is appropriate and it sorts out the power struggles which have been with the youth. The whole amendment including the presence of the Attorney General to give the youth legal advice appropriately is good. Mainly, it was proposed that this is handled by people who are youth so that even those seconded by the Principal Secretary all fit under the youth category.

I thank you and support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, former Secretary. Let me have Hon. Osotsi Godfrey.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Chairlady. As much as I want to support the amendment, I am concerned because the Council seems very bloated with a membership of 16. That is way off the *Mwongozo* Guideline.

Secondly, the criteria for identifying the 10 youth who are going to sit on the Council is a prerogative of the Cabinet Secretary. This is where we have a problem because we will end up having a body which is supposed to represent the interest of youth, but will not do so. This is because six members are brought in by the PS. The criterion is not very clear about the 10 youth who are going to be appointed by the CS. We have many youth organizations which should be given the chance to go through a process of selecting the 10 youth who will sit in the Council.

As it is now, this is not going to be a representative body for the youth in this country. That is because of the process of the appointment of the 10 youth and the fact that the six members who sit on that Council are senior Government officials who will definitely intimidate the 10 youth who will sit there. So, I support the amendment but it would have been done better than this.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Let me hear from the Member for Kipkelion East. Hon. Joseph Limo.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Chairlady. I support this amendment which will make the youth council more robust and effective. The youth of this country are a very important vehicle for any development. I have, however, noted that amendment (b) and (c) is a repetition by stating thus:

“(b) the Principal Secretary responsible for matters relating to youth or his or her representative nominated in writing.”

“(c) the Principal Secretary responsible for matters relating to youth or his or her representative nominated in writing.”

It is a repetition and that is why it is making the number to be 16.

Secondly, the procedure for picking youth representatives is not clear. We have had so many cases where there is a requirement for regional balance, but it is not stated how that should

be applied. You will find three youth from the same region. Youth have regions and they should have been taken into account. It should have been stated that the 10 must represent certain regions in the country. That will be a progressive way of doing this amendment so as to ensure that the youth of this country are properly represented. Otherwise, this amendment is good and we support with further amendment so that it is well indicated.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well, Hon. Limo. You are a senior Member of this House. You know this is an amendment of the Committee. I am sure your proposed amendments could be very critical too, but you also know the procedure. You can deal with the Chair before we finish.

I also admit that the Leader of the Majority is here. I am sure the clerks will get rid of the repetition. Let us have the Member for Kitui Central. You have been raising your hand contrary to the rules of the House.

Hon. Makali Mulu (Kitui Central, WDM-K): The reason I am raising my hand is because you only gave me a chance on a point of order. I am trying to contribute but it looks like you counted my point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali, your point of order was addressed by the Chairperson, but now we are on the Youth Council (Amendment) Bill on which you are now making your contribution. Please proceed.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I support these amendments just as my friends have said but, we must make observations. The issue here is how to appoint the youth to the Council. It being National Youth Council, there is need to have fairness, openness and transparency on how to identify them. Clause 2 has been emphasized, but the challenge is not being addressed. It is the work of this House, since you are making the law, to ensure that that process remains transparent. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. I am sure the Chairman has taken note.

Let me have the Member for Alego-Usonga. I can see there is a lot of interest.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Temporary Deputy Chairlady. I am of the view that having a youth to Chair the Council does not mean that, that council will be more effective. Remember, I have been a youth before and now an adult. Therefore, I am opposed to this idea that if somebody is a youth chairing an institution such as this, then it will serve the interest of the youth. We need to have somebody chairing it who is not a youth.

I am saying that because imagine you are having the PS for the National Treasury and all these other senior Government officers in an institution where someone is a youth who has never even worked anywhere, does not have any professional or technical experience; does not know anything about best practice and you are thinking that such a person is going to give the youth the opportunity that they deserve. I am of the view that we may need to open up this position of the Chairperson for somebody who must not be a youth. This is because we want effectiveness and performance. Anyway, if you are an old man, you have been a youth before.

Secondly, I have seen that there is a requirement that you must be a degree holder for you to be a chair. Who said that one must be a degree holder for you to chair such a body? Even in this House, there are many people who are not degree holders and are Members here. So, let us delete that aspect requiring that the Chairperson must be a degree holder. We can go for other factors other than education.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are in the Committee of the whole House and Members are free to contribute. I give the Nominated Member, Hon. Ghati Dennitah the Floor, before I put the Question.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you, Hon. Temporary Deputy Chairlady for giving me an opportunity. I want to thank the Committee because this is a rare opportunity for the young people in this country to be in leadership.

I want to support the amendment because the Constitution is very clear on the issue of inclusivity. I champion inclusivity in this country. I am very particular especially when it comes to the issue of including youths with disabilities in such a body. This is a national body and it would be prudent to see from the Committee the allocation as stipulated in the Constitution. That, out of the 10 members who will be appointed, how many will be youths with disabilities who will articulate the issues and challenges they face in this country.

For me, this amendment is in line with our Constitution and it is in this respect that I am supporting the idea of amending this Bill to show the issue of regions. We have eight regions in this country and the composition must comprise of youths from the eight of them, if we are talking about fairness and representation. We have the tenets of regional representation and those of diversities like gender.

Gender has really come out clearly in this composition that, in as much as we talk of the youths, we have to see young ladies and the diversity that is disability. These are the simplest issues that the Committee has to take into consideration if we are talking about inclusivity in this country as we put together the Council. Allow me to support the amendment on the issues being brought on board.

Thank you, Hon. Temporary Deputy Chairlady.

Hon. Robert Mbui (Kathiani, WDM-K): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Good contribution by the Member. Hon. Mbui, what is out of order?

Hon. Robert Mbui (Kathiani, WDM-K): Hon. Temporary Deputy Chairlady, there is a clear mistake as pointed out by Hon. Limo. If we go ahead and put the Question before it is amended and passed by House, then the final Report will come out looking like this. We must correct the mistakes including the numbering before we put the Question. You cannot edit the law in the Table Office. It has to be done on the Floor because this is Third Reading. I propose that amendment be forwarded and we pass it now.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, some of you are just doing what we call expressing wishes. This is a House and this clause has been amended by the Committee. As the Chair, at one point, I will make a ruling. Hon. Mbui, Hon. Limo and the rest know the procedures of the House and my hands are tied. Having gone through the Order Paper you should have proposed your further amendments before we do the necessary in the House, that is taking a vote.

On the small issue of numbering, I will make a ruling using my powers before I put the Question. I have realized Members do not have their cards. Leader of the Majority Party, you must take note of this. Hon. Caleb, out of my discretion, I will give you a chance to contribute. After him, I will give the Chair and then put the Question.

Hon. Caleb Luyai (Saboti, ODM): Thank you, Hon. Temporary Deputy Chairlady for giving me an opportunity. It is true that our cards are not working and I hope something is being done about it.

Being a young person and a leader in this country, I think it is important to look at the history of youth organizations in this country. The youth agitation to be included in governance and positions of high authority is because of lack of organization at the National Youth Council. We have had several national youth movements and lacked organization in terms of an existing legislation to guide those movements in the country.

So, this is in support of the agitation of young people in this country. We should be cognizant of the fact that the movement or Council must be led by young people. This is because they understand their fellow youths better. We have had a problem of putting elders in positions of the young people and yet, they do not understand the issues surrounding them.

It is important, as we talk about inclusivity of the young people in this country, it should begin with the leadership of the Council. We cannot have a youthful population of 70 per cent of this country and talk about the youth council being led by an older person. It is important for us to recognize the importance of a population. It can be a disaster if we do not recognize the youth in organizations, positions, their abilities, capacities and innovative minds towards contributing positively to the growth of this country.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. Your point is well put. Hon. Members, allow me to give the Chair to respond before I put the Question.

Hon. Peter Mwachii (Limuru, JP): Thank you, Hon. Temporary Deputy Chairlady. I have noted as pointed out by Hon. Limo and Hon. Mbui that the clause regarding the Principal Secretary for Youth has been repeated. I want to stand guided by the Chair if the drafting will allow a repetition to be deleted without having to come as an amendment.

Secondly, on the issue of affirmative action, when we talk about youth, I expect the PS to be guided by the principles contained in our Constitution. That the youth be considered like those with disabilities, from marginalized areas and, indeed, regional balance. This is my contribution and it will be on record that the PS should, in as much as possible, try to balance and consider affirmative action as well. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. With that statement and response from the Chairperson, Hon. Members, I want to refer you to your Standing Order No.152(3) on custody of Bills which states:

“(3) At any time before the certification of the Bill, the Speaker may correct formal errors or oversights therein without changing the substance of the Bill and, thereafter, submit the Bill to the President for assent.”

Hon. Members, with the Chairman having pronounced himself on the correction, I order before I put the Question that there should be renumbering, repetition should be looked into and of course, correction of anything that is not forming the substance of the Bill. With that guidance I move to put the Question.

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

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

New Clause 4A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member, please move insertion of New Clause 4A.

Hon. Peter Mwangi (Limuru, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 4—

“5. The principal Act is amended by inserting the following new schedule immediately after the Second Schedule—

Third Schedule

(s. 5)

PROCEDURE FOR APPOINTMENT OF MEMBERS OF THE COUNCIL

1. Manner of selection of candidates

The candidates eligible for appointment as members of the Council shall be selected in an open, transparent and competitive process at the county level.

2. County Selection Panel

There shall be a selection panel in every county which shall comprise of-

- (a) the County Commissioner who shall be the chairperson;
- (b) the County Director of youth affairs;
- (c) the County Director of social development services;
- (d) the County Director of gender affairs;
- (e) two persons representing faith-based organisations;
- (f) a representative from the Chamber of Commerce;
- (g) a representative from the Commissioner of Scouts; and
- (h) the county chairperson for the organisation responsible for persons living with disabilities.

3. Role of the Parent Ministry

Each selection panel shall, subject to this Act, determine its own procedure, and the Cabinet Secretary shall provide each selection panel with such facilities and such other support as it may require for the discharge of its functions.

4. Selection of Nominees at County Level

- (a) Each selection panel at the county level, shall within seven days of its convening, invite applications from qualified persons and publish the names and qualifications of all applicants in the Kenya Gazette and the Ministry’s website.
- (b) Each selection panel at the county level shall within seven days of receipt of applications under subparagraph (a) consider the applications, interview and shortlist two persons, being male and female, qualified for appointment as members of the Council and shall forward the names of the shortlisted persons to the Cabinet Secretary.

5. Appointment by the Cabinet Secretary

The Cabinet Secretary shall, within seven days of receipt of the names forwarded under paragraph 6, appoint ten members under section 5(1) (f) to the Council.

6. Dissolution of the Selection Panels

The selection panels shall stand dissolved upon the requisite appointments being made under paragraph 6.

This clause provides a schedule for appointment of members of the Council as contained in the Order Paper.

(Question of the new clause proposed)

(New clause read the First Time)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I welcome debate on the same. Do I put the Question? With the approval of the House, I move to put the Question.

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

(The new clause was read a Second Time)

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

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, that brings us to the end of the Committee of the whole House on the National Youth Council (Amendment) Bill.

I, therefore, call upon the Mover of the Bill to move reporting.

Hon. Gideon Keter (Nominated, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the National Youth Council (Amendment) Bill (National Assembly Bill No. 8 of 2019), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, next is the Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 29 of 2019) as indicated on our Order Paper. I see the Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I seek the indulgence of the House. There has been consultation between the Chair of the Committee and the Member and they have agreed that we step down this Bill and allocate it some more time so that

both of them and Members of the Committee can be here to prosecute the Committee amendments. So, the Bill is stood down.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With the guidance of the Leader of the Majority Party, and the issue of the Mover having been addressed, I do order that the Public Service (Values and Principles) (Amendment) Bill National Assembly Bill No. 29 of 2019) be stood down.

(Consideration of the Bill in Committee of the whole House deferred)

Hon. Members the Committee will now report to the House on the two Bills that we have been able to consider in the Committee of the whole House.

(The House resumed)

(The Temporary Deputy Speaker (Hon. Patrick Mariru) in the Chair)

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE EMPLOYMENT (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): We will start with the Employment (Amendment) Bill. Let us have the Chairperson.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Mover.

Hon. (Ms.) Martha Wangari (Gilgil, JP): Hon. Temporary Deputy Speaker, I beg to move that this House doth agree with the Report of the Committee on its consideration of the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019). I also request Hon. Dido Rasso to second the Motion.

Hon. Ali Rasso (Saku, JP): I second.

(Question proposed)

(Question put and agreed to)

Hon. (Ms.) Martha Wangari (Gilgil, JP): Hon. Temporary Deputy Speaker, I beg to move that the Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019) be now read a Third Time. I also request Hon. Robert Mbui to second.

Hon. Robert Mbui (Kathiani, WDM-K) seconded.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, I have confirmed that we have the requisite quorum. I will proceed to put the Question.

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. We shall go to the next Bill, the National Youth Council (Amendment) Bill.

THE NATIONAL YOUTH COUNCIL (AMENDMENT) BILL

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the National Youth Council (Amendment) Bill and approved the same with amendments.

Hon. Gideon Keter (Nominated, JP): Hon. Temporary Deputy Chair, I beg to move that the House doth agree with the Committee in the said Report.

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

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, this is a very progressive Bill. I beg to second.

Thank you.

(Question proposed)

(Question put and agreed to)

Hon. Gideon Keter (Nominated, JP): Hon. Temporary Deputy Speaker, I beg to move that the National Youth Council (Amendment) Bill be now read the Third Time.

I request Hon. Sankok to second.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairman, I second. This is a very progressive Bill. This Bill will help the youth to have good channels and frameworks to air their views.

So, I second.

(Question proposed)

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next Order!

BILL*Second Reading*

THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL

*(Hon. (Ms.) Gladys Wanga on 10.9.2020)**(Resumption of Debate interrupted on 10.9.2020)*

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, this is resumption of debate on the Cancer Prevention and Control (Amendment) Bill. We have a balance of one hour and one minute to conclude this Bill. There are those who had spoken to this Bill. They shall obviously not speak again on it.

Just to jog our memory, those who spoke to the Bill are Hon. Wanga who moved, Hon. Martin Owino, who seconded, Hon. Shabbir, Hon. Sankok, Hon. Keynan, Hon. Oundo, Hon. Wangwe, Hon. Kimani Kuria, Hon. Paul Mwirigi, Hon. Atandi, Hon. Chepkut, Hon. Mishi Mboko, Hon. Jared Okello, Hon. Tandaza, Hon. Pukose and Hon. Mizighi. Those had spoken on this item and so, they shall not speak again on it.

We shall use the register here and the list of Members who have interest to speak to this. The first Member is Hon. Maanzo Kitonga.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Bill. Cancer Prevention and Control Act exists and this is an amendment to embrace new technology which is e-health and tele-medicine, which will help the people who suffer from cancer. We know that cancer is a very dangerous disease. People suffer from it and become terminally ill. If it is not discovered early, it can cause losses for quite a number of people. Therefore, owing to the new developments in the world, and what we have seen with the advent of coronavirus, people have not been able to travel and, therefore, a lot of activities are happening electronically.

In this regard, you can have tele-medicine where someone in India can communicate with a person or a doctor here or in any part of the country. This is the whole idea of the amendment. This is to make sure that the Act is comprehensive and the activities that happen in the course of treatment are within that law to prevent and control the spread of cancer. This amendment will also encourage information flow.

A lot of it is more of information. When cancer patients have information early enough, they can get healed of it. This includes very delicate cancer like pancreatic cancer. There are specific hospitals in the United States of America, where they guide each other. Doctors or surgeons can share the information electronically. It then means we are formalizing the use of e-waves technology so that there can be communication. I believe surgeons in other parts of the world have been guided electronically. An operation can also be guided from a specialist or a senior person in another country, while the same is happening here; hence, the need to legalize and make it good.

The other issue is prevention. The main idea is prevention to ensure that many people or the population does not get cancer. This information is crucial. Sometimes, we get unverified information by medical practitioners on how to prevent cancer. For example, processed foods have been blamed as oxidants which can activate the growth of unusual cells. That is information that

can be passed by many. Many people are aware of what to do to avoid ending up with cancer. In the event it is discovered at early stages, then one can be guided. Quite a number of people have been saved through information and getting information is good. That includes information on testing of cancer and looking for specialists. This information can be relayed electronically and it is valid and cannot be challenged for being illegal or amounting to a mis-advice or a suit arising out of it, if a person feels that they have not been dealt with correctly.

Mostly, there are foods which also have stopped cancer or a cancer patient is relieved of pain and lives longer. This information can be relayed electronically and it becomes valid and qualified. This is the background under which Hon. Wanga moved this amendment Bill. Hon. Wanga has a lot of information on issues of prevention of cancer, and I believe it is good to support her in this amendment so that we can ensure that the Act is tight and as many people as possible in Kenya and the world can be assisted.

In addition, when we come up with this e-health and telemedicine, it means that there are protocols which have to be observed because of dealing with different legal regimes. Other than this, we have international agreements and conventions dealing with health where Kenya is party to. For instance, we have seen with the advent of coronavirus, we have had to pass laws and regulations, which were also happening in other parts of the world. We were all being guided by the guidelines of the World Health Organization (WHO) because there are protocols in the medical field, where many countries are party to, including Kenya. This is one of the areas where we are making sure that, pursuant to those protocols, a law of this nature can exist.

When transactions happen electronically, they are valid and are deemed to have happened in a good way and order. Also, it is more of making sure that the world is a global village. Just as we discussed in this House the other day, about medical tourism here, many of our people who have been spending large sums of money on treatment of cancer in many parts of the world, can now, deal with it electronically, while they are here and are guided through a process, which is now within the law.

Therefore, owing to that, and I am sure that, other Members want to contribute, I congratulate Hon. (Ms.) Gladys Wanga and hail her for having, first of all, participated initially, when we were making this Act. Now, having come up with amendments which are very sound, I support her in this and urge the whole House to support the Bill. I believe it will be a good law to serve our nation.

I thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ali Rasso, you have the Floor.

Hon. Ali Rasso (Saku, JP): Thank you very much, Hon. Temporary Deputy Speaker.

This morning, I lost one of my constituents to cancer; a mother of four and somebody who is in her thirties. She has been to India and basically went to almost all the hospitals in Kenya that deal with cancer. So, cancer is a major killer today.

In Marsabit, where I come from, there are many other ailments and diseases, but cancer is a major killer. I thank Hon. (Ms.) Gladys Wanga for this Bill. I think even in the last Parliament, she was able to bring to the Floor of the House a progressive Bill that today, there is a bit of awareness, an element of funding and thinking in terms of having oncologists in many of the hospitals. Also, there is need for this country to train more oncologists and medical practitioners, who are able to help us in fighting the scourge of cancer.

Hon. Temporary Deputy Speaker, to highlight some of the fine lines, screening must be our priority area. Today, most of the cancer cases in Kenya are discovered at the fourth stage and

at that stage, people will be in their final days. If screening is done early enough, there will be a respite or medication might be found. Currently, there are only a few hospitals in Nairobi where Kenyans seek cancer treatment or where Kenyans go for, what is now famously coined as, medical tourism to India. If we take the amount of money we take to India, then national Government should begin thinking of having a cancer centre in every county. If every referral hospital in all those counties is a cancer centre, we will save a lot of money.

The other area that we really need to think about is on the study and research of cancer. What scientifically is out there is that, somewhere in our lives, majority of persons living are likely to have some form of cancer. For that to be dealt with, it is only through research and studies in our universities, institutions of higher learning, or specialised institutions like Kenya Medical Research Institute (KEMRI) and others. So, in terms of awareness and dealing with cancer, we will be a country that within our region we will be placed highly. We could be a beacon of hope in this region to help others and ourselves.

I thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. (Ms.) Catherine Wambilianga, the Member for Bungoma.

Hon. (Ms.) Catherine Wambilianga (Bungoma (CWR), FORD – K): Thank you, Hon. Temporary Deputy Speaker, for this time. At the outset, I also second The Cancer Prevention and Control (Amendment) Bill. It traces back to 2016 or even earlier, when such Bill was discussed in this House. From what Hon. (Ms.) Gladys Wanga brought forward, it is just a continuation of the same.

This Bill is quite important in the sense that if cancer is identified at an early stage, prevention occurs. Sometimes, the diagnosis of cancer may not be correct. But with digital consultations by different doctors, it is quite easy to find out and see how these doctors can consult with each other and come up with the correct diagnosis. First of all, it is at the right stage that cancer can be treated. Most of our people do not know about cancer. They only discover they have cancer when it is too late, maybe, when it is in the third or fourth stage and that becomes a problem. With these kinds of consultations, I am sure doctors can come together, put their discoveries together, and by the time they do their diagnosis and treatment plan, they will be doing the right thing.

Hon. Temporary Deputy Speaker, cancer is a killer and we know that. There is no single weekend that most of us do not go home to bury a cancer patient. Tomorrow, I will be in Homa Bay to bury a father to one of my colleagues, a teacher in Homa Bay, who has just died of cancer. The other two weekends were the same. Let us give it a chance and with the e-medicine and e-treatment, I am sure something will be done. If we look around, even in this country and this sitting, we will find that we have private practitioners that have come up with separate cancer treatments. However, in most cases, you will find that they are quite expensive for the common people to advance and get. It is important that the Government subsidizes this to make it easy for our people to access.

For instance, we have our own Texas Cancer Centre here, which is owned by a doctor from Bungoma. She is here in Nairobi. She is Dr. Catherine Nyongesa. This is a Centre that has really helped many, but in terms of expenses, not all people will afford. So, it has not been easy, and I want to congratulate Hon. Gladys Wanga for having been consistent on this Bill.

Finally, she brought it here. I urge all Members in this House to support this Bill because it is very important and progressive. It will take Kenya a milestone ahead in terms of treatment, prevention of cancer and the expenses that are involved. Diet must be included. Correct diet helps

prevent cancer. Most people do not know that. At the outset, with the correct diet, cancer can be minimised or reduced. I am not saying that it will be eliminated. However, with the correct diet, I know that cancer can be reduced in this country.

On that note, I beg to support the Bill. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute. I also rise to support the Cancer Prevention and Control (Amendment) Bill, which was brought to this House by Hon. Gladys Wanga who is the Chair of the Departmental Committee on Finance and National Planning.

This is a very progressive Bill because we basically have to adjust to the times. You have noticed that since early this year when we knew that there is Coronavirus, the Ministry of Health moved very fast and introduced measures of social distancing and sanitising all the time. All of us in this Chamber are wearing masks. This Bill also looks at what we, as a nation, can do so that we can be involved in the fight against cancer which is lethal. It is one of the biggest killers. Considering that, then we must fight it with all weapons and ammunition. There is absolutely no doubt in my mind that most of the funerals that we attend on a daily basis and contributions we make in Harambees are caused by this disease. So, it is important for Members to be proactive and progressive like Hon. Wanga, so that we can come up with laws that can help our people.

From my observation, it looks like this disease is not gender, age or wealth sensitive. It attacks anyone. It is something that we all need to think about. I am very happy because Hon. Wanga has proposed some measures that can be helpful in preventing and controlling it. I agree that modern times call for modern measures. We, as a nation and world, have advanced. We are talking about having a global village. When some nations are well advanced in technology, understanding and research they have done on cancer, some like Kenya are behind. Her proposal to use modern methods of Information and Communications Technology (ICT) or telecommunication in order to fight this disease is very important. From far, we can consult, do the right diagnosis and get proper arrangement for treatment. It is important that we support this Bill because it gives solutions on how we can fight cancer.

I also want to support the idea of promoting our training institutions. It is important to ensure that we train people on how to treat cancer in our training institutions because it is one of those things that we have to deal with. It is one of those problems that we have. We should promote the training of oncologists in the different spheres. For example, in radiology and all the things that Hon. Wanga has pointed out.

This Bill is very progressive. I support it. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall have Hon. Gitau Wairimu.

Hon. (Ms.) Faith Gitau (Nyandarua (CWR), JP): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to contribute. Cancer is the third leading cause of death in Kenya. In one way or another, I have gone through this Bill. So, I know what I am talking about. This Bill comes at a time when cancer treatment needs to be part of primary healthcare.

The prevalence of cancer is very high, especially among women at a much younger age which is an average of 52 years with 57 per cent compared to men at 62 years with 43 per cent. Children and the rural population are a concern as well as the adults and those in urban areas. Therefore, I really support the Bill which was brought forth by my colleague, Hon. Gladys Wanga. Cancer should be treated at the basic level rather than at the advanced level. Widespread lack of awareness and accurate information about cancer are reasons screening is rare and many cancers

are detected when it is too late to treat it effectively. Several cultural myths such as cancer is caused by ancestors' curses exist which are critical obstacles to expanded cancer control and care in Kenya, especially when it comes to the early detection. Therefore, with the use of information technology (e-health), myths and misconceptions about the disease will be debunked. Additionally, practitioners in the oncology field will include cancer treatment as part of primary healthcare. That is very important.

Accessing cancer screening and treatment are major hurdles Kenyan patients with cancer face. You will agree with me that reports show that most cancer care services in Kenya are concentrated within a five-kilometre radius of each other in Nairobi, but not in the rural centres. This leads to very limited access to care for most patients with cancer since 78 per cent of Kenyans are rural residents. This results in long waiting times which causes some previously curable tumors to progress to incurable stages. The fact highlights one of the important propositions in the Bill that is incorporation of telemedicine which allows caring for patients remotely—when the provider and the patient are not physically present to each other. Physicians and patients can share information in real time from one computer screen to another. They can even see and capture readings from medical devices at a faraway location. Using telemedicine software, patients can see a doctor for diagnosis and treatment without waiting for an appointment. Patients can consult a physician at the comfort of their homes. This tool aims to make healthcare more accessible, cost effective and increase patient engagement. This Bill deserves all our support because the toll of cancer is felt not only by the patients, but also by those who know and care for them.

Hon. Temporary Deputy Speaker, I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Amisi, you have the Floor.

Hon. Caleb Luyai (Saboti, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to add my voice to this very important Bill. First of all, allow me to express my praise for Hon. Wanga for she always brings very progressive Bills in this Parliament. This is one of them at this point in time when we are tackling a global scourge of Coronavirus. I believe that cancer is more devastating and deadly than Coronavirus.

Most of us have been able to escape COVID-19 by social distancing and sanitising. But we cannot do the same for cancer. We may keep a social distance, avoid going to mosques and churches, but at the end of the day, if you have cancer, you have it. Cancer is more devastating. Most of our focus as a nation must be geared at its prevention and control.

Early last year, our colleague succumbed to cancer. I had a chance of visiting him in Paris, France. He told me that if he were in Kenya at that point in time, when he sought medication in France, he would have died a long time ago. In Kenya, they were treating him for liver and kidney problems. Little did they know that those were early signs of cancer. So, if there were proper prevention means, maybe we could have saved our brother. But because of lack of knowledge and technical knowhow on how to prevent and control cancer we did not.

There are suggestions that may look weird in the eyes of Kenyans. The other thing he mentioned to me – he used to call me his brother since our days at Starehe Boys Centre – was that whether he would survive or not... He pleaded with me to come back to Kenya and legislate on legalising *Cannabis Sativa*. Most people look at it as a weird suggestion in the social setting and in a democracy like Kenya. But so be it if that is what is going to prevent and minimise the devastating effects of the scourge. These are some of the suggestions people laugh at and rebuke us on. *Cannabis Sativa* is one of the things that, in most progressive countries, has been used as a weapon to mitigate and control the effects of this malady.

We need to start looking for ways and means of handling the situation. Every country is now on its own and every country is finding out means and ways of controlling this global scourge. As a country, we cannot be left as contributors. Most Members of Parliament contribute money on a daily basis to cases of cancer patients either locally or those seeking medication abroad. We cannot just be left as contributors after the effects. We need to look at how to prevent even if it means going to our traditional way of treating patients. Traditional medicine has proved to work in some cases. Let us look at it. I do not believe that the European countries must always be the source of solutions in the medical field. Most likely, whatever they come up with is got from Africa.

So, we have a solution. We are the solution. We have the solution and let us not laugh at it. Let us not think that globalisation has taken over our traditional African medicine. Let us go back to our roots and traditional way of treating patients. Let us invest more in research and look, scientifically, at trees that exist in our traditional setup. How were our forefathers treated? There was no high technology and hospitals, but people would survive and live for 100 years. In the modern days, you can barely find a person

The Temporary Deputy Speaker (Hon. Patrick Mariru): Your space is gone. Let us have Hon. Odhiambo Akoth.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity. I wish to support the Bill. It is an important amendment to the Cancer Act.

Almost all of us either know or have dealt with a person who has cancer. I took care of my uncle, who unfortunately never married and never had children. So, I actually took palliative care of him until he died. He almost died in my house through that process.

I actually know the loopholes that are there in terms of lack of palliative care, expenses entailed in cancer treatment and lack of facilities especially at the county level. Let me laud Hon. Beth Mugo who initiated the first Bill, especially after going through cancer herself, Hon. Abdulai Ali who has brought one that is seeking to step down services to the counties and Hon. Gladys who is moving us to the digital era and acknowledging the realities that we are facing in the digital era.

We know, even in this House, that we have lost our own colleagues like Hon. Joyce Laboso and Hon. Ken Okoth to cancer. I was a very good friend of both of them, especially Hon. Joyce. I know the challenges she used to face even after she went into the first remission. I was also a very good friend of the late Mary Onyango who was a cancer champion and I also know the challenges she went through up to her last minute. It is, therefore, important especially in this era, as we have been taught by the COVID-19 Pandemic, that we must find every way of ensuring that our people are assisted. That is why the introduction of e-health and telemedicine into the amendment is actually very significant and it will enable even those of us who may seek experts abroad and those who cannot get the attention from abroad to get that sort of assistance.

I am also very happy that the Bill seeks the training of oncologists even at the county level. I know most of us, as Members of Parliament, come up with very good Bills, but in Kenya, the challenge is actually the implementation. We say it year, in year out. I want to encourage our governors and senators that instead of fighting over things that really do not help Kenyans, especially now, they should focus on things that really matter. Almost every hour or less, there is somebody probably dying of cancer. I do not have the correct statistics, but I know so many people in my own constituency in Suba North who are dying of cancer. Sometimes we can prolong their lives by years because cancer in itself does not necessarily have to be a death sentence. People can live longer. I know of some people who were told to go back home from hospital which was sort

of being given death sentences, but when they got the support they needed, they lived an extra 20 years. So, what we do as a country to ensure access to the support that the patients need is what is important.

I also want to agree with Hon. Amisi about the issue of herbal medicine that we have not explored it duly. We know, for instance, that the Periwinkle of Madagascar has increased children's chances of surviving Leukemia. In Kenya, I am sure if you use a lot of herbal medicines that we have, which are probably lying somewhere, we have not yet explored, we will find the cure for cancer and not just a medicine that will prolong life.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Dennitah.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to also contribute and support this amendment on this issue that is eating our country, which is cancer. Just like many of my colleagues in this House, I also have a case, as we speak, of a young girl in my village called Baby Sharon who is at Kenyatta National Hospital (KNH) trying to take care of a cancer situation. As usual, we Kenyans, are busy fundraising to support her through Harambee to ensure that her eye is taken care of at KNH. I wish baby Sharon quick recovery.

Hon. Wanga has brought this Bill. It is basically seeking to help our people. We have thousands and thousands of sick Kenyans in the rural areas, in our villages and who do not know where to go. The distance itself, from the village of Ntimaru where I come from, for example, to Nairobi is long. Ideally, most of our national cancer centres are situated in towns. They are in Nairobi, the Capital City. You can imagine somebody who has to travel all the way to seek medication in Nairobi. The road infrastructure is terrible. They cannot reach here.

This is, to me, a Bill that is seeking to give a very big relief to our people. It is because, if implemented, it is going to ensure that people in our rural areas, where we come from, are able to get the information they deserve and get treatment right in the counties. A Bill that seeks to ensure that healthcare, which is devolved in this country, continues to benefit people in the rural areas where they are based is one that deserves our attention and support.

We have seen many cases of persons with disabilities. Many people who are disabled in this country are as a result of cancer. You have seen so many who are amputated. It is a result of cancer. They are many in this country. So, people become disabled because of cancer. It is a fact in this country. Statistics of such people are many. The Bill is seeking to ensure that through what we are calling telemedicine and the use of internet, our people can get information or help that they may need. This is an improved way of ensuring that our people get that information without having to struggle coming all the way to Nairobi. I come from Migori County. Unfortunately, Migori has not been making good news of late. Before I reach Migori on the Isebania-Sirare border, I pass by about eight counties. You know we border Mara to Tanzania on the other side. Whenever I am on the way, I tend to look at counties like Narok, Bomet and Kisii before I reach Migori. We see all these huge tracts of land that are lying idle. Our governors must use those huge pieces of land to ensure that they set up rehabilitation centres for cancer. Our governors must take serious the issue of cancer.

The Bill is basically seeking to ensure that the so few oncologists – our research shows that in Kenya we have less than 15 oncologists against a population of 43 million people. That is quite a low number. I am happy that the Bill is seeking to ensure that the number of oncologists is increased through training. We have not done well as a Parliament to ensure that we raise awareness about cancer in the rural areas. That is why people come to Nairobi when the disease in

them progresses to stage four. They come all the way from Isebania to Kenyatta National Hospital or to the Texas Cancer Centre. That is why you are seeing so many quacks. In fact, there are quacks in this country. They are fleecing people.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Hon. Nyenze.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker.

At the outset, let me support my colleague, Hon. (Ms.) Gladys Wanga, for bringing this Motion. It is a very important one. I do not want to go into details as I say this because it might make me emotional. The Government has declared cancer a national disaster.

The Government should focus on cancer management. It is very disturbing that even Members with good insurance covers die because of cancer. It is very unfortunate because they access services from the best hospitals in Kenya such as the Nairobi Hospital and Aga Khan Hospital. One might seek treatment in a hospital, and instead of them diagnosing cancer in its early stages, they keep treating the wrong illness. When cancer is at an advanced stage, they tell you it is cancer. They even tell you the number of years you have to live. It is very shocking that they do not diagnose cancer in its early stages. If cancer is declared a national disaster, the doctors will take it seriously.

We also should invest in research. We will also reduce the number of people travelling abroad to seek treatment. It is only a small number of people who can afford to seek treatment abroad and they can only do so when cancer is at an advanced stage and nothing can be done. Once this is done, the Government should allocate more funds to train oncologists because they are very few. As indicated by my colleagues, many people are dying from cancer. There is a lot of hopelessness especially when it comes to cancer treatment. They advise people to avoid meat, smoking, alcohol and practise safe sex and so many other theories, but you find people in the villages being diagnosed with cancer. It is shocking because those people in the village do not eat meat and they are very active because of working in their farms. Which meat and exercises are they talking about? You find a person who has never smoked and taken alcohol being diagnosed with cancer. The Government should declare cancer a national disaster so that more focus is put in its management. I have friends from the USA and other parts of the world with very advanced health systems, diagnosed with cancer in early stages, but got treated and are now free from cancer. In Kenya, we go to the best hospitals that cannot even diagnose cancer in its early stages. The Government should really focus on cancer management.

With those remarks, I would like to thank Hon. Wanga.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Oduor Ombaka.

Hon. (Dr.) Christine Ombaka (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to add my voice to this Bill. Cancer is a deadly disease. My mother died from cancer. I am aware how terrible it can be to a family because it takes a lot of time on you. The family is traumatised because it is very expensive to manage it and you end up dying.

It is a disease that must be declared a national disaster, as my colleague Hon. Nyenze has said. Just like Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) was declared a national disaster by the late President Moi in 1999. After HIV had been declared a national disaster, there was a huge campaign to sensitise people about what one needs to do in order to prevent it. We have said over and over in this House that cancer needs to be properly treated and controlled in this country. The laws are there, but we do not implement them. This is a good law that has been brought up by Hon. Wanga to ensure that cancer is better

prevented. Prevention is better than cure, but prevention comes when people have information. So, we need to highlight and share information about cancer to know it just like we know a lot about HIV and AIDs whose information was everywhere in the newspapers, television, radio and shared in *barazas*. People were highly sensitized everywhere every now and again. I do not see that with cancer. That is what I want to encourage.

As we pass laws here, we must make sure that implementation is practical and constant. We need to highlight that there is cancer and we need to go for checkup every year. I know it is expensive. Many people cannot afford to go for checkups on an annual basis. However, it is something that we need to be doing. We need to make our hospitals a little cheaper for our people. Many people fear to go to hospitals even for other diseases besides cancer because they fear the expenses that they will incur. So, when it comes to cancer, the fear is higher. It is a disease that one will be seeing a doctor constantly and it takes a lot of funds. We need to ensure that our hospitals are cheaper and accessible to our people. People should be treated fairly to feel comfortable to visit hospitals.

As it has been highlighted before that, the hospitals that we have do not have experts. This disease is also in the rural areas. Oncologists that we are talking about are few to address the disease countrywide. You will find them concentrated in Nairobi. In Siaya where I come from, you will not find an oncologist. Tell me how a man or woman who is 70 years old suffering from cancer will find money to come to Nairobi for his treatment and stay there. It is too expensive. That is why we need more trainings for oncologists to be posted in other counties, so that every county and sub-county has an oncologist expert. Telemedicine has become the latest method in medicine. Just like other digital methods of learning and communication, it should be encouraged.

Thank you, Hon. Wanga for this timely Bill. I support this Bill because it touches the heart of everybody. Every family in this country has seen the devastation that cancer brings to families. This Bill is coming at a time when we are devastated by many complications arising from difficult diseases, in the sense that they are difficult to treat, they are time consuming, life-long and expensive to treat.

I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Janet, Member for Trans Nzoia.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Asante, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi hii nchangie Mswada huu wa ugonjwa wa saratani nchini Kenya. Namshukuru Mhe. Gladys Wanga kwa sababu katika Bunge lililopita la kumi na moja, alikuja na hoja kuhusu saratani katika nchi yetu ya Kenya. Ninamshukuru kwa sababu hivi leo ameleta Mswada katika Bunge hili ndiposa sisi kama Wabunge tupate nafasi kuuchangia.

Ugonjwa wa saratani, vile wenzangu wamesema, ni ugonjwa mbaya sana. Katika eneo langu la Trans Nzoia, tumepoteza watu wengi sana kwa saratani. Juzi nilipoteza mpigaji kura wangu mmoja na tukawa na mgonjwa aliyeamka na kusema kwamba jinsi mwenzake alivyopoteza maisha yake, yeye pia ako na ugonjwa wa saratani. Cha kushangaza ni kwamba hatuwezi kupata mashine ya kupima ugonjwa huu katika eneo langu. Inalazimu mgonjwa aje katika hospitali ya Aga Khan. Iwapo huu Mswada utatekelezwa, utaokoa maisha ya watu wengi sana. Huu ugonjwa wa saratani huja na masaibu kadhaa. Mtu anaweza kuwa na ugonjwa wa saratani ya damu, wa koo au wa matiti. Vile wenzangu wamesema, inakuwa vigumu mtu kusema anaugua huu ugonjwa mpaka apimwe. Iwapo hatuna hizo mashine katika sehemu zetu, tunapoteza watu wetu.

Nilitembelea hospitali ya Texas Cancer Centre hapa Nairobi. Ukifika hapo, utaona kwamba wewe unayetembea umshukuru Mungu. Wenzetu kule nje wanaumia sana. Nimemsikia Mhe.

Caleb akisema tunaweza kuwa na dawa za kienyeji. Naona ni vizuri sana, lakini ni lazima tuwe na mahabara zetu za kupima madawa hayo. Wengi wanaotumia madawa ya kienyeji wanasema huenda yanaponya ugonjwa wa ukimwi, wengine wanasema inawapatia nguvu. Tukiwa na mahabara ambazo zinaweza kupima hayo madawa na yasaidie watu, itakuwa nzuri. Iwapo hatujafunza hawa watu jinsi ya kutumia hizi mashine au iwapo hawajapata ujumbe kamili, hiyo ni changamoto.

Nimewasikia wenzangu pia wakisema huu ugonjwa utangazwe kuwa janga la kitaifa katika nchi yetu ya Kenya. Hiyo ni sawa. Lakini tusipotekeleza haya, hayatakuwa na manufaa na hayatasaidia wagonjwa ambao wameathirika na huu ugonjwa wa saratani. Wacha Mswada huu utekelezwe jinsi tunavyosema kama viongozi. Hilo litakuwa jambo zuri.

Ninamshukuru tena Mhe. Wanga kwa kuleta Mswada huu katika Bunge hili ndiposa sisi pia kama Wabunge tuujadili. Asante sana, Mhe. Naibu Spika wa Muda, kwa kunipa nafasi.

The Temporary Deputy Speaker (Hon. Patrick Mariru): There being no other interested Member to speak to this Bill, we shall have the Mover replying. Hon. Gladys Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you very much, Hon. Temporary Deputy Speaker. In replying, I would like to thank very much the many Members who have risen in support of this Bill and for their kind words. They have also pointed out so many gaps within our health systems and in the treatment of cancer. Members have given examples of personal losses. Others have given examples of how broken the system is in their own constituencies. We need to continue coming up with legislation and proposals to better the treatment of cancer and the health system.

We have also talked about alternative medicine. I would like to encourage Members who feel strongly about treatment of cancer using *cannabis sativa*, or *marijuana*, to bring legislation that will drive us in that direction. Some of us have different views on the matter.

It is also important and Members have noted that cancer is not just a health issue. It is a great economic issue as well. It has impoverished families. It has removed people from living above the poverty line to living completely below the poverty line. This is because if you sell everything you have to treat a patient who ends up dying, you are returned to zero. Those are the things we need to continue dealing with.

As I conclude, I would like to use this opportunity in replying to just pay tribute to some of our colleagues whom we have lost to this battle. Hon. Francis Nyenze comes to my mind who was our Minority Leader in the last Parliament; Hon. Grace Kipchoim, who was the Member for Baringo South; Hon. Ken Okoth, who was a Member for Kibra; Hon. Joyce Laboso, who was a Deputy Speaker, and later on became one of the first three governors of Bomet County; and to many families who grieve their family members lost every day to cancer. We all watched and enjoyed watching the *Black Panther* movie. Recently, the world was shocked by the loss of a young man, Mr. Chadwick Boseman, who starred as a Black Panther in that historic movie who lost his life at only 43 years of age to colon cancer.

With those many remarks, it is not all gloom. We have power in our hands to bring the change that we require in order to give our people the healthcare that they deserve.

With those many remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Hon. Wanga. Certainly, that was a very important Bill and as you said, cancer is not only a health issue, it is an economic, social and a serious issue to Kenyans at the present. We shall pend putting the Question to this Bill that we have concluded its Second Reading to another time.

(Putting of the Question deferred)

Next Order!

Second Reading

THE PUBLIC SERVICE COMMISSION (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Benjamin G. Mwangi, you have the Floor.

Hon. Benjamin Mwangi (Embakasi Central, JP): Hon. Temporary Deputy Speaker, I rise to move that the Public Service Commission (Amendment) Bill, (National Assembly Bill No. 27 of 2019) be read a Second Time.

Hon. Temporary Deputy Speaker, before setting out specific provisions of this Bill, it behooves us to understand the motive behind the legislation. The public service is established under Chapter 13, whereas the Public Service Commission is anchored in Article 233 of the Constitution. The values and principles of the service form the benchmark of development of legislation that will guarantee high standards of professionalism and efficient, effective and economic use of the resources in the service delivery to citizens.

With this understanding, the provision of Article 10 remains the hallmark value and the principle that will guide governance structures in the country. The Public Service through the Public Service Commission Act, 2017, embodies implementation of these fundamental values in the service.

The Public Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2019) seeks to amend the Public Service Commission Act, 2017 to prescribe the mandatory retirement age of 60 years in the Act. Currently, the Act delegates the prescription to regulation developed by the Cabinet Secretary responsible for the Public Service. It is in this structure. It is instructive to note that clarity of purpose such as prescription ought to be made precisely clear in legislation and reduce inconsistency and firm up the process of implementation across the public service while providing for the exemptions. Further, the Bill provides for the penal provision in the event that the appointing authority allows a person to act in appointment for a period of more than six months and regarding acting allowances thereof upon the lapse of the acting period. The amendment forms the critical premises in addressing unemployment in the country as it sets forth the ground to increase job opportunity for the youth and those below the age of 60. Continued retention of staff and officers who have attained retirement age due to possessing critical competencies negates the demand for good corporate governance through succession planning. In the foregoing, the Public Service Commission (Amendment) Bill, 2019, if approved by the House will settle the administrative, operational and succession planning issues in the public service.

The Public Service Commission (Amendment) Bill seeks to amend Section 34 of the Public Service Commission Act, 2017, which provides that any officer appointed in an acting capacity shall not be entitled to any acting allowance after the expiry of six months. Additionally, the Bill seeks to amend Section 80 by prescribing the mandatory retirement age of 60 in the Act as opposed to setting it in the regulations. Also, the Bill proposes deletion of Section 80 (2), which provides for exceptional circumstances under which the Commission or any other appointing authority can engage an officer upon retirement on the basis of possessing rare skills and competences or wilfully

via a contract. Currently, the Commission, under Section 80 (2), can engage officers who have attained the mandatory retirement age on the basis of principle. This subsection states as follows:

“80 (2)

Despite subsection (1)(b), the Commission or other appointing authority may engage the public officer for service after the retirement upon such terms of contract as may be agreed if-

(a) The public officer possesses rare knowledge, skills, and competencies for the time being required in the service.”

Hon. Temporary Deputy Speaker, it is in respect of this provision that we are saying an organisation should plan well. In any case, they will know when someone will be going for retirement. This contentious section further state as follows: –

“80(2) Despite subsection (1)(b), the Commission or other appointing authority may engage the public officer for service after the retirement upon such terms of contract as may be agreed if –

(b)the retired officer is willing to be engaged in a contract; and

(c)the retired public officer's performance shall not in any way be impaired by age.”

The objective of this Bill is therefore to provide for compulsory retirement at the age of 60 in public service and the penal provision or punishment in case of an appointing authority not confirming someone on acting appointment or otherwise acting in an appointment beyond the prescribed six months period.

Hon. Speaker, the justification for this Amendment Bill is to spur economic growth and development through job creation by releasing officers who are due for retirement to enjoy their sunset years while engaging new skills through promotion or direct appointment of persons to serve in the public service. This must be supported by institutional succession planning.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Mwangi. It is 1:00 p.m. and the House must rise. That is not to say that we are reducing your time. When this Bill is slotted again by the House Business Committee, you will definitely have the remainder of your three minutes to conclude moving and then the seconder will have an opportunity.

The Bill will have two hours ten minutes for Members to engage on it. So, your time is still there.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 1:00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1:00 p.m.