

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 17<sup>th</sup> November 2021**

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Deputy Speaker:** Hon. Members, we do not have the required Quorum. Therefore, I order the Bell to be rung for 10 minutes.

*(The Quorum Bell was rung)*

Order, Members. We now have Quorum. So, business will begin.

**PAPERS LAID**

**Hon. Deputy Speaker:** Whip of the Majority Party. Sorry, it is the Deputy Leader of the Majority Party, the grandfather of the House.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): Thank you, Hon. Deputy Speaker. I stand to lay a Paper on the Table of the House. Microphone *haiko karibu*. I stand to lay the following Paper on the Table of the House. *Hii* microphone *ni ya nani?*

*(Laughter)*

**Hon. Deputy Speaker:** You will have to tell us which Papers they are, Hon. Deputy Leader of the Majority Party. They are the annual reports and so forth.

**Hon. Jimmy Angwenyi** (Kitutu Chache North, JP): I beg to lay the following Papers on the Table of the House:

Annual Report and financial statements of the Kenya Industrial Property Institute for the year ended 30<sup>th</sup> June 2019 and the certificates therein.

Reports of the Auditor-General and financial statements on Bushiangala Technical Institute for the years ended 30<sup>th</sup> June 2017, 30<sup>th</sup> June 2018, and 30<sup>th</sup> June 2019 and the certificates therein.

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

- (a) Special Economic Zones Authority;
- (b) Kenya Broadcasting Corporation;

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- (c) Eldoret National Polytechnic;
- (d) Council of Governors; and,
- (e) Kerio Valley Development Authority.

Reports of the Auditor-General and financial statements in respect of the following constituencies for the year ended 30<sup>th</sup> June 2019 and the certificates therein:

- (f) Emuhaya; and,
- (g) Bureti.

Thank you.

**Hon. Deputy Speaker:** Thank you, Deputy Leader of the Majority Party. Very well. Next Order.

## QUESTIONS AND STATEMENTS

On this particular Order, we only have Questions. We will start with the Member for Ol Jorok, Hon. Muchira.

## ORDINARY QUESTIONS

*Question No.480/2021*

### PROGRESS OF CONSTRUCTION OF EX-JACOB DAM

**Hon. Michael Muchira** (Ol Jorok, JP): Hon. Deputy Speaker, I rise to ask Question No.480/2021 directed to the Cabinet Secretary for Agriculture:

- (i) Could the Cabinet Secretary provide an update on the progress of construction of ‘Ex-Jacob Dam’ in Kirimingai area of Ol Jorok Constituency in Nyandarua County?
- (ii) What measures has the Ministry put in place to ensure that the residents continue receiving water during the ongoing construction period?
- (iii) What is the expected completion date of the dam?

The Question is supposed to be directed to the Departmental Committee on Agriculture and not the Departmental Committee on Environment and Natural Resources.

**Hon. Deputy Speaker:** No, Hon. Member. You have asked the Question. So, allow us to see which Committee is relevant. I can consult on that quickly.

*(Hon. Deputy Speaker consulted the Clerks at-the-Table)*

Member for Ol Jorok, the relevant Committee is the Departmental Committee on Environment and Natural Resources. Well, I will be interested to know why you want it to go to another Committee, so that we can understand where you are coming from. Which Committee are you suggesting and why?

**Hon. Michael Muchira** (Ol Jorok, JP): Hon. Deputy Speaker, it is because the said dam is being implemented by the State Department of Crops, which is under the Ministry of Agriculture.

**Hon. Deputy Speaker:** Well, even if it is the implementing one, it is still an environmental issue. Is it not?

**Hon. Michael Muchira** (Ol Jorok, JP): Hon. Deputy Speaker, this Committee does not oversee the Ministry of Agriculture.

**Hon. Deputy Speaker:** If you got a good answer from this Departmental Committee, would you have an issue?

**Hon. Michael Muchira** (Ol Jorok, JP): No, Hon. Deputy Speaker,

**Hon. Deputy Speaker:** Let it go before the Departmental Committee on Environment and Natural Resources because this is basically an environmental issue. Should there be an issue as we go forward, we will give a different direction. I wish the Chair of the Departmental Committee on Environment and Natural Resources was here so that he could confirm if they will be able to dispense with it. So, let us leave it for the Departmental Committee on Environment and Natural Resources. Should there be an issue, you will raise it with us and we will act accordingly.

The Question will be replied to before the Departmental Committee on Environment and Natural Resources. Next is the Member for Cherangany, Hon. Kutuny. We will defer the Question.

*Question No.484/2021*

MR. BARNABAS LAGAT OF ID CARD NO. 12418176

*(Question deferred)*

**Hon. Deputy Speaker:** Let us have the Member for Garsen, Hon. Wario.

*Question No.485/2021*

ISSUANCE OF OVER 21,000 TITLE DEEDS TO  
RESIDENTS OF TANA RIVER COUNTY

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No.485/2021 directed to the Cabinet Secretary for Lands and Physical Planning:

*(Hon. Richard ole Kenta consulted with Hon. Emmanuel Wangwe.)*

**Hon. Deputy Speaker:** Order, Hon. Kenta! Proceed.

**Hon. Ali Wario** (Bura, JP): Thank you, Hon. Deputy Speaker.

- (i) Could the Cabinet Secretary provide an update on the progress made with regard to the planned exercise for issuance of over twenty-one thousand (21,000) title deeds to residents of various villages in Tana River County?
- (ii) (ii) Could the Cabinet Secretary further clarify whether the title deeds issuance exercise has been approved by the County Assembly of Tana River as required by statute?
- (iii) Were public participation and other forums of stakeholder's engagement undertaken in the community before the resolution on issuance of titles was arrived at?

**Hon. Deputy Speaker:** Very well. That Question will be replied to before the Departmental Committee on Lands. Next is the Member for Trans Nzoia County, Hon. Janet

Nangabo. She had made a request that we defer her Question and that is what we will do. Member for Sirisia, Hon. Waluke.

*Question No.486/2021*

STATUS OF ESTABLISHING A PUBLIC UNIVERSITY IN TRANS NZOIA COUNTY

*(Question deferred)*

**Hon. Deputy Speaker:** Member for Sirisia, Hon. Waluke. Well, that marks the end of Questions. That Question is deferred.

*Question No.487/2021*

EFFORTS TO PHASE OUT LEAD-BASED PAINTS IN KENYA

*(Question deferred)*

**Hon. Deputy Speaker:** What is it, Member for Bondo?

**Hon. Gideon Ochanda** (Bondo, ODM): Hon. Deputy Speaker, my concern is related to the matter that was raised by the Member for Ol Jorok. The experience is that when a Question is taken to a department or a cabinet secretary who was not handling the matter, the responses are poor. They will tell you that that particular Question is not under them and that will be the end of the response. I have seen such kind of responses before where they say that a Question does not belong to a particular ministry, but to the Attorney-General. Because they respond to many Questions from us, chances are that they will gloss over a Question. It will disappear and time to sort the matter will be gone.

**Hon. Deputy Speaker:** That is a genuine concern. Please, allow me to consult a second time on it.

*(The Deputy Speaker consulted the Clerks at-the-Table)*

I hope the Member for Ol Jorok is still in.

*(Laughter)*

That is the problem of asking a Question then disappearing immediately. Hon. Ochanda, after seeing the Question, I am convinced by your argument. What is it, Chair of the Departmental Committee on Lands?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Deputy Speaker. I want to weigh in on that matter. The most likely response that may come from the Ministry out of this Question is: "We are sorry, but this project is not being implemented within our department." I believe the Member is right in seeking your indulgence to give a different direction. I am sure you will give the best direction on this one. We are not trying to guide you.

**Hon. Deputy Speaker:** It is okay. Looking at it from where I sit, I am convinced the concerns raised are genuine. Since the Member is asking about the completion date and continued

receipt of water during the time of construction, it would only be the specific ministry that is implementing the project than can deal with the Question. After looking at it, it is the Ministry of Agriculture. Having confirmed that it is the Ministry of Agriculture, I resign my earlier decision and refer Question No.480/2021 to the Departmental Committee on Agriculture and Livestock. I only wish the Member was still in the chamber, but I am sure he will be communicated to. I will ask Hon. Sankok to communicate to the Member. I am told he is his close friend. Let him know that the Question will be replied to before the Departmental Committee on Agriculture and Livestock. It is a concern that he had raised.

Hon. Members, that marks the end of Question Time. The last Question, of course, is deferred. Let us go to the next Order.

## BILLS

### CONSIDERATION OF REPORT AND THIRD READING

#### THE WAQF BILL

**Hon. Deputy Speaker:** Hon. Members, having confirmed that we have the required number of Members, I put the Question.

*(Question put and agreed to)*

Let us have the Mover to move the Third Reading.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Deputy Speaker. I beg to move that the Waqf Bill (National Assembly Bill No.73 of 2019) be now read a Third Time. I request Hon. David ole Sankok to second.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Deputy Speaker, for giving me this golden opportunity to second this Bill. I second.

*(Question proposed)*

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

**Hon. Deputy Speaker:** Having confirmed that we have the requisite quorum for purposes of making this decision, I put the Question.

*(Question put and agreed to)*

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

#### *Second Readings*

#### THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS (AMENDMENT) BILL

*(Hon. Jeremiah Kioni on 9.11.2021)*

*(Debate concluded on 16.11.2021)*

*(Loud consultations)*

**Hon. Deputy Speaker:** Order Members. Hon. Caleb Kositany, take your seat.

*(Question put and agreed to)*

*(Several Members rose in their places)*

*(Loud consultations)*

**Hon. Deputy Speaker:** Order Members. You have been heard. Allow us to confirm the numbers. You have the numbers. It has been confirmed that you have the numbers, so can we now go to Division? Take your seats and make your decision. I order the Division Bell to be rung for 10 minutes.

*(The Division Bell was rung)*

I see quite a number of Members going out. Order, Members! You are making an extreme mistake. Some Members are leaving the House.

Order, Members. I order that the Bell stop ringing. Members are asked not to leave. Otherwise, you will lose the quorum that you have. We now want to draw bars and confirm the numbers. Kindly, draw the bars now. We need to confirm the numbers before we take a vote.

*(Serjeant-at-Arms closed the bars)*

*(Loud consultations)*

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Deputy Speaker, I have the microphone, but I do not know if I asked for it.

**Hon. Deputy Speaker:** You did not ask for it and so, you do not have it.

*(Loud consultations)*

Hon. Members, we want to confirm the numbers. For us to move to the next step, we must have the required numbers, and then we quickly vote. It is a fairly straight forward one because there are not too many Members in the House anyway. So, we will dispense with it quickly.

*(Loud consultations)*

Hon. Members, we have counted and recounted. A few Members keep moving out. I want to ask for a recount for the last time to confirm.

*(Loud consultations)*

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

It seems we have quorum. Some Members have been moving in and out. We will, therefore, go to on to vote. I hope all the Members have their cards. For those who do not, kindly, come to the Dispatch Area and beyond.

We need suggestions on Members who will be tallying for the Noes and Ayes. As we process, let us confirm the Members who will be tallying. For the Ayes, is it Hon. Gedi?

**Hon (Ms.) Fatuma Gedi** (Wajir CWR, PDR): No, I am for the Noes.

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Gedi, why not make up your mind?

*(Loud consultations)*

Hon. Gedi, I want to confirm from you if you are voting for Ayes.

**Hon (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Yes.

**Hon. Deputy Speaker:** Hon. Kabinga for Noes. We can then do that quickly.

*(Loud consultations)*

What happened again?

*(Voting in progress)*

*(Loud consultations)*

Order! Order, Hon. Pukose! There are no factions in the House. So, we will take a vote. I am seeing we are having some difficulties with Information Technology (IT). So, do we vote the normal way and quickly? Members, just wait. You will vote. Order, Members! Is it okay now? Okay, Hon. Members, insert your cards. All of you should remove your cards completely. Hon. Sankok, Hon. Kabinga, Hon. Kanini Kega, Hon. Obo Mohamed and Hon. Koimburi, remove your cards. Okay, you can now insert your cards and vote.

Those with cards should log in. First you should remove the cards and log in again. It will be very good if you do this. Just remove the cards, please, Hon. Seroney, Hon. Sossion, Hon. Akinyi, and Hon. Bonny Mwalika remove your cards. Now, insert your cards once again. Please, log in Members and do not remove the cards at all. You can now vote. Members take the vote quickly.

Please, record quickly because we want to finish with this. Take the vote from the Members who are here, quickly, so that we can save some time. Hon. Guyo, you need to record for us to see you voted one way or another. No, we will take the one you have agreed to. We now want to get the results from the tallying.

### DIVISION

**Hon. Deputy Speaker:** Order Members! Hon. Members, you can take your seats. Hon. Shamalla, take your seat. Hon. Members, this is the result of the Division: Electronically, Ayes 43, and Noes 61. Manual voting: Ayes 19 and Noes 13. Total: Ayes 62 and Noes 74.

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Hon. Members! What is your point of order, Hon. Member? Why don't you allow us to declare the results and then you can have your point of order? Order Members! These are the results as tallied: Electronically, Ayes 43 and Noes 36. Manual voting, Ayes 0 and Noes 15.

*(Applause)*

So, the Noes have it.

#### ELECTRONIC VOTING

**AYES:** Hon. (Ms.) Rozaah Buyu and Christopher Omulele

**NOES:** Hon. Aden Duale, Ali Guyo, Kanini Kega, Kibeh Wanjiku, Peter Kimaru, Charles Kilonzi, William Kisang', Ms. Beatrice Kones, Leshoomo Maison, Mjaombo Kalasinga, Mbogo Ali, David Mbooni, Stephen Mule, Peter Mwathi, Jude Njomo, (Dr.) James Nyikal, Erastus Nzioka, Ms. Obo Ruweida, Ms. Adhiambo Mabona, Richard ole Kenta, Korei ole Lemein, Ms. Janet Ong'era, (Dr) Robert Pukose, Sammy Seroney, Wilson Sossion, Ms. Janet Teyiaa, Ronaldo Tonui, Daniel Tuitoek, Vincent Tuwei, (Dr.) Chrisantus Wamalwa, Wambugu Munene, Emanuel Wangwe, Ferdinand Wanyonyi, Benjamin Washiali, Christopher Omulele, Robert Mbui.

#### MANUAL VOTING

**AYES:** None

**NOES:** Hon. Kabinga Wachira, Gideon Kosgei, Ken Chonga, Jeremiah Lomurukai, (Ms.) Joyce Korir, (Ms.) Rachael Nyamai, Qalicha Wario, George Ndung'u, Leonard Yegon, (Ms.) Fatuma Gedi, Godfrey Osotsi, Owen Baya, Suleiman Dori, Benjamin Tayari, (Ms.) Rozaah Buyu

It is very interesting how Members were voting earlier on decibels. What is your point of order, Hon. Buyu?

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): Hon. Deputy Speaker, thank you for this opportunity. Indeed, when you called out for electronic voting, I by mistake voted yes and then voted no again, but I have been told that that is already noted electronically. So, I would like to say that my vote is a Noe as I have already indicated manually. I thank you.

**Hon. Deputy Speaker:** What is it, Hon. Duale? The bars can be drawn.

**Hon. Aden Duale** (Garissa Township, JP): Thank you very much. I was coming to the House and I was worried that people were calling for Division on the Waqf Bill. So, when I came in and I knew it was this one, can I go on record with your permission that Hon. Kioni and his Committee were trying undo what the judges said contrary to the doctrine of basic structure in the 2010 Constitution. I was with Hon. Kioni in this House and Hon. Millie and we said they will be two distinct commissions, namely, one for gender and another for human rights. This is the behaviour of some people who carry the old mentality. You cannot touch the doctrine of the basic structure as given by the Judiciary.

**Hon. Deputy Speaker:** Let me resolve the issue of Hon. Buyu. On her own admission, Hon. Buyu says she has voted twice. So, that automatically becomes an expunged vote. Which sorts out your problem, Hon. Buyu, because you are already on record as having said that you support the Noes. That is clear to everybody and the public, but for purposes of record, it will be

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difficult for us to expunge the one which would have gone even if it were by accident. So, it is good that you have said that you voted twice and so, that becomes a null vote and your name will not appear as having voted Ayes, neither will it appear as having voted Noe. That is the position.

Order Members. Hon. Millie Odhiambo, what is your issue?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker for your ruling. However, I just request the House leadership to reconsider that position. The reason is not in relation to this vote, but we may have critical votes coming ahead. Since technology is different from manual voting, you can make a mistake and it becomes very difficult because you cannot correct. Can we find a system where if I touch something accidentally or by poor eyesight, I can equally indicate what my position is the way Hon. Rozaah Buyu has done especially as we are going towards elections. We can cost people's seats just by the slip of a finger. It is no longer a slip of the tongue, but a slip of a finger.

**Hon. Deputy Speaker:** Let me just explain, so that you can understand and I am sure Hon. Millie will quickly understand. Under normal circumstances, if Hon. Rozaah Buyu had kept quiet and indicated strongly that she had voted Noe, all we would have done is to correct the vote to Ayes. However, if you admit that you have voted twice, the Standing Orders are clear that the vote is null. Members are not supposed to vote twice. It is right to understand that Hon. Buyu voted on her own Noe and she has admitted that she wanted to vote Noe. So, we are trying to rectify. The easier way is to expunge the vote.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Sometimes that one vote makes the difference.

**The Hon. Deputy Speaker:** Well, that matter has been put to rest. Let us not dwell too much on it. She wanted to vote Noe, unfortunately she voted Aye by mistake. I do not know what the problem is. So, let us proceed. The rest will be resolved in due course. On what Hon. Millie Odhiambo has indicated, this is the ripe time because the Procedure and House Rules Committee is sitting to work on tidying up our Standing Orders for the next Parliament. That is something I need to consider, so that if a Member votes by mistake, they can rectify on time so that it does not go on record. That is a good suggestion.

Next Order.

#### THE COUNTY GOVERNMENTS GRANTS BILL

**Hon. Deputy Speaker:** Chairman, Budget and Appropriations Committee. You do not have the microphone?

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Deputy Speaker, I beg to move:

THAT, the County Government Grants Bill (Senate Bill No.35 of 2021) be read a Second Time.

Hon. Deputy Speaker, as you are aware, this Bill was read the First Time on Wednesday, 13<sup>th</sup> October 2021 and committed to the Select Committee on Budget and Appropriations for processing. It is a requirement by our own Standing Orders for the Committee to table a report before it is read for a Second Time.

However, I submit to the House my apologies as we are unable to currently do the report as it requires more time to iron out pertinent issues. Since 2013/2014 Financial Year, counties have been receiving both conditional and non-conditional resources from both the Government of Kenya and development partners such as the World Bank, the European Union, the International

Development Bank (IDA), and the Swedish International Development Cooperation Agency (SIDA) among others. The conditional grants and loans from both the Gok and development partners were in addition to be included in the annual Division of Revenue Bill and the County Allocation Revenue Bill (CARA) each year, and were also put in the annual Appropriations Bill up to the 2020/2021 Financial Year.

The High Court ruling on a Petition No.252 of 2016 provided that conditional grants be transferred from the Consolidated Fund into the County Revenue Bill, but barred the inclusion of conditional grants in the Division of Revenue Bill and CARA. The 2021/2022 Division of Revenue Bill and CARA did not include the conditional grants that were only appropriated or included in the Appropriations Bill, which created a lacunae as to what instruments or framework to be used to disburse the conditional grants and the role of the Senate is the same as the county assemblies. They are also barred from appropriating the resources.

I am aware of the urgency by the House and the expectations of the nation to fast track and finalise this legislation. The Bill seeks to provide, pursuant to Article 202(2) of the Constitution, for conditional allocation for the Financial Year 2021/2022 and to facilitate the transfer of the conditional allocation made to counties from the Consolidated Fund Services (CFS) to the respective county revenue funds. The approval of this legislation will unlock over Kshs32.3 billion to the counties. According to the Constitution, the instruments to enable---

**Hon. Deputy Speaker:** Order! What is it, Hon. Wamalwa?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Deputy Speaker. You know this House has traditions, and we passed in this House that there is no Bill that can be discussed at the Second Reading without a public participation report from the Committee. The Chair of the Budget and Appropriations Committee has indicated that there is no report. So, I wanted to seek your direction on whether you have used Standing Order No.1 and given him the go ahead for the Bill to go to the Second Reading without the report. This is because Article 118 of the Constitution is very clear that public participation is part and parcel of the legislation of this House. We seek your advice on that.

Thank you.

**Hon. Deputy Speaker:** Let us hear from the Chair. When is the report coming?

**Hon. Kanini Kega** (Kieni, JP): Hon. Deputy Speaker, we are in the process and in fact I have included it in my report here that I am giving.

However, Hon. Deputy Speaker, I had sought your indulgence on this particular issue. We are bringing that report. We are still having consultations and it is actually captured. We have already done the public participation.

**Hon. Deputy Speaker:** I wanted you to actually capture that, so that you are on record that you are going to bring the report. The report is actually ready and what is only remaining is for you to bring it. That was the clear understanding that I had with you. That being the case, that is how I allowed you to proceed with it, because we will be saving the time of the House and, at the same time, we are sure that the report is within precincts.

**Hon. Kanini Kega** (Kieni, JP): That is very true, Hon. Deputy Speaker. Hon. Wamalwa, thank you very much. According to the Constitution, the instruments to enable the withdrawal of money from the Consolidated Funds Services is the annual Appropriations Bill. The supplementary---

**Hon. Deputy Speaker:** Just a minute. There is something that I really have to clarify here on the matter of voting. This is very critical because I would not want us to lose this. It is not Hon. Rozaah Buyu, who voted "AYE;" it is not you. Actually from records, you did not vote in the first

one. So it seems that you had a problem with your gadget. That gadget has a problem. The vote that is existing that is voted by Hon. Buyu is a “NAY”. That is confirmed. So, it is not you who voted “AYE” on record. So we have nothing to expunge. I have not mentioned the Member who voted, because it is not necessary; but it is not Hon. Rozaah Buyu.

What is it, Hon. Rozaah Buyu, because we want to proceed with this?

**Hon. Rozaah Buyu** (Kisumu CWR, ODM): I just want to thank you for that correction and clarification.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** We have it on script, and so if you want to have it, it is easy. It is not you. You voted “NAY”.

Proceed, Hon. Kanini Kega.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Deputy Speaker. According to the Constitution, the instruments to enable the withdrawal of monies from the Consolidated Fund Services is the annual Appropriations Bill, the Supplementary Appropriations Bill or any other Act, as authorised by Parliament. In this Bill, it is proposed that once the Appropriations Act is approved by Parliament, those funds are credited to the county revenue fund. Money can only be withdrawn from the county revenue fund after approval by Parliament or the county assembly, hence the need of this Act to authorise the disbursement of funds.

Article 207(4) of the Constitution allows for Parliament to enact a law that allows withdrawal of funds from the County Revenue Fund. The conditional grants allocation will comprise of the following: Ksh332 million for construction of county headquarters; Ksh2.2 billion grants from the World Bank to support universal healthcare; Ksh6.4 billion from the World Bank to support national agriculture and rural inclusive growth project; Ksh7.8 billion---

**Hon. Deputy Speaker:** Order, Hon. Kanini Kega. I think quite a number of Members want to say something as you progress.

What is it, Hon. Wanyonyi?

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Deputy Speaker, it is just procedural that after public participation and the report is put before the Table of the House and we read it, then when the Bill comes for Second Reading we can be able to see exactly what the public is saying. It cannot be the other way round. With all due respect, the Chairman has done a good job, but it will not be procedural for us to be able to discuss what the public has said---

**Hon. Deputy Speaker:** I am trying to wonder whether the issue of public participation will be subject of your discussion. I thought public participation is supposed to input what the committee is doing?

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): This is very important, because it touches on the county governments, and we work with them. I need to have a report for me to go through so as to be able to understand where we are coming from. We cannot discuss---

**Hon. Deputy Speaker:** I am wondering whether the public participation report influences you or influences the committee. I thought it influences the committee more and not you, because you are free to give your opinion yourself.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Deputy Speaker, with all due respect, it is not opinion. It is actually procedural that I need to look at the report and interrogate it so that when the Chairman comes, I will be able to understand and see what contribution I am going to give. I do not understand. I think it is not procedural.

**Hon. Deputy Speaker:** Leader of the Majority Party, what do you have to say? I am convinced that the kind of request that the Chair of the Budget and Appropriations Committee is making is valid.

**Hon. Amos Kimunya (Kipipiri, JP):** Yes, indeed. I empathise with the Member in terms of wanting to rely on the public participation report. We are elected to give guidance to the public, and not to be guided by the public. The public participation is to enrich the Bill and the Committee will report to us. The important thing is we recognise the importance of this Bill. This Bill has been generated from the Senate, which carried out extensive public participation. It has come here for us to get into it. I am aware that the Budget and Appropriations Committee has actually been consulting, and it has done the public participation and are in the process of bringing the report here. What we then decided to do, as the House Business Committee, is to save on the time. We only have three weeks. Instead of waiting for the report to come here and then start the debate next week and then we start the process of going back to the Senate and all that, we start the debate and between the debate and the Third Reading, we will have the benefit of that report here. So, we are basically doing this for convenience of time. We did this with the Waqf Bill, where we actually debated the Bill and waited for the Committee Report so that we then process it. There is precedence for doing this when the exigencies of the matter so demands. I just want to alert members that we only have three weeks until the recess. So, if we delay on technicalities, we could end up being caught in our timeline and then without this Bill, we will not be able to send those conditional grants to the counties, and they need that money. It was a matter of the court. Let us walk and chew gum simultaneously. What we are discussing is the Bill. The report will be tabled here. Members will have the opportunity of interacting with it as we bring in the amendments. It is a very straight forward Bill and so I am not expecting a lot of divergence on this matter.

**Hon. Deputy Speaker:** I think Members should also refer themselves to Standing Order No. 127(5) which says:

“If for any reason, at the commencement of the Second Reading, the Report of the Committee has not been presented, the committee concerned shall report progress to the House.”

So, that is exactly what he has done; reported progress. We know in time as they have committed, they are going to present a report. Really, it is very interesting because I have hardly seen Members, even as they debate, referring to anything that came out of the public participation. Occasionally, Members of that committee who have the benefit, refer to that particular one. It is an issue that we should not spend too much time on. Let us get a commitment from the Chair of the committee that we will have that report quickly before we make any further decision. For now, we should progress.

**Hon. Kanini Kega (Kieni, JP):** Thank you so much, Hon. Deputy Speaker. As you have guided, I want to make a commitment that before we get to the Third Reading, hopefully by next week, we will be able to have a report. I want to commit to this House.

Hon. Deputy Speaker, let me re-take especially the issues of conditional grants and the amounts. The conditional allocations will comprise of the following; Kshs332 million for construction of county headquarters; Kshs2.2 billion grant from the World Bank to support Universal Health Care (UHC); Kshs6.4 billion from World Bank to support national agriculture and rural inclusive growth project; Kshs7.8 billion for the Kenya Climate Smart Agriculture project; Kshs230.7 million from the European Union grant for instruments for devolution, advice and support, and Kshs5billion for water and sanitation development, among others.

The Budget and Appropriations Committee held a retreat to consider the Bill from the Senate on Thursday 28<sup>th</sup> October, 2021. During the processing of the Bill, the committee observed

that the Bill contained pertinent issues that required clarity and some issues needed to be resolved. In this regard, and it is always the tradition of this House, the Committee resolved to request for submissions from the members of the public and other key stakeholders pursuant to Article 118(1)(b) of the Constitution and the National Assembly Standing Order No.127 (3).

Following the request for a memorandum from the public and other stakeholders which was done through the placement of adverts in the print media on Wednesday 3<sup>rd</sup> November, and a letter to two key Government agencies, the committee received memoranda only from the Council of Governors. Further, we felt that we also needed to include the other key stakeholders. Upon this request, the committee resolved to invite other key stakeholders, namely; the Controller of Budget, the Commission on Revenue Allocation and the National Treasury, who appeared before us on Monday 15<sup>th</sup> November, 2021. That is the reason we were seeking for more time, because we had the stakeholders meeting on Monday this week.

After some lengthy deliberations with the key stakeholders mentioned above, there were major pertinent issues that arose during the meeting as the agencies were making different major proposals. To this end, the committee directed that all stakeholders, including our technical office, the Parliamentary Budget Office, to hold a meeting at a technical level to harmonise the different proposals. The committee, therefore, resolved to hold a future meeting to build consensus before the Bill is passed. We are proposing and we are hoping that before the end of this week, that technical team will be able to give us a report so that we can have a proper report of this House by next week.

As I move, I request the County Governments Grants Bill (Senate Bill No. 35 of 2021) be now read a Second Time. I want to notify this House, that the committee will be proposing amendments to the Committee of the Whole House. As I move, I want to say that there are a lot of changes that will be done to this Bill. We were at pains to differentiate whether this is a money Bill which should have originated from the National Assembly, but we gave it a pass and said that because of the urgency of this Bill, we just treat it as a County Allocation of Revenue Bill, which originates from the Senate.

Hon. Deputy Speaker, I beg to move and I request, Hon. Millie Odhiambo to second.

I thank you.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker. I rise to second the Bill.

In seconding the Bill, I want to indicate that I have noted the issue that the Members have raised about public participation. Raising public participation is very key, because it is important for the public to be involved. However, I thank you for your guidance, because we will be giving a Report as a committee soon, which will indicate a report on public participation. However, we must note the urgency of the Bill in unlocking the revenue to the counties. The committee will bring amendments where the rubber meets the road, which is at the committee stage. We know that the Committee of the whole House is where we do the law making process. Since every Member has access to the Bill, they can give their views and perspectives on the Bill without necessarily having the benefit of the committee. By the time we are going to the Committee of the Whole House, Members will already be seized of the report of the committee and, therefore, they will be able to give meaningful contributions during amendments.

When the mover was moving the Bill, he indicated that Kshs2.2 billion grant from the World Bank will be used to support UHC. On health care you know that this is something that touches the hearts of women and children. We know that there are a lot of women who have died and many who are suffering because of lack of access to healthcare, especially reproductive health

care. So, the urgent release of these funds will be beneficial to both men and women, especially women and children.

In addition, Kshs6.4 billion from the World Bank will be used to support national agriculture and rural inclusive growth project. With the challenges we are facing with climate change, this will be very significant, especially for rural communities. Kshs7.8 billion will be dedicated to climate smart agriculture project. This is also very significant, as I had said, especially in terms of climate change that is affecting agricultural productivity and for us, a country that relies on rainfall agriculture. This is very significant especially for agriculture that is climate smart and takes into account the climate change.

Kshs5 billion is for water and sanitation development. This is a very significant thing for women, especially in rural areas where access to water is a challenge. Women walk several kilometers daily to access water; so, the sooner we unlock the release of these funds, the better for our women especially in rural areas.

In conclusion, I just want to indicate that it is coincidental that we are doing this when we have just saved the gender commission. So, I am very happy this afternoon. I wish to also thank the Members who earlier today supported my Bill.

With those few remarks, I do second.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Members, having heard Members concerns on the issue of report, I think the easier way for us to handle this matter because if the Members really feel that they are disadvantaged in the absence of the Report and since anyway we always require committees to have reports ready, I would want to stop debate on this one at this particular point in time to allow the Budget and Appropriations Committee to bring their Report and then we can go to the debate. I am sure it will be an easy one. The Chairperson of the Budget and Appropriations Committee can finish it because he is extremely efficient. He can have it ready probably by tomorrow. Once tabled, we can progress with it. That is a middle ground which will resolve the issue so that we do not have to stop this at the beginning. The matter has been proposed and seconded by people who have probably seen or heard about the Report. The rest of the membership who may not be ready to progress with that manner can wait. That is a fairer way of dealing with the matter.

Hon. Chair, I see some of your Members want to speak to this. However, the decision has been made. The only thing I want from you is to know whether we can have the Report tomorrow or next week, whichever the case.

**Hon. Kanini Kega** (Kieni, JP): Hon. Deputy Speaker, we stand guided. We will try as much as possible to fast-track the Report. If it will be ready by tomorrow, that will be great; if not, then the most appropriate time will be Tuesday.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Okay. Let us have Hon. (Dr.) Makali.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Deputy Speaker, for your guidance. It makes a lot of sense that Members are allowed to look at the Committee Report. At the same time, the Bill has been published. The Committee will be working on areas that need to be amended. It is also important for Members to read the Bill so that even as we discuss what needs to be improved or amended, they are aware of what the Bill says. If they just wait for the Report, it will not help them as it will be talking about areas that require amendment.

Thank you, Hon. Deputy Speaker

**Hon. Deputy Speaker:** That is actually the right thing. If Members feel really uncomfortable, it is the duty of the presiding persons to look at their concerns. However, I have been in this House for a long time and I have never heard Members seriously referring to matters to do with public participation. Since Members want it on this one, there is no harm in their getting it. That is okay. However, Members, as you have been advised, read the Bill.

*(Debate on the Bill adjourned)*

Let us go to the next Order.

#### THE COMMUNITY GROUPS REGISTRATION BILL

**Hon. Deputy Speaker:** Let us have the Leader of Majority.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Deputy Speaker, I beg to move that the Community Groups Registration Bill (National Assembly Bill No.20 of 2020) be now read a Second Time.

The overarching principle or object of the Bill is to formalise a process that has been largely informal. Somehow, we have all seen that it has not been orderly. The process of registration and recognition of community groups has been kind of random. Currently, as Members know because of their own participation in the formation of those self-help groups, there is no specific or particular legal instrument that regulates the registration of community groups in Kenya. The only formal authority that is relied on is Executive Order No.1 of 2018 that is used for registration of those community groups. Whereas that was a step in the right direction, the proposal in the Bill intends to take that intention further and put it into law.

As Members will recall, we all appreciate the intent and purpose of self-help groups, especially at the social level within our constituencies. They act as vehicles for social mobilisation and collective development of our people at the local level. It is through those self-help groups that people have been able to internalise issues on banking and community empowerment.

They come in all manner of shades and sizes. We have the ordinary self-help groups, elderly persons' groups, youth groups and women's groups. These days we have men's groups, mixed groups, community-based organisations (CBOs), people living with disabilities' groups, refugees' groups and other special interest groups. Basically, there is a group for every special interest configuration that comes together and it is registered.

Because of that diversity in terms of the different categories, the Bill has found a way to formalise those groups in a more inclusive, considerate and flexible manner without stifling their registration by bringing in extra bureaucracy. The importance of creating the stand-alone registration process is also to help in terms of operations, dispute settlement and amicable dissolution of the groups when they have expired in terms of their having achieved their purpose and are no longer required. What do you do with the groups and their assets in a uniform manner across the entire country?

Additionally, regulating those groups through law is also critical for national security interests, because it will obviously involve some vetting and screening of those community groups. In the process, we will eliminate any groups with the potential for harm, terrorist activities or some unlawful activities. That includes some activities that may not be socially desirable.

Under the current system which was operationalised through Executive Order No.1 of 2018, the registration of community groups is undertaken at the sub-county level, through the Office of the Social Development Officer (SDO). Upon registration, the groups are issued with a certificate which guarantees them the right of recognition and assembly. As a result, they can even go and access funding, having been registered.

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

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

The numbers involved are well-captured in the Committee Report. I confirm to the House that the Committee has really deliberated on this matter to come up with the Report. From the submissions that were made by the Ministry of Labour and Social Protection, and the Ministry of Interior and Coordination of National Government, the State Department for Social Protection has cumulatively registered over 271,000 community groups with an average annual registration of 54,000 groups. Those kinds of numbers certainly call for a better and organised way of recognising them through this specific law.

The mobilisation and general management of the groups has also heavily relied on the various guidelines and procedures that have been developed by the Ministry. However, such procedures and guidelines do not have the force of law. Besides, the Bill seeks to establish the Office of the Director of Social Development, which will be devolved to the county levels for implementation and ease of management of the groups.

I am also reliably informed and I have also noted from the Committee's Report that the Ministry has been experiencing serious challenges in trying to effectively respond to the needs of those groups, more so where there are conflicts, leadership wrangles, misappropriation of group resources and other such managerial challenges. The current legislation and legal framework has created a weak complaints and grievances redress mechanism resulting in exploitation of the poor and vulnerable in society. I believe that every Member probably has a case in their constituency of people coming, telling them that they were mobilised to form a group, raised some money and one of the committee members disappeared with the money; hence to look to the Member to help in the recovery of the funds.

Basically, the Bill will provide an effective framework for streamlining the registration, management of groups, legal recognition and what happens when disputes arise. We believe that if this Bill is enacted into law, it will be beneficial to the public and the Government in providing a legal anchorage for registration, management and regulation of community groups, it will create an enabling environment that promotes community empowerment, self-reliance and sustainable development of community groups and projects. It will also provide for rights and protection mechanism for members of the community groups and facilitate collaboration and linkages between these community groups in national and county governments, financial institutions and other partners.

I have pointed the purposes this Bill has in the noble intention to streamline the law in respect to community groups, which are undoubtedly the basic units of social development at the local level. As we debate, I urge Members we enrich it for the benefit of our country men who rely on such social groups for personal growth and development. As we all know, our social development dynamics are all tied to mobilising resources around our people. In the real empowerment of our people at the social level but without the legal framework, it is not unheard



of every time when we are called for fundraisers and ask what the funds were that were raised were used for. They resort to finger pointing at one another and blaming one another. That kills the morale of people who would otherwise be helping the community groups. We are not only trying to protect the groups, but also to incentivise other people to contribute through their philanthropic ways to help intervene at the social level for some of the problems that need to be tackled at that level without necessarily resorting to the governments at different levels.

It is a very straight forward Bill. I hope we will get through it so that we can share it with our colleagues in the Senate, because it affects issues at the county level. It will be good that we do this before we close this Session. It is my desire and the desire of the very many people who benefit from this, that this House is able to pass it and process it through the Senate. That way, the 12<sup>th</sup> Parliament could come in as the Parliament that helped anchor the formality for the social community groups.

I recognise the efforts by the Departmental Committee on Labour and Social Welfare in the processing of the Bill. I know the Chair has had to leave to attend to some emergency, and nominated the Hon. Sankok to second on behalf of the Committee.

With those few words, I beg to move. I ask Hon. Sankok to second.

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

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. On behalf of my Chairman, Hon. Kabinga Wachira from Mwea, and on behalf of the Departmental Committee on Labour and Social Welfare, it is my pleasant privilege and honour to second this Motion on the Second Reading of the Community Groups Registration Bill (National Assembly Bill No.20 of 2021) sponsored by the Leader of the Majority Party.

The Bill underwent First Reading on 8<sup>th</sup> June, 2021. As we are aware, community groups and self-help groups in Kenya so far are 271,400. They receive millions and billions of shillings from philanthropists and sometimes from Members who contribute but they are not regulated. That is why this Bill is very important. I urge all Members to support the Committee in its endeavour to make sure that we regulate them so that we do not have proliferation of thugs within such a very important community based registration system.

The Departmental Committee on Labour and Social Welfare considered the Bill pursuant to Standing Order No.216(5) and tabled its Report on 14<sup>th</sup> October, 2021, pursuant to Standing Order No.127(1).

In summary, the Bill seeks to provide a regulatory framework for the registration and regulation of community groups. The Bill defines a community group as a voluntary association of individuals from the same community which is self-organised for a common purpose, aimed at improving the livelihood of the group's members or for a community benefit. It includes a specific interest group, community projects and community based organisation, but shall not include groups formed to champion a political cause or contrary to public policy. These groups sometimes are special interest groups, persons with disabilities, older persons nowadays also form such groups; women through table banking and other groups and they are organised.

Part 1 of the Bill, in Clauses 1 and 2 provide for the preliminary matters, including the short title of the Bill and the definition of key terms used in the Bill. Part II, Clauses 3 to 8 establish the office of the director of social development intended to be an office in the public service. The Clauses provide for the appointment and functions of the director. They also provide for social

development committees, their appointment, membership, functions and powers, the conduct of business and the remuneration of the Members.

Part III of the Bill, Clauses 9 to 20 provide for the registration of community groups including the registration of special community groups and the amalgamation and merger of community groups. In addition, it provides for the requirement for registration and circumstances under which a community group may be dissolved or have its certificate of registration suspended or cancelled.

Part IV, Clauses 21 to 30 provide for the regulation of community groups, including the general objects of community groups, the appointment and role of office bearers, dispute resolution, registers of community groups and obligation to maintain the confidentiality of members' details. This one is very important because some details from some members, at times, are collected and registered in political parties using the details.

Part V, Clauses 31 to 37 provide for financial matters relating to community groups, including the maintenance of financial records, the responsibility of a treasurer of a community group, accounts, the power of the director to request information and documents from community groups, the audit of community groups' financial records and resource mobilisation activities by community groups.

Under Part VI, that is from Clauses 38 to 41 provide for general matters, including making it an offence to obstruct the Director in the course of performing his duties; making of regulations and transitional matters relating to community groups that had been registered by the national Government on the coming into force of this Bill.

The Bill affects the functions of county governments as set out in the Fourth Schedule of the Constitution, and it is therefore a Bill concerning counties.

Pursuant to Article 118 of the Constitution and the Standing Order No.127(3) of the National Assembly, the Committee vide an advertisement in the daily newspapers of 11<sup>th</sup> June, 2021, invited the public to make presentations on the Bill. The Committee also identified and invited key stakeholders who appeared before it at a public hearing held on 30<sup>th</sup> and 31<sup>st</sup> August, 2021, in Mombasa County.

The Committee received submissions from relevant stakeholders including the Ministry of Labour and Social Protection, Ministry of Interior and Co-ordination of National Government, the Council of Governors (CoG) and the Non-Governmental Organisations (NGO) Co-ordination Board. The Committee did not receive any submission from any other person following the call for memoranda. All the stakeholders except the Council of Governors support the Bill. The detailed submissions are contained in this Chapter, and actual submissions are annexed to the Committee's Report as Annexure 5. The Committee extensively considered the contents of both the oral and written submissions which formed the basis of the proposed amendment to the Bill.

I will now highlight some of the stakeholders' submissions. The Ministry of Labour and Social Protection, and the Ministry of Interior and Co-ordination of National Government through Mr. Simon Chelugui, the Cabinet Secretary (CS) for Labour and Social Protection and Amb. Hussein Dhadho, Chief Administrative Secretary (CAS), Ministry of Interior and Co-ordination of National Government, made a consolidated submission to the Committee regarding the Bill on 30<sup>th</sup> August, 2021. They submitted as follows:

1. The Registration of self-help groups is assigned to the State Department for Social Protection, as outlined in the Executive Order No. 1 of 2018. It is executed through the Directorate of Social Development under its core function of community development,

which includes group promotion through mobilisation, registration, participation and capacity building of individuals and communities.

2. The community groups include self-help groups, older persons groups, youth groups, women groups, men groups, mixed groups, community-based organisations, refugee groups, Persons with Disabilities (PWDs) groups and other special interest groups.
3. The Bill is important as it helps boost security measures through vetting and screening of community groups seeking registration. The national Government administrative officers will provide the support necessary for screening membership and objects of groups, while the county government will retain the mandate of mobilisation of communities for sustainable development.
4. The Bill was sanctioned from the Cabinet level and provides the framework for community groups registration at the local level.
5. The sub-county social development office undertake the registration of community groups and upon registration, the groups are issued with a certificate that guarantees them the right of recognition and assembly. To afford community members speedy registration, the Ministry has in effect utilised the Huduma Centres across the country.
6. Majority of the registered groups engage in socio-economic activities geared towards improvement of their livelihoods and self-reliance.
7. The process of mobilisation and registration of community groups has been undertaken since Independence.
8. In the past first five years, the State Department for Social Protection has cumulatively registered 271,400 community-based groups.

The benefits of the Bill include the following: one, it provides a regulatory framework for registration, management and regulation of community groups in the country. Two, it creates an enabling operational environment that promotes community empowerment, self-reliance and sustainable development of community groups among others.

In conclusion, I wish to register the highest appreciation to the Offices of the Speaker and the Clerk of the National Assembly and stakeholders who dutifully honoured their Constitutional obligations and made quality submissions before the Committee during the public participation period of the Bill. May I thank the Members of the Departmental Committee on Labour and Social Welfare for their diligence and commitment to duty in undertaking their legislative, oversight and representation duties both in Committees and in this House.

At this point, I wish to seek the support of all members in this House to pass this Bill so as to realise its objective, whose impact is far reaching and beneficial to our constituents.

I beg to second.

It is signed by Hon. Josphat Kabinga Wachira Wathayo, Member for Mwea.

*(An Hon. Member spoke off record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): He has already seconded.

*(Question proposed)*

I will give the Floor to the first Member on the list, that is, Hon. Oduol Adhiambo, Nominated Member.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. At the outset, I would like to support because as it has been clearly indicated, this is a framework that is extremely important in terms of pulling and allowing very vulnerable persons into organised groups so that they can address very specific issues which usually touch on the community.

A lot of the groups at the community level have direct impact when they come together as youth groups, older persons groups or men groups. They increasingly help us to break the fragmentation when there is a perception of struggling or fighting for little resources among the youth, women who are in the open-air markets, older persons and PWDs. It is going to strengthen and allow these groups at the community level to not only come and identify issues such as the kind of funding that they can get among themselves, but to also access training. This is to ensure that we do not have cases where women groups do a lot of work but do not have ways of getting their products to the market. Most importantly, it will allow the community groups to not only build their capacity, but their voices will also be coordinated as they begin to make an impact.

It is also a very important observation that we have those social officers all over the country who have been working to co-ordinate and link. Other than challenges of the spread and numbers of those officers available, we have also found that there are ways in which this did not work effectively. Therefore, as I support this Bill, that is where we need to make a difference. Most of the time, we find that people in the community say that they do not feel what is being done. It is usually because of the manner in which information, training, exchange programmes and all other avenues of engagement reaches them.

I support because this is definitely going to improve the infrastructure and the capacity of the community to look within and to use their resources.

I support.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have Hon. Tum Chebet, Member for Nandi County.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Temporary Deputy Speaker, I stand to support this Bill. I have worked as a Director of Social Services and Housing. This was my area of concern. We saw groups being formed and registered, and the good things the groups did in the nation of Kenya. As a Women Representative, we liaise with women groups, youth groups and persons with disabilities groups. We are given affirmative funds which we distribute to these groups. We need a Bill, which will really take care of these people. The social development officer will be in charge of the registration. The social development committees will mobilise communities to form groups.

In this Bill they are talking about the location and address where the groups will be located. Because of security issues, we need to know where they are, their number, the addresses and even the telephone numbers of their leaders so that in case of anything, we can reach them.

This Bill also talks about the merger. The groups will dissolve. When they dissolve, they will come together. There is a rule under affirmative action where less than 100 women will not be given funds. Under this new Bill, those issues will be factored in, and the women, the men and the persons with disabilities in this nation will be reached and there will be a law to take care of them.

Hon. Temporary Deputy Speaker, they have in this Bill talked about 271,400 groups in the country. We cannot take that for granted. I know very well that there was a group in Eldoret, Uasin Gishu when I was young in those days. They had bought some buses called Olare. They used to

come to Nairobi. I have seen people who have started small and right now they are holding and owning buildings because of group work. We need to really encourage our people to form groups so that they enhance their living standards.

We are talking about the bottom-up approach to development. The bottom-up approach is talking about enhancing the groups and bringing them together. When I talk about bottom-up, it is what I used to teach at the university. There is the top-down and the bottom-up approach in development. When we talk about the top-down approach, people bring policies which will not impact the less fortunate in the nation. So, we need to rethink of how we are going to reach the less fortunate. We can only reach them when they form groups so that the Government can disburse resources, not to individuals but to the less fortunate.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Member for Seme, the Hon. Nyikal Wambura.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving this opportunity. I rise to support this Bill.

The object of this Bill is to provide a regulatory framework for mobilisation, registration and coordination of groups. This is a very important Bill. Communities exist in groups. Communities are not amorphous. It is not a large number of people living there. They have groups—you have women groups, you have youth groups and trade groups. Even the *bodaboda* people are in very well organised groups. The fishermen are in very well organised groups. All these are groups. Apart from the provision that we were using in the Ministry of Gender and Social Development which gave them certificates, the certificates did not have a serious legal standing. Therefore, they were not amenable to bring their force into development and all other areas. What you find is that communities will participate in groups, whether they are social activities, development projects or economic projects. People will always do them in groups, particularly in rural areas. Individuals that do their serious things are individuals. But, groups are important if we want our communities to participate in all these things.

In economic development and activities, we have made provisions for funds—the Uwezo Fund, the Women Fund and the Youth Fund. The non-legal nature of these groups, if I can use that phrase, has made it very difficult for these groups to access these monies and even to follow up. Where monies are lent to the groups and they do not pay, you cannot penalise them because they are not structured in a way that the law provides for.

Another important thing is that these groups relate with civil societies. They also relate with Government departments. They relate even with donor organisations. But because of their nature, they are not protected and empowered legally. Even the entities that they relate with and the civil societies are not protected. When things go wrong, you cannot take them up because they are not legal entities. Therefore, you cannot take serious action on them. I think that has been a great drawback on the value of these groups.

Therefore, this Bill which is providing for a structure of putting them into place, registering them, regulating them, giving them procedures of operation and procedures of handling their finances will make it very easy not only to support them, but even to train them and give them the skills they need in an organised manner. Within the groups themselves they will now find better ways of resolving conflicts and disputes because the law will provide for that.

I support this Bill because it again provides structures. It provides for a Director of Social Development and a County Coordinator. More importantly, they are providing for social development committees that are at sub-county level. After devolution, the structure that was in

the Ministry of Gender and Social Development right down to the districts was truncated so that you had social development officers at the sub-county level; but they did not have a link with structures at the national level. It became very difficult to coordinate them and to have national programmes that are based on same policies, even if there were different applications at different counties. This will provide for that. That link has been missing. If you go to the Ministry of Labour and Social Development, you will find that they cannot get down to the sub-county because that is now a different function, yet their work will be of no consequence absolutely if they do not have a link with the ground. I think this law will provide for that.

If you look at the membership in Clause 5, you really find that this will take care of everybody. There is a Sub-County Social Development Officer. You have partners. You have representatives of the deputy county commissioners. You have representatives of development partners. You have registered community levels. Actually, for once, in my view, there is a structure at the community level where groups can find themselves together in putting their ideas, pushing their ideas and achieving what I think we have been missing in our development efforts.

If you look at Clause 6, it sets out the functions of these social committees. The most important one is the link with the national Government, support for community mobilisation and participation in setting priorities. Again, when we have been going out, even when we are dealing with the National Government Constituency Development Fund (NG-CDF), it becomes very difficult to get groups that would want to put an interest. Now that structure is there. I think it will go a long way. It provides something that we have been missing, as a country, now that we have the support funds from the Government—the Uwezo Fund, the Youth Fund and the Women Fund.

The support for men has been missing. I am sure the men in your constituency and in all our constituencies always ask: “where is our role here?” We have the Youth Fund for the youth, the Women Fund for women, and the Uwezo Fund for youth and women. What about the men? They also have their groups. If you go to livestock traders and fishermen, they have groups. But we have not made provisions for them to be supported in our development efforts through devolved funds. I am sure that once this law comes into effect and these groups are recognised, there will be adequate and appropriate agitation by men to also get the support they need. This is one reason I said we must retain the National Gender and Equality Commission (NGEC), because we are getting to a situation where men now need support from that Commission.

With those remarks, Hon. Temporary Deputy Speaker, I support this Bill.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): The Member for Suba North.

**Hon. (Ms.) Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. I support it because we have many small community-based organisations, but we do not have a legal framework to regulate them; yet these are the basis for rural economy. This is where you have the *mama mboga* and other women; they start from this point, save money and undertake community development work. Without legal regulation, a lot of time women have been conned. Sometimes leaders of these groups con members because they do not have better ways of saving money. Therefore, when we have a legal framework to regulate the groups, this sector will grow the economy and not only for women, but also for young people.

I remember some youth groups in my constituency asked me to do a fundraiser for them, and I did one for five youth groups that were supposedly registered with the Department of Social Welfare. After the fundraiser, only one group came back to let me know what they had done with the money. The other groups said their leaders took off with their money. Therefore, if there is a proper legal framework, we will protect the small rural economy. It will also enable people who want to support the groups to have confidence so the groups can grow to another level. The only

thing I hope the Bill provides for—I have not had time to look at it in depth—is a mechanism to graduate to the next level based on resources or membership so that there is a seamless flow from a community organisation to an NGO.

Hon. Temporary Deputy Speaker, with those few remarks, I do support and thank the mover.

Thank you.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): The Member for Tigania West, Hon. Mutunga Kanyuithia.

**Hon. John Mutunga** (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to add my voice to this important Bill. As we reflect back on the development order, intervention units have been groups. For a very long time, even when we used to have training and visiting approach in extension, it was evaluated and found to be unsustainable because you cannot visit every individual. All interventions were, therefore, structured to focus on or target groups. It implies that the group approach is the best way out.

In this country, groups are not considered as legal entities. This is something that I hope this Bill can resolve. As such, the groups cannot transact business with international donor organisations or even get money directly from the government except grants. It is important that this law looks at the possibilities of ensuring these groups become legal entities. They should be recognised in law and be used as such. You cannot take a group to court to demand for money you gave to it because groups are not recognised by Kenyan law. The Societies Act does not recognise groups. The Cooperatives Act does not recognise groups. So, this law, which is domiciled at the Social Development Office, needs to be structured in a way that it recognised groups as legal entities.

It is also not possible to pass development credit to groups. In some cases, we have had development funds being misused because the groups themselves are not sustainable, and they are not registered under the law. Access to these funds is very important. The size of groups is also important. If you look at the declared funds—the Women Enterprise Development Fund, the Youth Enterprise Development Fund and the Uwezo Fund—the numbers are a bit dissuading. If the number of members remains 15 and you are giving a group at least Ksh100,000 to undertake development, then that money cannot finance any sensible development. We need to be more flexible. This law should presuppose that a group should consist of at least five members. Ksh100,000 divided by five members gives you at least Ksh19,000, because you retain 5 per cent as management fee. That is an amount that can finance something. You can start a small business using that amount. So, the number of members in a group is an issue that needs to be looked at. I believe this law can take care of that.

If you want to focus on the bottom-up approach, which is a development model that aims at bringing those at the bottom of the pyramid up, then we need to have serious groups. If these groups are not anchored in law, then we will not have the possibility of sustaining the groups. Sustainability has to do with continued accrual of benefits over time. We cannot talk of accruing benefits when we have intermittent development.

The idea of structure is important. Our communities have loose formations. In time, the loose formations will need to be structured and anchored in law. The idea of structure is from individuals to groups, then from groups to community-based organisations and to cooperatives up to companies and corporates. We have a legal lacuna at the formative units which are not recognised in law. This law will ensure that the lacuna is sorted out. That is why I believe this Bill is timely.

Resources cannot be enough for every individual. Development order has got to target a certain entity. The smallest entity in development is a group. When the group is not a legal entity, then we have a problem. So, it is important for us to look at this law and see how we can make it comprehensive to take care of groups.

Hon. Temporary Deputy Speaker, with those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Hon. Members, I have noted of late some of you do not carry your cards. The card is what you use to request to speak or seek for an intervention. You cannot raise your hands from where you sit.

Let us have the Member for Nakuru County. She was trying to raise her hand to catch the Speaker's eye. Give her the mic. Let us purpose to carry our cards.

**Hon. (Ms.) Liza Chelule** (Nakuru, JP): Asante, Mhe. Naibu Spika wa Muda, kwa kunipa hii nafasi nchangie huu Mswada. Ninaunga mkono huu Mswada kwa sababu unaongea juu ya vikundi vya akina mama na sisi wote tuko kwenye Bunge hili tuwakilisha wanawake. Wanawake tunao wakilisha wamejiunga na vikundi mbalimbali. Kuna muungano wa wanawake unaohitaji wawe kwenye vikundi vya watu mia moja vinavyojiita *community based organisations*. Pia, kuna vikundi ambavyo vinahitaji watu 20 ili visajili wanawake.

Ninaunga mkono huu Mswada kwa sababu hatuna sheria zinazohusu utekelezaji wa mambo yanayohusu kina mama. Huu Mswada ukiwa sheria, kina mama watajua vikundi vyao ama muungano mkubwa ni nini. Wakishaelimishwa, watatofautisha mahali pa kupata pesa, vile watazipata hizo pesa na maelezo kuhusu vikundi ambavyo wamejiunga na kusajili.

Wanawake wengi katika nchi yetu hawajaelimika kuhusu vikundi vya akina mama. Wengi wamekuwa na shida ya jinsi ya kujiunga na hivo vikundi. Tunazungumzia akina mama walioenda shuleni ambao wana elimu na pia wale ambao hawajaenda shuleni. Wote ni wamama na wanahitajika kuunda vikundi vyao ili wafaidike na pesa za Serikali. Ninaelewa kwamba kuna vikundi fulani katika nchi yetu vinavyopatia pesa kwa vikundi vya wamama na vijana, lakini hakuna sheria ya utekelezi wa mambo yao. Kina mama wengi wameumia baada ya kuchukua pesa kutoka kwa vikundi visivyo na sheria tekelezi nchini Kenya.

Kuna pesa za *shylock* zenye akina mama hawaelewi. Kina mama wanaumia sana wanapochukua hizo pesa kwa sababu hawana elimu ya kutosha. Tunapounga mkono Mswada huu leo, ninataka kuhakikishiwa kuwa kutakuwa na waalimu katika kila eneo la Bunge ili kina mama wapate elimu ya kutosha. Kuna pesa za Uwezo Fund zilizo chini ya kila Mbunge ilhali kina mama wengi hawajui. Pia, tuko na Women Enterprise Fund ambayo yote ni pesa za Serikali lakini kina mama wengi hawana elimu wala habari kuhusu watakavyo tafuta hizo pesa na utaratibu wake. Kwa hivyo, tukiwa na sheria kama hii, kina mama watafaidika sana.

Nimeskia Mjumbe mmoja akisema kuwa wanaume wamekuwa wakilalamika mbona vikundi vya kina mama vinapewa kipao mbele kwa kila jambo lakini hawajui kuwa wazee hawajakatazwa kujiunga na vikundi vya kina mama, lazima kuwe na asilimia thelathini ya wanaume. Wote wanataka kuelimishwa. Ninatarajia tutakapotengeneza hii sheria, Serikari yetu itakuwa na uwezo wa kuhakikisha kwamba kutakuwa na mwalimu katika kila eneo la Bunge ili kina mama wapate elimu ya kutosha.

Pia, tuko na vikundi vya vijana na wasiojiweza. Hawajui kuna habari nzuri ya kuwa kuna pesa za Serikali. Ninapongeza nchi ya Kenya maana ni moja katika Bara la Africa ambayo imetenga pesa kwa vijana, kina mama na watu wasiojiweza. Kuna pesa zisizo na riba za *National Affirmative Action Fund (NGAAF)* ambao sisi Waakilishi wa Kaunti tunasimamia. Kina mama wengi hawafahamu kuwa hizi pesa zinazosimamiwa na Mwakilishi wa Kaunti zina utaratibu na



sheria zake. Hawawezi kutafoutisha na wale *shylocks* ambao wamekuwa wakinyemelea kina mama pale nyumbani kwa sababu hawana mafunzo ya kutosha na wamekuwa wakiumia sana.

Ninaamini huu Mswada utatunga sheria tosha na jambo la maana ni elimu kwa kina mama. Kina mama na wazee watapata elimu. Haijasemwa kuwa kikundi kikiwa ni cha kina mama wazee hawatajikani kujisajili. Kinachohitajika ni mafunzo. Ikisemekana ni kikundi cha kina mama, wanaoongoza ni kina mama lakini theluthi chache ya wazee wanafaa kujisajili. Itakuwa ni vizuri tukiwa na sheria ya kina mama katika nchi yetu maana ni watu wenye bidii.

Kina mama wakipewa pesa ama wakisaidiwa kwenye mambo ya elimu kuhusu jinsi ya kutengeneza vikundi vyao pale nyumbani watafaidika sana. Tutafaulu maana mambo yote tutakuwa tumeanzia pale chini. Ukisikia mara nyingi tukisema mambo ya “*bottom up*” ama kuelimisha watu na kuwapea usaidizi kutoka chini, imekuwa ikiendelea lakini lazima sasa isizitishwe na sheria. Kwa hivyo, mimi kama Mwakilishi wa Kaunti ya Nakuru nina hakika ninasikilizwa na wale walionichagua. Sheria ambayo imetoka sasa itasaidia kina mama.

Kuna kina mama ambao wamefiwa na wazee ama pia wazee wamefiwa na bibi zao. Nina hakika huu Mswada utawagusa na kuwaelimisha vile tunawezajenga uchumi wetu kutoka pale vijijini kuja juu.

Ninaunga mkono huu Mswada. Pia, ninampongeza Mbunge wa Suba Kaskazini kwa kupambana na Mswada huu wa leo wa *Gender Commission*. Ningependa kumwambia Mheshimiwa kuwa nimekuwa nikipenda mjadala wake lakini *Gender Commission* imekuwa mjini Nairobi tu. Kwa hivyo, lazima kufanye *devolution* na kina mama pale chini wajue kazi ya hii *Gender Commission*. Inajulikana iko Nairobi. Haijasikika pale nyumbani. Hii ndio sababu saa zingine watu wako na wasiwasi nayo. Ninakushukuru kwa sababu umesimama nao na umepitishwa. Ninaunga mkono Mswada utakaotetea kina mama.

Asante.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Asante. *Gender Commission* imeingia kwenye vikundi. Ninaomba nimpatie fursa Mhe. Nassir Sharif kutoka Mvita. Pole sana kwa msiba uliokupata. Tunajua uliwapoteza wafanyi kazi wanne. Chukua usukani sasa.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Asante sana Naibu Spika wa Muda. Ni kweli na imekuwa pigo kubwa mno. Leo itakuwa ni siku ya nne tangu tuwapoteze wapenzi wetu Ali Omar Naaman, Carol Wayua, Elysian Musyoki na Athman Mohammed. Leo tunazungumzia sharia, jinsi vikundi vinafaa kusajiliwa na vile vitaifadhika. Kati ya wale wangehusika zaidi ni hao tayari, wameenda mbele za haki. Kwa Allah tunatoka na kwa hakika, kwake tutaregea. Ninaomba Mwenyezi Mungu atujalie sote tuwe na subra katika wakati huu wa huzuni. Kila nafsi itaweza kuonja kifo. Leo wametangulia nasi tuko nyuma yao.

Leo, tunazungumzia kuhusiana na sheria ya jinsi vikundi vitasajiliwa. Kuna kitu hapa kimenifurahisha Zaidi. Kuna baadhi ya vikundi vingine vinaweza kujisajili wakiwa Mombasa kisha mwingine aenda kujisajili pia katika sehemu nyingine. Utapata vile vikundi vina jina moja. Kuna uwezekano wa kuhadaa, na fedha zizizofaa kwa mtu fulani zikachukuliwa kwingine. Pia vile vile, utapata kuwa tukiwa na sheria ya jinsi ya vikundi hivi, watu wataweza kustirika kwa ubaya wa nje na kwa wao wenyewe kwa wenyewe. Sisi kule kwetu tunasema kwamba pesa haikuslimu, yani hii shilingi inaweza kufanya jambo lolote.

Nimeona hapa kuna *submissions* zimeletwa na *Council of Governors* (CoG) na wameweza kuelezea kwamba hawakufurahishwa na baadhi ya vipengele hapa. Hii ni kwa sababu Katiba ya Kenya inasema kuwa maswala ya kijamii ni lazima yashughulikiwe na serikali za kauti. Lakini kwa mtazamo wangu mimi na wa kamati iyoleta Mswada huu ni kuwa haya ni mambo ambayo yako chini yetu. Tunapaswa kuweka na kuhakikisha kwamba tumewalinda wale ambao wanajaribu

kujizatiti na kuunda vikundi vyao. Leo wangapi wameweza kujifaidi na Uwezo *Fund*, *Women Enterprise Fund* na *Youth Enterprise Development Fund*?

Kwa hivyo, nakubaliana na sheria hii kuwa ni lazima kutakuwa na mabadiliko madogo hapa na pale. Lakini la muhimu zaidi ni kuwa hii ni sheria ambayo sote tunaweza kuipiga pambaja ili wale wenye kuitumia na kujisajili kwa vikundi waweza kuhifadhika na sheria tutakazo weka.

Asante sana, Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Unaunga mkono ama ni kama Mheshimiwa mwingine kutoka Mombasa alivyosema anaunga mkono na mguu.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Nakubaliana naye. Kama nilivyo elezea mwanzoni, nakubaliana na hii sheria mia kwa mia.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Bomet County, can you give her the microphone?

**Hon. (Ms.) Joyce Korir** (Bomet (CWR), JP): Thank you, very much, Hon. Temporary Deputy Speaker, for giving me this chance to congratulate the Departmental Committee on Labour and Social Welfare for bringing this very wonderful Bill, the Community Group Registration Bill (National Assembly Bill No.20 of 2020).

This Bill has come at the right time and a number of my colleagues have talked about it. Indeed, we have been undergoing a number of challenges on the issues of giving funds to these groups. Sometimes even the Ministry experiences numerous challenges while trying to effectively respond to the needs of these groups. This is mostly where conflicts, leadership wrangles, misappropriation of group resources and assets have occurred. The unregulated registrations and mismanagement of community groups has led to weak complaints and grievances redress mechanisms. This in some instances has led to exclusion, marginalisation and exploitation of vulnerable members of the society.

The Bill will assist us in terms of curing the registration of the community groups of people living with disabilities, youth groups, women groups and other big groups like CBOs. I also want to thank the Committee for seeing the sense of bringing this Bill that will provide regulations of community groups including the general objects and the appointment and roles of office bearers, who sometimes are a problem in terms of how they operate. Sometimes you give them funds and they go round fighting over the same. This Bill will assist us to resolve these issues, offer dispute resolutions, registration of community groups and obligations to maintain the confidentiality of the members' details.

Furthermore, there is also the issue of provision of financial matters relating to community groups. This includes maintenance of records. Sometimes you find an office without proper records and it ends up giving the same group resources again to the extent of disadvantaging others. I do not want to say much, but I thank the Committee for looking into the submissions given by the various stakeholders including the Ministry of Social Welfare, Ministry of Interior and Coordination of National Government, the CoG, although they never gave their views, and Non-Governmental Organisations Coordination Board, which also chipped in, in terms of assisting our numerous groups within our regions.

This Bill is very important because it will assist us in providing regulatory framework for the registration, management and regulations of community groups in the country. Otherwise, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. You can disconnect the microphone. Let me have Hon. CNN. Hon. Members, please, ensure you have your cards.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for the opportunity and consideration given to me. I rise to support the Bill. Alone, I can do little, but together, we can do much more. This is my new saying which I will develop and base on as I support this Bill.

The CBOs play a key role especially in my constituency because they are very many. They help the community in terms of infrastructure, financial activities and everything. Let me begin by thanking the Committee for seeing it wise to come up with this Bill to legalise these groups, so that things can be done in a free, fair and transparent manner. We have faced a lot of challenges and issues in distributing the Uwezo Fund. Some members do not take majority of these groups seriously. If we will have a Bill recognising CBOs, things will work out smoothly.

If this Bill is passed immediately, we will empower our people economically. In a community group, you will invest and deal with the funds with proper protection. Also, they can raise or borrow money from anywhere even banks if legally recognised. I do not want to say much. This is a very good Bill and if it is implemented, it will help many CBOs. This is the way to eradicate poverty. I do not want to support the issue of bottom-up approach, but still, we can borrow a lot by implementing this approach and empowering our people. This will ease the low unemployment rate we are facing in our country. If we create more CBOs, we will empower more young leaders. Majority of our communities will not be idle.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Siaya County.

**Hon. (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I support this heavily because group formation is part of the African culture. Africans have always existed through groups. So, when we empower groups, we are highlighting the role of African culture. We know that in the rural setting, people operate through groups and whether they are legalised or not, group work has always worked. It is, however, important to legalise them because the role they play is critical. A lot of these groups are doing great work in the community. You will find women groups doing business in poultry, farming, table banking and they make money. They are wealth creation organisations and are eradicating poverty. That is why the funds that we have for them is meant to uplift their lives such as the Uwezo Fund, the Women Enterprise Fund (WEF), Youth Enterprise Fund (YEF) and the National Government Affirmative Action Fund (NGAF). These are all meant for groups. We have seen how they have empowered groups in different ways.

Apart from economic empowerment, groups have lost because they are not recognised, legalised and not followed up after they have received funds. You always want to know what the groups do with the funds allocated to them. What is the impact, how can you follow them up? How do they pay? What are some of the challenges they face? They cannot be traced if they are not registered. They cannot be found, they disappear and it is such a big challenge. A lot of resources go to waste when you cannot trace the groups that you funded.

The Bill will help us know where the groups are so that we can follow them up and give them more funds when they do well. They can, therefore, continue eradicating poverty. My observations as the County Women Representative for Siaya County is that a lot of these groups need the training part of their work. Now that they are going to be legalised and mainstreamed, there will be a system of governance, and training should be part of it, so that they are trained on how to make money, manage it and many other issues that groups need to know. I know campaigns have started and they must also know their rights to vote. In those groups, a lot can be done, not

only making money, but also teaching them on the power of voting. They must know about the COVID-19 disease, how it affects us and how to prevent it.

Group work can help in many ways other than making money the way we have always associated it with. I support it because it is the way to go. The whole world is embracing group work and that is why when you are mobilising resources for women in villages, donors will always want a group that has inspired other groups. One that has done very well can be given funds and be supported. I support it because it is the way to go in terms of development, health interventions and others the community needs.

I thank you for this opportunity and I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Likuyani Constituency, Hon. Kibunguchy Wamalwa.

**Hon. (Dr.) Wamalwa Kibunguchy** (Likuyani, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. As I support the Bill, I will add a few comments.

First, like most of my colleagues have said, community groups are many. We were given a figure of over 200,000, but the number could be much higher than that because there are so many especially in rural areas. It is a good thing and we welcome that these groups are regulated, registered and we get to know who they are at any given time. Like a number of my colleagues have said, those of us who have been closely following the Uwezo Fund in our constituencies find that it is easy for groups to form, but break up as soon as you disburse funds to them. Later on, the group cannot be followed up. Now that we shall have them registered, we will know who their office bearers are and we will have a register of their membership. It is easy to follow what the groups are doing. Secondly, I support this whole issue of office bearers and register of members of each group. In the long run, it will be very useful to know who the office bearers of each group are in case there is any dispute. Usually when we have groups, there is the likelihood of some disputes. I am very sure in the memorandum, we will have a mechanism to solve disputes that may arise in each group on a day to day basis or as the group progresses.

We have seen groups that are very well organised grow from a village to a national group that has uplifted the welfare of its members, but as the group grows, so does the likelihood of disputes. I am very sure that in the Bill or the regulation, there will be a way on how to sort out the disputes that may arise.

It is time this Bill was operationalised. I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Nominated Member, Hon. Ibrahim Sahal.

**Hon. (Ms.) Nasri Ibrahim** (Nominated, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for the opportunity. The Bill defines a community as people who live in the same geographical area or who are regarded as a unit because they share common interests. It goes on to define community groups as self-organised voluntary associations of individuals from the same community.

The office of the Director of Social Department is one of the most important part of this Bill. It is charged with a variety of duties including mobilising communities to form community organisation groups to carry out development projects, registration of community groups, supervision, monitoring and evaluation of community projects. It should also conduct investigation of community groups' activities, establishment and maintenance of community development management system.

The Bill will make it easy to register community groups based on geographical regions or common interests. Currently, the groups can be registered under different laws which are very

complex and time consuming. The Bill will also make it possible to register social groups, resident associations, tribal groupings, family groups and shared interest groups. Groups are examples of organisations that may be eligible for registration under this law. Previously, such groups could only be registered as societies or public benefit organisations. The registration process is lengthy and includes background checks by investigators and other regulators. The Bill is establishing a sub-county community development committee to handle any social welfare issues that arise in the sub-county. These communities are composed in such a way that they represent collaborations between the public and the private sectors as represented by community groups.

Finally, if this Bill is passed into law, it will improve community objectives such as development, participation and engagement. Local groups will facilitate grass root community development. I, therefore, support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have Hon. Adagala Kahai, Member for Vihiga County.

**Hon. (Ms.) Beatrice Adagala** (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to talk on the Community Groups Registration Bill (National Assembly Bill No.20 of 2020). This Bill will allow for the registration of community groupings like the CBOs and the mostly known village groups. It is through groups like the village women, the youth and the people living with disability that they do their things. A lot of activities are done within groupings. I am very sure once this Bill is put into place, it will be able to foster development in our communities by enhancing social welfare amongst our people. Therefore, this is a timely Bill. It will assist. We have had some cases where groups get funded and once funded, the officials have controversies. Some of them will take off with the group's fund. Once this Bill is enacted into law, it will ensure that some of those issues are not there. Arrangements will be done properly and groups will develop through such, namely, the CBOs and the normal groups. It is through these small groups that people are coming up with different initiatives like table banking. They assist and women are benefiting from such groups. Once a law is put in place to govern this kind of scenario, it will be of great importance to our people. It will assist greatly.

Therefore, I support the Bill with the outermost strength because it is going to assist our women groups, youth groups and groups of people living with disability. Thank you, Hon. Temporary Deputy Speaker, for giving me this chance.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): For the Members who are coming in, we on Order No.11, the Community Groups Registration Bill (National Assembly Bill No.20 of 2020), as moved by the Leader of Majority Party. I can see it has a lot of interest by Hon. Members especially the County Members of Parliament because of the kind of work they do. Let me have the Member for Likoni, Hon. Mboko Khamisi.

**Hon. Mishi Mboko** (Likoni, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Community Groups Registration Bill. This Bill is very important because it provides a framework for the purposes of mobilisation, registration and coordination of community groups. By having this Bill, we will have a regulatory framework which will ensure there is smooth and prompt registration of community groups. We know we have several community groups such as self-help groups and CBOs. We also have groups for people with disability and from different special communities. It is very important because normally, these groups have some objectives which they need to meet and they cannot do that without a legal framework or a law to govern them and ensure there is smooth management of the operations of the groups.

In our country, we have several funds which are distributed to several community groups. We have the Youth Enterprise Fund, the Women Enterprise Fund and the Uwezo Fund. We also

have some funds which come from the National Government Affirmative Action Fund, which the women representatives from the 47 counties are the patrons. These funds come from the Government coffers and go to community groups and there is need to audit the finances which are distributed to the groups. We have seen some challenges. Sometimes a group is formed and after receiving some funds from any Fund, whether the Women Enterprise Fund or the Youth Enterprise Fund, the leadership of that group, namely, the chairperson, the secretary and the treasurer, in certain circumstances, use that money without the rest of the members knowing what kind of business has been done using the money.

There are many conflicts and when they arise, sometimes members make a decision to dissolve the groups. It even reaches a time where relevant Government authorities decide that they want to suspend, cancel or dissolve the group. There are many reasons why the Government sometimes will just decide to do that. A group will do some illegal activities which are not the activities which were proposed when they were doing the registration of the group. So, having a framework will be a platform to ensure that whatever proposal has been made regarding the group are the same things being implemented rather than implementing illegal activities.

The process of dispute resolution is very important and if you do not have a legal framework, sometimes it becomes very difficult. It leads to conflict among the members. As a country, we need to have some records on what the funding has done to ensure there is empowerment to our women, the youth, people with disability and all other groups. If we do not have this kind of a framework, it becomes difficult. Sometimes as Parliament, the role of oversight becomes difficult. You will ask: How do we oversight when we do not have a legal framework to ensure we have the records of all the funds which have come from Government coffers? I want to agree on the creation of the position of Director of Social Development and the committee. These people will ensure there is regulation, processes, operations and management of the groups. I was once a Woman Representative for Mombasa County, and some groups were given some funds intended for a certain project, but after some time, the group died and there was nothing going on. Some people say that they are going to open a SACCO, which will never be, not even table banking. It becomes very difficult. So, having a certain framework, the director and committee members will ensure that the groups have projects that will impact the society, and help the people living with disability, the youth and women.

Are we progressing as a country? We cannot live blankly like that yet every time we prepare the budget in this Parliament, we do not have positive feedback. Anything which is initiated must have a legal framework since we are being governed by the rule of law. We have our Constitution, which we should follow. The issue of confidentiality of the members is very important. Even in the Constitution, there is what we call privacy. So, privacy of Kenyans is paramount. This Bill talks about confidentiality. I want to agree because as members of that organisation, that confidentiality is very important, so that each member has their own privacy as guaranteed in the Constitution.

Having said that, recently we heard that we are going to have the Biashara Fund. They stated that they are going to amalgamate all the funds, namely, the Youth Enterprise Fund, the Women Enterprise Fund and other funds into one big fund called the Biashara Fund. If we have this big fund without a framework which to regulate how people will get the funds, and how they will utilise them, it will be difficult. If this Bill is passed, it will be good and it will be in tandem with the other proposal of having a Biashara Fund. It will enable Kenyans to get big funding rather than just getting small funding from the Youth Enterprise Fund, which gives about Kshs100,000 progressively to a maximum of Kshs1 million. The Biashara Fund is going to give more funds to Kenyans groups. Having a director and a committee is going to ensure there is good governance and smooth

management of all the organisations in terms of mobilisation, registration and coordination of community groups. It is going to assist us in ensuring that we have positive feedback and achievement in terms of empowerment of our society.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Member for Mandera West, Hon. Yusuf Haji.

**Hon. Yusuf Adan** (Mandera West, EFP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I rise to support this Bill. It is very timely. I come from a community where groups are very vital. People do businesses in groups which are not registered, but it is just a sort of a mutual agreement between the various members of the group. Over the years, it has been realised that they do a very good job. A lot of the big businesses which members of my community do here in this country are not individual businesses. They are businesses where many people come together and work. Unfortunately, they do not have any legal framework and sometimes when some misunderstandings arise, it becomes very difficult to arbitrate in such groups. If this Bill is passed into law, it will assist us very much. Working individually and working in groups are two different things. In my local language, there is a proverb which says, if I may translate directly to English, that, one finger cannot wash the face. You need at least four or all the five fingers to wash your face. This is just what we mean by group or what we mean by together you can succeed. Therefore, having these groups all over the country, in different sets of communities without any legal framework or without any rules and regulations that are binding is not good. In any community, you know there are people who are...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, even as you continue contributing to this, Hon. Yusuf Haji, Member for Mandera West, you are aware of the dress code of the Members of this House. You are supposed to be having a tie. You are not coming out very well as far as the dress code of Members is concerned.

**Hon. Yusuf Adan** (Mandera West, EFP): Sorry, Hon. Temporary Deputy Speaker, I thought I was decently dressed. My very expensive Kaunda suit is very acceptable.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You do not have a tie. Tidy up. We can see a part of your chest.

**Hon. Yusuf Adan** (Mandera West, EFP): Thank you so much for the reminder. I will observe that next time and put on a tie.

As I proceed, groups are very vital. Nobody in this world can work alone. It has been seen all over the world that working together as a group is so essential. Having a legal framework that can guide during difficult times or during misunderstanding to help in managing the group assets and resources effectively is very important. Therefore, I support the Bill.

Thank you very much Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Now, visit your Standing Orders and see the dress code of Members. Member for Lagdera, Hon. Garane.

**Hon. Mohamed Hire** (Lagdera, KANU): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this important Bill, namely, the Community Groups Registration Bill. Community groups are very critical in our society. They are basically one of the important drivers of the rural economy in our communities. Community groups through their associations are there to improve the lives and the livelihoods of the group members. The absence of a regulatory framework has hindered the growth and development of the community groups. Therefore, coming up with a regulatory framework or a Bill that governs the registration of community groups is very important. These groups are spread all over the country. These are members

of the society who are in the lower echelons of the economy. Having the people regulated is very critical. The community groups engage in social economic activities that are geared towards improving their wellbeing. Community groups engage in small scale businesses including selling of milk, vegetables, charcoal and they need to be helped.

The problem has been that since there is no law that governs the groups, it has been difficult for even for organisations that want to help the groups to access them. Most times, they look for funding from NGOs or financial institutions, but because they do not have documents, it is very difficult for them to be financed. Now that they will be issued with registration certificates, they will access funds from NGOs and financial institutions.

Registering the community groups will also improve our security. When community groups are registered, the Ministry of Interior and Coordination of National Government and other agencies will ensure that only members with good standing in the society are part of the community groups. Therefore, that reduces the risk of registering a rogue element within the society.

Once registered, the groups will mobilise resources. Sometimes, various community groups can come together and form SACCOS which will have a larger capital base that they can invest properly. Registration of the community groups will ensure that we have a reliable database. It becomes very difficult when you sometimes want to do something for the groups, but you do not have reliable data. It has been difficult for the Government when it wants to respond to drought and find out the number of vulnerable people in the society because it does not have an up-to-date database of the groups in any locality. That has sometimes resulted in misuse of resources. For example, we have had instances where food meant for vulnerable communities has been misappropriated. That is a result of not having proper data. Registering the groups will ensure that we have a reliable database that we can readily use anytime we want to do some interventions.

Registration of the community groups will reduce conflicts among members. For example, if a community group has been funded and a few members misuse the money, it has been difficult in the past to go for arbitration because there was no law to govern them. This law will reduce conflicts among the group members. Registration of the community groups will also ensure that we have social cohesion. The group members will feel like they are part of a community and that will enhance togetherness. Finally, the laws that govern the community groups will ensure that their rights are safeguarded and not violated.

With those few remarks, this is a timely Bill and I support it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Mombasa County.

**Hon. (Ms.) Asha Hussein** (Mombasa CWR, ODM): Asante sana, Naibu Spika wa Muda. Nasimama kuunga mkono Mswada huu wa kusajili makundi ya jamii.

Tuna makundi tofauti tofauti katika jamii zetu, haswa katika Kaunti ya Mombasa. Tuna makundi yaliosajiliwa lakini hayana uwezo wa kuendeleza shughuli zao na yanapopata pesa za Serikali huwa yanazifuja vibaya. Kwa hivyo, naunga mkono usajili huu kwa sababu makundi hayo yatakuwa yanafuatiliwa ili yaweze kujiendeleza yenyewe kiuchumi, yaendeleze miradi yao mbali mbali na kujimudu kimaisha.

Kwa hivyo, naunga mkono haya makundi kwa sababu tunapoelekea, tunataka makundi hayo yapewe pesa nyingi zaidi kwa sababu ya ubunifu wa kufanya miradi. Yanaweza kuvumbua miradi mipya tofauti ili yapate pesa nyingi kutoka kwa Serikali. Naunga mkono usajili wa makundi hayo ya kijamii.

Asante sana, Naibu Spika wa Muda.



**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Mukurweini, Hon. Kiai Githiaka. You have the Floor.

**Hon. Anthony Kiai** (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker. I support the Community Groups Registration Bill. The Bill is for an Act of Parliament to provide for a regulatory framework for the registration and regulation of community groups and for connected purposes. The Bill provides that the groups will be formed by members from the same geographical area and those that share a common vision. So, it presupposes that there is homogeneity of interests and individuals.

Groups in the country have been the fulcrum of the rural economy. They are the drivers of the rural economy. That is how people come together with an economic plan which is converted into improving the living standards of those members. For the longest time, no law or legal framework had been put in place to ensure that community groups are run and managed according to a certain given legal regime. Currently, that is controlled through CBOs, the administration and an amorphous network of individuals and institutions. That means that in a situation where members come together, contribute money and some crafty members decide to embezzle the money, they have very little in terms of legal recourse.

I am happy to note that the Community Groups Registration Bill has come up with legal structures on how the groups will be formed, how to come up with a constitution, and how to register members into the group. It has also come up with rules, regulations and guidelines that will govern members as they transact their business. The easiest way to mobilise resources is by coming together. That is very evident in so many groups that are scattered all over the country. In my Mukurweini Constituency, I have helped quite a number of groups to come up with seed money and, thereafter, they are able to set up group economic activities that improve their livelihoods. Groups like the ones that are funded by the World...

*(Hon. (Ms.) Asha Hussein and Hon. (Ms.) Odhiambo-Mabona consulted loudly)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Mombasa County, protect Millie Odhiambo by wearing your mask when talking to her. Please, wear your mask because you are near her.

**Hon. Anthony Kiai** (Mukurweini, JP): I know of many groups that are funded by the World Bank through a programme called the Kenya Climate Change Action (KCCA). These groups have really changed their livelihoods through cultivation of bananas. They have come up with small irrigation schemes that ensure flow of water throughout the year. They have come up with self-help groups that rear poultry, sheep and goats for milk. They have also come up with many innovative ideas of how to uplift their living standards, including buying water harvesting tanks for each other.

The Bill also creates a structure that ensures that there is transparency and accountability in how affairs of the groups are managed and run. When I look at some of the clauses of this Bill, in Part II, there is a creation of the position of Director of Social Development and under that, there is a social development committee. The social development committees are to oversee the small groupings in the rural areas and in urban areas to ensure they comply with the law and protect the interest of the registered members. Time and again, we have had occasions of some of the members embezzling the money contributed by the members. The situation that prevails after that is that you can only go back to the penal code. But the Penal Code is very scanty when it comes to what should be done and how to go about recovering the money that has been embezzled by the officials

or some of the members. This law comes up with other mechanisms like how to mediate among members who have issues among themselves and how to pursue such people. The guidelines are given under Clause 22 of the Bill.

It also provides that the group shall establish and maintain an official and physical address. Many of the groupings in the rural areas are amorphous. They are briefcase groups. You do not know where to find their office because they do not have any. Many meet under a tree or somebody's house. Therefore, in case of embezzlement of money or conflict or there is any issue relating to the group, you cannot tell exactly where to find them. The Bill now cures that mischief by ensuring that all the groups must have a registered office.

Finally, the community group shall maintain financial records as per Clause 31. The financial records of the group are supposed to be maintained for, at least, a minimum of seven years so that in future, in case of financial issues being raised, we can go back and look at the records for the last seven years and decide whether money has been lost or not or the issue at hand can be answered appropriately. It is a law that is timely and if implemented, will help in actualising and reducing the level of unemployment in the rural areas. It will also ensure that the people at the low level of society are able to harness the small economic activities that may be available to them and perhaps climb out of the labyrinth of poverty.

Thank you, Hon. Temporary Deputy Speaker. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Kathambi, Member for Njoro, you had tried to catch my eye, but I have removed your card. Was that an indication that you wanted to contribute?

**Hon. (Ms.) Charity Chepkwony** (Njoro, JP): Hon. Temporary Deputy Speaker, let me start by thanking you for giving me this opportunity to contribute to the Community Groups Registration Bill. Let me start by appreciating the Bill because it is going to bring proper governance into the community groups. Let me also appreciate what I have seen as I have gone through the Bill. I have liked the clarity of all the matters raised there especially when it comes to transparency and accountability. We are going to get good governance relations in community groups. As a Member of Njoro Constituency, I have handled many cases of registered groups, special groups and others. On financial records, follow up on the utilisation of funds and the groups' records management, elections in the groups and dispute resolution, the Bill has given clarity which will bring a lot of peace in our areas.

I also appreciate the fact that the Bill provides clarity for office bearers, office bearers' responsibilities and roles. I appreciate the appointment of the director in relation to social matters on all the groups. With the clarity of the entire administration from the registration of the groups, mobilisation, members' contributions, this gives me courage to support the Bill.

Another matter of concern is that we need a lot of clarity when it comes to the number of groups or the limit of groups an individual can belong to. We have had some challenges when handling most of the groups in our areas where you get a member in ten groups and when the Government is giving money, the person benefits from very many groups. My concern is to see that the Bill comes up with a limit of the number of groups an individual can be allowed to be a member. We should also appreciate that community groups in the country have driven the economy. The Bill accommodates every special need in the country. We have special groups which do not exist for purposes of money. We have groups whose purpose is to ensure there is peace and development in the country.

I support the Bill because it is very crucial. It provides a clear regulatory framework on how community groups are going to be managed from the beginning to the end. I have raised the

issue of how many groups a member can belong to so that in future, we do not have a lot of conflicts when groups want to merge, but one person is a member of ten groups which may want to merge. This is a good Bill. It is going to assist us in having a permanent solution to the conflicts the groups experience. I am interested in knowing the cost of registration of specific groups. What will be the cost of, for example, registration of a group of persons with disabilities, or one for orphans? We need clarity on the cost.

I support the Bill. Thank you for giving me the opportunity.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I see the Mover is ready to reply, but there are two Members who had indicated that they do not have their cards. Hon. Members, I guide and order that in future, if a Member does not have a card, they will not speak. You confuse the Speaker and the Mover when they are ready to reply. On this matter, I give a chance to Hon. Osotsi, who had expressed interest, Hon. Lilian Gogo, and the Mover to reply. We will start with Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this important Bill. I concur with the rest of the Members who have spoken that this Bill has very important benefits to this country. For instance, it will boost social welfare in our communities. It will also make it quicker to register groups because as you know, right now, groups are registered as either societies, trusts or associations. However, this particular legislation will now make it easy to register other groups including resident associations, family groups and even social media groups. It will be possible.

I have read through the Bill and noticed that there are some gaps which actually violate the Constitution. These gaps can be looked at during the Committee of the whole House to bring amendments. For instance, trying to confine the community groups to geographical area may prejudice people who do not come from that geographical locality.

Secondly, this Bill proposes the creation of the Office of the Director of Social Development, who is very powerful. He or she has been given array of duties including supervisory and investigative powers. You know that the issue of groups touches on freedom of association and such issues. So, by reading through the roles of this Office, you would realise that the functions of this Office may interfere with the freedom of association as enshrined under Article 36 of the Constitution. Those roles must be looked at very carefully so that they do not interfere with that important freedom of association as enshrined under Article 36 of the Constitution. If you limit people to a particular geographical area, then you are actually interfering with their rights.

I support the Bill, but it has to be looked at so that those grey areas which may look unconstitutional will be handled at the Committee of the whole House stage.

This raises an issue about Senate bills; many of the bills from the Senate are largely Private Members' bills. Very few Bills are Government sponsored. If you look at these Bills critically, you will realise that most of them have issues which contradict the Constitution. The Senate secretariat must be very keen when they process them so that they do not bring to this House Bills which have legal loopholes that may compromise vital freedoms under the Constitution of Kenya.

With those few remarks, I support the Bill, but with reservations that I have stated. For instance, the issues to do with constitutionality must be looked at so that this Bill is not challenged that it regulates the freedom of association under Article 36 of the Constitution.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You support. Very well said. I am happy that you know the procedure and at what point you will propose amendments. This is always very welcome during the Committee of the whole House stage, if you have anything

to amend. If you have anything that you can amend, I am sure you can also approach the Mover of the Bill and iron out some of these issues.

Hon. Lilian Gogo, you are the last one and then the Mover should be ready to reply.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Bill. I rise to support the Bill for the simple reason that it touches on people who operate mainly at the grassroots. It gives a legal framework under which the management, organisational structure and the framework of running these particular community-based organisations will be anchored in law. Anything that is anchored in law lasts for as long as it is of use to the community.

I support this particular Bill because it touches on the very common *mwananchi*, the minds of Kenyans and people who drive this economy. They exist at the very minimum level, but they are very useful, active and committed to what they are doing to generate income to this country. There is more of even social welfare systems.

If we support these community-based organisations the way that their finances and structures are done, we will then give them strength to continue. It should not just be a legal framework, but there should also be a financial support system that mitigates on the challenges that these community-based organisations have.

As you may soon realise, we come up with so many Bills that are good for this country but at times their attainability is a challenge. I would highly recommend that we also include a framework that allows the registration and the follow up of the activities of these community-based organisations at the lowest national Government administrative structure. Those issues will be very useful when it comes to matters of registration fees especially for People Living with Disabilities (PLWDs) and youth. If it is a youth-based community organization, registration should be free so that we encourage most of our young people to form these groups that are also anchored in law. This will also help in fostering the activities that they will do under these groups.

In the legal framework, we should have also included taxation issues that are relevant to these community-based organisations, if there are any activities that are to be taxed. There should be a period of no taxation on the activities especially on the profits that they make.

I also rise to indicate that we need follow up systems also anchored in law especially in training, monitoring and evaluating the activities of these community-based organizations and more so in nationalizing them. We should have national days to follow up on what these organizations are doing. If we do this, we will reach the most vulnerable persons of our communities. This is the only economic way that we are going to empower our young people. We will use this very system to empower women who need much of this empowerment. We will empower those of us who would have reached retirement, but would still want to be involved with work in our communities.

With those remarks, I thank you for giving me the opportunity. The lack of my card was inadvertent. Thank you so much.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party to reply.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to thank the Members for the interest that they have shown. Indeed, as the debate continued, I saw more and more Members streaming in. There is a very good consensus that it is a good Bill which is very good for me. That might mean that we will have very little in terms of amendments.

Like I said, this is really our moment to regularize what has been happening in terms of the legal framework for our community groups. This country is based on that social structure called the Ubuntu—I am because we are. It has been demonstrated by people coming together on every issue, be it social or economic, and pulling together. The fact that we have operated so far without a legal framework is because of the trust within the groups, the peer pressure within the groups. Now, with the added issues of putting things into a legal framework, they can only get better.

I want to thank the Members for their contributions and all the positive comments that have been made. We will ensure that, between now and the time we come to Third Reading which we can do next week, Members may be at liberty to propose any amendments they think, so that we can enrich the Bill further by the time we complete it, in the course of next week. Once again, thanks Members.

With those remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, putting of the question on Order No. 11 is deferred.

*(Putting of the Question deferred)*

Next Order.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Committee on Implementation to move the next Order.

## MOTION

### REPORT ON IMPLEMENTATION STATUS OF LAND ISSUES IN TAITA TAVETA COUNTY

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I beg to move:

That, this House adopts the Report of the Committee on Implementation on its consideration of the implementation status of the Report of the Departmental Committee on Lands regarding Land Issues in Taita Taveta County, laid on the Table of the House on Wednesday, September 29, 2021.

The Committee on Implementation is the Committee tasked with the responsibility of following up on the implementation of decisions, laws, Petitions and any other resolutions of this House. It is by dint of that responsibility, as set out in Standing Order No. 209, that I stand to ask this House to support the Report.

The Report that we are discussing or debating now is a Report emanating from the Departmental Committee on Lands regarding land issues in Taita Taveta County. the Departmental Committee on Lands of the 11<sup>th</sup> Parliament noted the public outcry in Taita Taveta County and the rising tension in the area due to the land conflict between the owner of the Teita Sisal Estate and the local community. The Committee therefore resolved to conduct an inquiry into this matter in 2015.

Taita Taveta is one of those areas in which local communities have been marginalised and denied their birth right. When you talk about the historical land injustices, the best case study is the one of Taita Taveta. In fact, the residents of Taita Taveta are what we can call squatters in their ancestral land. We met many stakeholders. I think it is important to let the House know that we met the Ministry of Lands and Physical Planning—we met the CS, the CAS, the PS and the

Director of Land Adjudication. We met almost everybody who matters in land matters in this country. The understanding and whatever came out clearly was that these people needed to be saved from the land deficit. We also met the owner of the Teita Sisal Estate. That is one Mr. Philip Kyriazi. We met another group called the Mwasima Mbuwa Welfare Society. We met the County Commissioner. We met residents of a village called Singila Majengo.

What came out was that there was a school called Mwandisha Primary School which was kind of locked out from the community. One of the resolutions was that the school belonged to the community and should be given back to the community. I am pleased to report to the House that Mwandisha Primary School, which consists of around 13 hectares, was taken and given back to the Ministry for the benefit of the community. Roads were also blocked by the owner of the Estate and this created a lot of unnecessary tension. The Committee ensured that there was a resolution that those roads should be opened was implemented.

Apart from the human rights issues that arose, the most important thing was the land. I am pleased to report to this House that, whereas there was a claim that boundaries were interfered with to take away the community land, it was established that Taita Land Holdings amounted to over 30,000 hectares and the same was confirmed. The good thing is that, the so called 'Taita Estate' agreed to give part of the land to the community.

Just to let the House know, we observed what happened against what was supposed to be done. The boundaries were not tampered with and the damage done to the crops and where compensation was sought, it was agreed that the local people will pursue it with the provincial administration and the owners of Taita Estate for compensation. There was an undertaking that it will be done. There was also the issue of intimidation and wrongful use of the police to harass the community. We met the County Commissioner and the whole security team and they gave an undertaking that will not happen again. The police station that was there was moved to ensure peace and no unnecessary friction.

I have many issues in this Report and I request Members to read it. The most important thing I would like to report to this House is that the people of Taita Taveta got some of the land they were claiming. They are supposed to be given more and the Government has come out clearly saying it will support this endeavour. The Committee in its deliberations made the following observations:

Taita Sisal Estate owns 30,284 hectares legally as per the Survey Report that was conducted by the Ministry of Lands and Physical Planning, so it has not encroached into public land. Whereas the community believes that the land belongs to them, there is also the issue of law. The constitutional aspect that anybody can own land and property and cannot be bribed unnecessarily. There was also the protection of the estate. It was a matter of convincing the Estate of the need to surrender some of the land to the local community. We could not force them because the law also protects land holdings in this country. There was also the element of investors' interests. It was not for this Parliament to attempt to interfere with that right of the Sisal Estate.

We also observed that, Taita Sisal Estate had given up 555 hectares of the land to the settlement trustee on top of the 15.6 hectares they had given to Mwandisha Primary School. This land was supposed to be subdivided and given to the ordinary people. By the time we were compiling this Report, the mother title had been surrendered to the Ministry of Lands and they were compiling the list of beneficiaries. So, as we talk, that process is ongoing and they are identifying the people who will benefit. They also assured us that this will be done. The House should understand land matters take long, so as to identify and register beneficiaries, adjudicate the land and put beacons to specific land holdings. As the Committee on Implementation, we said

we could not wait for this to happen because it might not be done by the time the term of House is over.

We also observed there are public utilities, public roads, an airport and a railway station which are open to the public. Whereas originally it was purported they are owned by the Taita Sisal Estate; there were also crooked elements who were trying to exploit people by asking them for registration money for one to get land. They actually harassed the estate and people entitled to the land. One of those is called Mwasima Mbuwa Welfare Society, which I have mentioned. In the view of the Committee and the community, these are people who were out to exploit the community and collect money from them. They even purported to take all community ranches in Taita Taveta to distribute to the local community, which was a lie.

There was also the issue of insecurity and there were disputes, as I have said. But by the time the Committee visited the place, there was evidence of peace. The people also said they could work together with all stakeholders. The county government was also forceful in saying that they did not want unnecessary disruption of the status quo. They came in and involved themselves in the administration of land. So, the local community and the county government are involved in this matter. It is something that was of help. They assured the Committee that all will be well and for the benefit of the people of Taita Taveta.

There was also the issue of human rights all over the country. These people were denied their rights. It is something that should go beyond this particular report. Rights of ordinary Kenyans, be they in central region, Laikipia or Taita Taveta, must be respected. If people lose their lands and everything, there must be adequate compensation, reparation and all other benefits.

Upon deliberation, the Committee recommends that the Ministry of Lands and Physical Planning should complete the adjudication process of the 6,000 acres excised from Taita Sisal Estate to the squatters in Taita Taveta County within six months of the adoption of this report. It is for this Parliament to ensure that the undertakings are fulfilled. The 6,000 acres should go to the local community so that they benefit. The Cabinet Secretary said it takes time to identify these people, but six months are adequate to conclude this matter.

The Committee also recommends that the Ministry should, within six months of adoption of this report, submit the list of all beneficiaries of the land surrendered by the Estate. This is to ensure that it is the people of Taita Taveta who benefit. What has been happening in most places is that very rich and undeserving people are the ones who take such lands. You may find that a small portion of the 6,000 acres goes to the residents while a larger portion goes to those who pretend to come from that place, the so-called busybodies and land grabbers. So, this Parliament must be given the list of beneficiaries. We have been working very well with the Members of Parliament for the area and they are happy that this issue has been resolved. It has been outstanding for a long time.

We also recommend that the Ministry, the National Land Commission and the County Government of Taita Taveta should engage the local community for concurrence on extension and renewal of leases of the Taita Sisal Estate when the same expire. We looked at the land register and most of the lands were allocated in 1900s, which means ownership time has lapsed. It is very important that before the leases are renewed, the local people are consulted, because this land is supposed to revert back to them.

In some circumstances, unscrupulous land grabbers come in and take the land for their own benefit. You might be surprised to find out that when the lease on the 30,000 acres expires, somebody might take the whole land and leave the people destitute. So, it is very important that

the community and the county government are involved. If the leases expire, they should not be renewed under any circumstances without the concurrence and knowledge of the local people.

We have also recommended that the Director of Public Prosecutions investigate activities of Mwasima Mbua Welfare Society for fraudulent activities targeting the squatters and members of the public and, if found culpable, be subjected to due legal process within six months of the adoption of this report. This is the group that has been misleading people. They have been collecting money, brought tension by inciting the people against one another yet they are not even from there.

One Member confronted one of the so called lawyer and chairman of that amorphous group, and it was clear they were dogs for hire – mercenaries who should not even be there because they will cause problems and should be investigated. They should be thrown out of that area and never be allowed to complicate issues that are already complicated.

In a nutshell, the issue of land in Taita is not in that particular estate only. They targeted one estate, but there are many people who own thousands of land that they are not utilising and which was taken from the local people. The Committee ensured implementation of the decision of the Departmental Committee on Lands and it is an ongoing process that must be looked at and scrutinised closely so that it does not go wrong at this particular time.

I beg to move and urge the House to adopt this Report. I request the Members to look at it and support the people of Taita Taveta. They deserve your support. It will teach Kenyans that Parliament is with them. We are with the weakest and the strongest but more so, with the people whose rights have been trampled on for centuries and people whose rights must be reinstated.

I beg to move and request Hon. Godfrey Otsosi to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Otsosi for seconding of the Report.

**Hon. Godfrey Otsosi** (Nominated, ANC): Hon. Temporary Deputy Speaker, I rise to second.

This is a major milestone for this Parliament because the Departmental Committee on Lands tabled a Report in the House on 25<sup>th</sup> June 2015 in relation to the matter of Taita Sisal Farm which is a large track of land that cultivates sisal. I am even told it is the largest sisal farm in Africa. It was as a result of the rising tension and public outcry or under conflict between the estate and some squatters that the Departmental Committee on Lands made recommendations and the Committee on Implementation have been pursuing this matter for some time from 2018 to date.

I must report this to be a milestone because as a result of our involvement, we have been able to deal with key issues in this matter. As a result, the owners of Taita Sisal Farm decided to give 539 acres to the Land Settlement Fund Board to distribute it to the genuine squatters. It also gave 15.6 acres of land to Mwandisha Primary School and also access to public utilities located in the land. There are roads, a dam, police post and all that have been given access to the Members of public. I find this to be a milestone because it has been able to address the problem of the genuine squatters who were staying on the land and causing tension between the owner of the land and the squatters.

It has also created peace for the farm. This also created peace for the owners and employees of the Taita Sisal Estate to work without any fear of being attacked by the locals. Therefore, that is a milestone.

However, it is important that the recommendations that the Committee has made are implemented. We have recommended that within six months after the adoption of the Report, the Ministry of Lands and Physical Planning must submit a list of all the beneficiaries of the land



surrendered by the Estate - the 539 acres of land. We have also recommended that the Ministry of Lands and Physical Planning, the National Land Commission (NLC) and the County Government of Taita Taveta should engage the local community for concurrence during the extension and renewal of leases for the Taita Sisal Estate when they expire. That is very important.

Most importantly, as pointed out by my Chairman, this problem is largely because of a rogue group called Mwasima Mbuwa Welfare Association that has been collecting money from desperate *wananchi* and squatters in the name of trying to help them get land that does not belong to them. Those people have been engaging in courts and doing all manner of things. The Committee has recommended that the Directorate of Criminal Investigations (DCI) should investigate that group for fraudulent activities targeting the squatters and members of the public. If found culpable, it should be subjected to due legal process within six months of adoption of the Report.

That is very important because we have such groups all over the country - brokers who come together and create problems trying to target private land. That will be a lesson to such groups not to engage in such fraudulent activities. We ask the DCI to take up that matter and protect the enjoyment of private land rights by the Taita Sisal Estate, and at the same time, the enjoyment of land by the squatters.

As stated by the Chairman, the Committee has been able to look at all the recommendations by the Departmental Committee on Lands.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You should learn how to plan your time, Hon. Osotsi. You will just get one minute.

**Hon. Godfrey Osotsi** (Nominated, ANC): We have been able to look at all the recommendations and I am happy to announce that most of the recommendations have already been implemented.

With those few remarks, I beg to second.

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

*(Hon. Amos Kimunya walked along the gangways)*

I am waiting for the Leader of the Majority Party to resume his seat. I do not want to subject you to freezing.

*(Question proposed)*

I will give the first chance to Hon. CNN, Charles Nguna. Of course, Parliament does not recognise you as Hon. CNN.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. In fact, I will adopt the name very soon and it will be legally recognised by everybody in the world. I am the original CNN. Thank you for giving me the opportunity.

Allow me to inform you that I am a Member of the Committee on Implementation and I was lucky to accompany my colleagues during the investigation in Mwatate Constituency. I can authoritatively confirm that we visited the site and interacted with several stakeholders. One of the key issues we noted was that Taita Sisal Estate owns 30,000 acres of land in that area. Out of that, because of their good director and out of the Corporate Social Responsibility (CSR), they had already surrendered over 500 acres of land for social amenities such as schools.

Other investors in this country can emulate this. There was good CSR. The way it had been planned, they had already provided accessibility by the community to the school and other surrounding homesteads. This report encouraged us on how things ought to be done in a free, fair and transparent manner. I am confirming that we investigated. In fact, I thought that because we did this in 2018, I personally thought that the Ministry of Lands and Physical Planning should have implemented it a while ago. There were about 6,000 acres which Taita Estate gave freely to squatters around the Estate. This one should be adjudicated immediately and titles given to the members as per the agreement we made in that meeting.

So, I can confirm that this was a win-win situation for everybody who was a stakeholder by then. What is remaining is to urge the Ministry of Lands to do their work. We can authoritatively confirm beyond any reasonable doubt that everything is in order. All the community members we interacted with were happy with the donation by the Taita Sisal Estate. There is enough accessibility to the Estate. Let me also take this opportunity to congratulate the estate. It has provided a lot of employment in that area. It is time to learn to respect investors in this country.

With those few remarks, I support the report.

Thank you

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Any other Member wishing to speak to this? Let us have the CWR for Taita County.

**Hon. (Ms.) Haika Mizighi** (Taita Taveta CWR, JP): Shukrani Bi Naibu wa Spika wa Muda kwa kinupatia fursa hii ili nichangie Hoja hii ambayo ni muhimu sana. Unajua ya kwamba swala la mashamba ni swala nyeti, hasua hili ambalo tunaliongelea sasa ni swala ambalo limesumbua jamii sana kwa muda mrefu.

Nachukua fursa hii nipongeze kamati husika kwa kazi ambayo wameifanya. Nimeona walitembea kule wakawasikiza wananchi, wakapata fursa pia ya kumsikiza mwenye shamba yule na wakasikiza pia wahusika mbali mbali ikiwemo serikali ya Kaunti yetu.

Nikiangalia hii ripoti, ninashukuru kwa mambo kadha wa kadha. Kwanza, ni kwa sababu ya ile shamba ambayo imepeanwa kwa ajili ya wananchi ambao walikuwa wanagadhabika na hawapati usingizi kila siku wakifikiria kwamba wanaweza kuja kufurushwa mahali au sehemu ambazo wameishi kwa muda mrefu.

Pia nashukuru kwa ajili ya kile kipande cha shamba ambacho kimetolewa kwa ajili ya shule. Kwa kweli ilikuwa ni ghadhabu kwamba shule inasemekana ni ya mtu binafsi na ikaleta utata sana na pia kwa kuruhusiwa kutumia zile barabara ambazo zilikuwa zinaleta utata. Zinafungwa na wananchi hawawezi kuzitumia kwa sababu ziko kwa sehemu ya mtu binafsi. Nashukuru kwamba zitaenda kuachiliwa zirudi kwa wananchi.

Kwa hilo napongeza Kamati sana. Kwa sababu ya hali halisi iliyoko kule pia, ningependa kuunga mkono sana kwamba hizi *lease* wakati zinapoisha ni muhimu kuhusisha jamii na ni muhimu ziweze kurudi kwa wananchi kwa sababu watu wameteseka sana kwa mabwanyenye fulani ambao wameingilia watu wadogo ambao mara nyingi wanawaita maskwota. Watu wamedhulumiwa sana. Mashamba ambayo yalikuwa ni ya mababu zao yamekuja kupotea kwa sababu hizi *lease* zinakuwa *renewed* mara kwa mara na basi watu wamekosa fursa ya kupata sehemu za kuishi, kufanya ufugaji au hata za kulima.

Mhe. Naibu Spika wa Muda, naishukuru Kamati hii pia kwa sababu imefanya kazi nzuri hata kupitia pia lile kundi ambalo limekuwa likihusika na masuala ya shamba hili. Ni vizuri kuekana wazi na ni vizuri ijulikane ukweli wa mambo uko wapi. Mimi kama kiongozi nimeshapata malalamizi mingi sana kutoka kwa wananchi wakisema kwamba “Mheshimiwa, hatuelewi hali ya kundi hili la Mwasima Mbuwa. Hatuelewi shughuli wanazozifanya na mara kwa mara tumetoa

fedha zetu tukiahidiwa mambo ambayo hayawi.” Kwa hivyo, ni vizuri pia ichunguzwe na kama kuna ukweli wapate haki yao na kama basi pia wanadhulumu wananchi sheria ichukue mkono wake. Ninafurahia kwamba pale Mwatate, Majengo-Singila na hata Langateni wataweza kupata fursa ya kupata ile shamba ambayo...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Your time is over. Hon. Members, there being no any other Member interested to speak to this, I call upon the mover to reply.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I would like to thank the Members for the support that they have actually extended to us as a Committee and to the report that we made and tabled and which we are now debating. I would like to thank the Member for Taita Taveta for actually being here for the interest of her people because leaders are the ones who are supposed to look out for their people. Her presence here is really very significant. As I have said, this is something that has not come to an end. In fact, it is just the beginning and I will really assure the Members that my Committee, as long as it is still in office, will ensure that what we have actually resolved is accomplished.

Hon. Temporary Deputy Speaker, I thank you also for giving us this opportunity to handle this Report. I would also like to thank the secretariat and our committee staff for the support that they have extended to us.

Finally, I would like to thank the people of Taita Taveta, because they were actually open and were appreciative of what we were doing when we visited them.

Thank you very much. I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you. Having been moved, seconded, debated to and replied, I order that question on the Motion be put in the next sitting.

*(Putting of the Question Deferred)*

Next order.

## **BILL**

### *Second Reading*

#### THE ASIAN WIDOWS' AND ORPHANS' PENSIONS (REPEAL) BILL

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Asian Widows' and Orphans' Pensions (Repeal) Bill, be now read a Second Time.

This Bill was published in June 2021 and it is one of those Bills that emanate from the need to clean up our laws. I know it has been committed to the Departmental Committee on Finance and Planning. They have looked at it, what I am not sure is whether we have a report on it. It was advertised for public participation in September. I doubt if anyone made any views to it. I have actually not seen the report of the Committee. I just want to caution that because earlier on we had a discussion that we may not conclude the debate until a report has been tabled. I want to move it, have it on the Floor of the House and then the Committee will advise us on what to do with it.

This Bill basically seeks to repeal one of these colonial legislation which was last amended, in 2012. However, the Act dates back to those colonial days when Kenya used to have different sets of laws for the Africans, for the Europeans and for the Asians, in terms of how the issues to

do with pensions were going to be administered. So, basically it was addressing the issue of creating a pension scheme mainly for the Asian community that had been brought to Kenya by the colonial masters as they were then to work within the colonial government, to help also the implementation of the English laws. They started in India as they came in to do the railway and also for those that were lawyers.

We borrowed quite a bit from the Indians as the Chair of Committee on Implementation might guide us further. We have all those Indian Properties Act and the various laws that we borrowed. We created this Act to sort out the issue of pensions due to the widows and orphans of the people who had emanated from India.

In fact, the Act contains terminologies like Bombay Agency in India who would be paid on behalf of the Kenyan colonial government. As you know, even the name Bombay changed long time ago to Mumbai. That shows you how old and how abdicated this law is.

The substance of this Act was to create the Asians Widows' and Orphans' Fund to which contributions were to be made by eligible agents.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Just a moment, Leader of Majority Party. Member for Wundanyi, can you protect your County Woman Representative (CWR) by wearing your mask?

Proceed.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. Under Section 5, the Act had further set out guidelines on eligibility; who was to make contributions, who was prohibited from contributing, the rates of contribution, the manner of contribution and the management of the Fund.

Hon. Temporary Deputy Speaker, as Members are aware, following the passage of the 2010 Constitution, all matters of pensions were placed under the purview of the Public Finance and Management (PFM) Act of 2012. This has revolutionised and led to a repeal of all those other laws that were dealing with pension matters before, including this one which has obviously been overtaken by events. Within the PFM, the Cabinet Secretary for the National Treasury and Planning, with the approval of Parliament, is empowered to do away with any Fund whose objectives have been met or whose objectives are no longer viable.

Section 24 of the same PFM Act also manages the administration of the Fund within one year to ensure that all payments due or owed to third parties are paid. Any payments due to the Fund or the Government through the Fund are remitted to the Fund after which they are remitted to the Consolidated Fund. This repeal Bill is basically creating that mechanism. First, to repeal this anti-equated law. Secondly, to create a mechanism for transition in terms of how any amounts in the Fund will be sorted out or how any monies due to the Fund will be handled.

Hon. Temporary Deputy Speaker, it is a two-page Bill that basically sets out the repeal. Section 4 of the Bill states that the Cabinet Secretary shall, before winding up, ascertain the status of the claims against the Fund and ensure that they are settled within one year and the proceeds are paid in the Consolidated Fund. It further states that the term of the Members of the Board of the Fund shall continue until the claims are paid hence creating that transition mechanism. It also states the Cabinet Secretary shall, within one year of coming into operation of the Act, wind up the Fund and pay the proceeds from the Consolidated Fund.

Therefore, there is a very clear mechanism of how the Fund will be liquidated. There is a mechanism of sorting out any dues to any of the widows, orphans or Asians who are not covered by any other Fund. As it has been said, this law is one of those that borders on discrimination on

account of color or originality something that was outlawed within our new Constitution. Therefore, it does not stand well within our legal statutes and hence needs to be repealed.

Hon. Temporary Deputy Speaker, we are seeking the approval of the House to repeal this Act and obviously then trigger the issue of the liquidation of the Fund and moving any monies from the Fund that are now due to anyone into the Consolidated Fund as well as collecting any claims that are due to the Fund to also come in. It is a straight forward Bill and I want to ask Members to support so that we can start the cleaning up process of these laws from our books. I also want to confirm that this Bill shall not occasion any additional expenditure. It also does not concern counties. This matter was specific to a certain group of people who came to work in this country and have done their bit. The Bill is, of course, overtaken by events and all we are doing is basically cleaning up the books.

I do not want to go deep into something that is self-evident. I beg to move and ask the Hon. Osotsi to second. He is knowledgeable in these matters.

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

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker. I have listened to the Leader of the Majority Party and I have also read the Bill.

I concur that there is justification for repealing the Asian Widows and Orphans Pension Act which is one of the very old pieces of legislation, as has been pointed out by the Leader of the Majority Party. The main reason for this is because in that piece of legislation there is the fund called the Asian Widows and Orphans Pension Fund which is being aligned to the Public Finance Management Act, 2012.

As we are aware, there is a policy to try and rationalise and centralise the management of various funds under the National Treasury. This is what is happening so that all the funds comply to the requirements of the Public Finance Management Act, 2012 for better management so that the beneficiaries benefit and the Government is able to manage the funds better. There is justification why we need these amendments. As it has been pointed out by the Leader of the Majority Party, there are some aspects of this Bill which are quite old and maybe in the Committee of the whole House we may need to propose amendments so that they are aligned to the current realities. But majorly, the amendment is trying to align the fund to the Public Finance Management Act.

With those few remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The first chance goes to Hon. ole Kenta Moitalel, Member for Narok North.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the Bill. As the Leader of the Majority Party has just said, these are laws that are obsolete. They were enacted during the colonial time when there were different classes of people: the whites, the Asians, the Africans and the ordinary Kenyan who had laws governing each of them. So, these are laws that should not be there in an independent country and in the modern age of the 21<sup>st</sup> Century.

The memorandum of objects and reasons is very clear as to why there is need to repeal this obsolete Act. In fact, it is to align it to the Public Finance Management Act, 2012 which is there to centralise management of funds and to ensure that there is accountability and efficiency in the monitoring and utilisation of these funds.

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The good thing about this Bill is that it sets out a way of ensuring that the Act does not come to an abrupt end which will cause loss to the beneficiaries. In fact, Clause 4 is very clear, that there are transitional provisions where the Cabinet Secretary (CS), before winding up these Funds shall ascertain the status of claims against the Fund. Also, ensure that any outstanding claims are settled within one year of coming into operation of this Act. This means that if there are claims on the Fund, then the beneficiaries will not lose. The same applies if the Fund itself has a claim against any person, then it must get that claim before it is wound up. This will ensure nobody takes what belongs to the Fund.

Another good thing about this Bill is that it extends the term of the office holders of the Fund. This gives them power to continue until all the issues set out above are determined. The CS is given ample time of one year of coming into operation of the Act to determine claims that may arise against both the Fund and beneficiaries. This is very important in the sense that whichever comes later, the Fund will pay the proceeds there from into the Consolidated Fund. This is a very safe Fund to transfer whatever is there by the time this Fund ceases to exist.

It also states out clearly that the CS shall, within one year of the coming into operation of the Act or upon the determination of the matters under paragraphs (a) and (b), whichever comes first, report to Parliament in accordance to Section 24(9) of the Public Finance Management Act, 2012 on the winding up of the Fund and any other relevant matter. So, by reporting back to Parliament, this will ensure accountability, transparency and that everything is done according to law, for the benefit of all those involved.

So, I support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You support. Even as I give the chance to other Members who are willing to speak to this, it is important for the Leader of the Majority Party because he is the one who moved this to order of the Departmental Committee on Finance and National Planning to bring us the Report as we continue debating. We had the same treatment this afternoon on Order No. 10, on the County Governments Grants Bill (Senate Bill No. 35 of 2021).

I am sure the Chairperson, Departmental Committee on Finance and National Planning, will be advised to bring the Report of the Committee to the House so that Members can go through it, since we have not moved far including replying on the same. However, for now I can give a few Members opportunity to just say something on the same. Hon. Members without cards, do not raise up your hands. If you have a card, please insert it. Just give the Hon. Member for Wundanyi Constituency the microphone. Very well. There you go.

**Hon. Danson Mwashako** (Wundanyi, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Asian Widows' and Orphans' Pensions (Repeal) Bill, 2021. Indeed, this Bill is coming at the right time when as a country, we need to look at other pension schemes that have existed in Kenya however back we can go and put them under one umbrella.

Indeed, Asians moved to Kenya many years ago to build the meter gauge railway and many of them are deceased. Therefore, if there is any amount of money sitting in the pension schemes, it will be important for us as a country, as we clean up this system to have the beneficiaries paid, that is, the descendants of those Asians. This Bill indicates that they need to be paid within one year. It is critical so that we either close or pay those claims. If there is anything that remains unclaimed or where beneficiaries cannot be traced, then that money goes back to the National Treasury. I am glad that this Bill comes in. Even as a country we have been pursuing unity and inclusivity.

Therefore, we need everything brought under one umbrella. I stand to support this Bill and request that the implementation of the same comes in handy and is done as stipulated in the Act.

I support, thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Did I see an intention to speak to this from the County Member of Parliament of Taita/Taveta County? She is trying to catch my eye. Can you give her the microphone? Today we have a problem with the microphones. Put off the one for the Member of Wundanyi.

**Hon. (Ms.) Haika Mizighi** (Taita/Taveta CWR, JP): Mhe. Naibu Spika wa Muda, shukrani tena kwa hii fursa. Hata mimi naunga mkono wenzangu waliotangulia kuongea. Ni vizuri pesa hizi ziwekwe mahali pamoja na wale wanodai walipwe kwa sababu hayo yamekuwa ni mambo ya jadi. Kwa hivyo, ni vizuri wale wamebaki wakidai pesa zao walipwe na zile zitabaki kweli zipelekwe katika *Treasury* ili zifanye kazi nyingine.

Asante kwa fursa hii.

Naunga mkono.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): *Unaunga mkono*. I think our systems have an issue. Even on mine I can see names and it is not working. Let me just consult.

*(Hon. Temporary Deputy Speaker  
consulted the Clerks-at-the-Table)*

I order that the officers check on the systems.

*(Officers of the House checked on the systems as  
Hon. Amos Kimunya spoke off the record)*

The Leader of the Majority Party, you did not go on record. I think it is important because you are also in charge of the business presented by the Chairperson of the Departmental Committee on Finance and National Planning. Maybe you can be on record on the same so that we can as a House be assured when you place the business on the Order Paper.

**Hon. Amos Kimunya** (Kipipiri, JP): Indeed. The only reason I was keen to move on this Bill is that it is a non-contentious Bill. In line with our traditions, I will ensure that this House has a Report of the Committee before we proceed to conclude this debate and before I reply. I have already held discussions with the Committee and they should be bringing that Report before we move to the next step on this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. It is important to know that we cannot even move further or even include replying on the same until we have the Report of the Committee on the Floor of the House so that Members can look at it. As you said, that it is a tradition of the House, these are some of the procedures that we have laid down. Because of that, we may not be able to move. It is for the convenience of time. We will adjourn.

## ADJOURNMENT

Hon. Members, the time being 6.59 p.m., this House stands adjourned until Thursday, 18<sup>th</sup> November 2021 at 2.30 p.m. I thank you all.

The House rose at 6.59 p.m.

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