

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 22<sup>nd</sup> March 2022**

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Can you ring the Quorum Bell?*(The Quorum Bell was rung)*

We may proceed, we now quorate. Order, Hon. Members! Take your seats.

**COMMUNICATION FROM THE CHAIR**

## DELEGATION FROM THE PARLIAMENT OF GHANA

Hon. Members, I wish to introduce to you a delegation of staff from the Parliament of Ghana who are seated in the Speaker's Gallery. The delegation comprises of:

1. Mr. Obed Appiah - Assistant Public Affairs Officer
2. Ms. Nelly Abbey - Assistant Public Affairs Officer
3. Mrs. Sharon Kinful - Assistant Public Affairs Officer
4. Mr. Ibrahim Ansah - Assistant Public Affairs Officer

Hon. Members, the delegation is in the National Assembly on a bench marking visit, specifically to share experiences and learn good practices on the operations of our Public Communications Department as well as the Parliamentary Broadcasting Unit, among other areas.

On my own behalf and that of the House, I wish to welcome the delegation to the National Assembly Sitting this afternoon and wish them fruitful engagements during their stay in the country.

I thank you!

*(Applause)*

Next Order!

**PETITION****DELAYED ISSUANCE OF ALLOTMENT LETTERS TO  
RESIDENTS OF TUMBE VILLAGE IN MSAMBWENI**

**Hon. Speaker:** Hon. Members, there was a Petition to be presented by the Member for Msambweni, Hon. Feisal Sali, who has since written to me requesting for its deferment on account that he is engaged in the constituency today. I acceded to his request. Therefore, that Petition is dropped from the Order Paper and deferred to next week when the Member will be available.

Next!

*(Petition deferred)*

**PAPERS LAID**

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

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

Legal Notice No. 32 relating to the Companies (Beneficial Ownership Information) (Amendment) Regulations, 2022 and the Explanatory Memorandum from the Office of the Attorney General.

The National Government First Half Budget Implementation Review Report for the FY 2021/2022 from the Office of the Controller of Budget.

Fifth Annual Report to the National Assembly on Treaties Ratified by Kenya from the Ministry of Foreign Affairs.

The Annual Report of the National Land Commission on enhancing land governance for sustainable development for the Financial Year 2020/2021.

Performance Report of the Independent Policing Oversight Authority for the period January to June, 2021.

The Report of the Auditor-General and Financial Statements of the Commonwealth Parliamentary Association-Kenya Branch for the year ended 30<sup>th</sup> June, 2018 and the certificate therein.

The Report of the Auditor-General and Financial Statements of the Commonwealth Parliamentary Association-Kenya Branch for the year ended 31<sup>st</sup> December, 2018 and the certificate therein.

The Report of the Auditor-General and Financial Statements of the Commonwealth Parliamentary Association-Kenya Branch for the year ended 31<sup>st</sup> December, 2019 and the certificate therein.

The Report of the Auditor-General and Financial Statements of the Commonwealth Parliamentary Association-Kenya Branch for the year ended 31<sup>st</sup> December, 2020 and the certificate therein.

The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2021 and the certificates therein:

- a) Office of the Controller of Budget;
- b) Kenya Slum Upgrading Low-Cost Housing and Infrastructure Trust Fund;
- c) Railway Development Levy Fund (Holding Account);

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- d) Contingencies Fund;
- e) Equalization Fund;
- f) Revenue Statements for the Judiciary;
- g) East Africa Tourist Visa Fee Collection Account;
- h) Kenya Shipyards Limited;
- i) State Department for Mining;
- j) State Department for Planning;
- k) Prison Industries Revolving Fund; and
- l) State Department for Fisheries Aquaculture and Blue Economy.

The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2020 and the certificates therein:

- a) Simlaw Seeds Company Limited;
- b) Chemelil Sugar Company;
- c) Egerton University Investment Company;
- d) The Agricultural Finance Corporation;
- e) Rural Electrification and Renewable Energy Corporation;
- f) Dekut Enterprises Company;
- g) Water Resources Authority;
- h) Rivatex East Africa Limited;
- i) Kenya Leather Development Council;
- j) Bomas of Kenya;
- k) Simlaw Seeds Company Uganda Limited; and
- l) Lake Victoria North Water Works Agency.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Next is the Chairman of the National Government Constituencies Development Fund Committee.

**An Hon. Member:** He is not in.

**Hon. Speaker:** Is there any representative to the Chair? We will move to the next Order.

## QUESTIONS AND STATEMENTS

We will move to the first segment on Questions. The first Question is by the Member for Kwale County, Hon. Zuleikha Hassan.

### ORDINARY QUESTIONS

*Question No. 073/2022*

#### STATUS OF ELECTRICITY CONNECTIVITY IN KINANGO

The next Question is by the Member for Jomvu, the Hon. Bady Twalib Ali.

*Question No. 074/2022*

#### DELAYED COMPENSATION FOR MR. SALIM SAID'S LAND

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**Hon. Bady Twalib** (Jomvu, ODM): Hon. Speaker, my name is Hon. Bady Twalib Bady. It is not Bady Twalib Ali.

I rise to ask Question No. 074/2022 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) When will the Government remit compensation amounting to six hundred and sixty four thousand, one hundred and twenty five shillings (Ksh664,125) to Mr. Salim Said of Maganda Village, Miritini Ward in Jomvu Constituency, whose land was compulsorily acquired by the Government on 6th June 2015, to pave way for the construction of the Standard Gauge Railway?
- (ii) Considering the inflation rate from 2015 to date when the agreed compensation was expected to be paid out, could the Cabinet Secretary enhance the previous valuations to take into account inflation?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. The next Question is by the Member for Magarini, Hon. Michael Kingi.

*Question No.076/2022*

CORPORATE SOCIAL RESPONSIBILITY BY  
CONTRACTORS IN MAGARINI CONSTITUENCY

**Hon. Michael Kingi** (Magarini, ODM): Hon. Speaker, I rise to ask Question No.076 of 2022 directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

- (i) Could the Cabinet Secretary list the corporate social responsibility (CSR) activities, if any, being undertaken by the contractors constructing the Baricho-Langobaya Bridge and Sabaki-Baricho Bridge meant to benefit the residents of Magarini Constituency?
- (ii) Could the contractors, through the Ministry, consider making infrastructural improvement to Marekezo Primary School, Baricho Secondary School, Mekatilili Secondary School and Wakala Girls Secondary School as part of their CSR?

**Hon. Speaker:** Again, the Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. The last Question is by the Member for Meru County, Hon. (Bishop) Kawira Mwangaza.

*Question No.081/2022*

ESTABLISHMENT OF TALENT FACILITIES AND SUPPORT TO ARTISTS

**Hon. (Ms.) Kawira Mwangaza** (Meru CWR, Independent): Thank you, Hon. Speaker. I rise to ask Question No.081 of 2022 to the Cabinet Secretary for Sports, Culture and Heritage.

- (i) Could the Cabinet Secretary state the steps taken to establish and support talent-nurturing facilities in the country, particularly in Meru County?
- (ii) What measures has the Ministry put in place to improve the said facilities in the country to international standards.

(iii) What steps has the Ministry taken to enhance the morale of talented artists in the field of fine arts.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Sports, Culture and Tourism.

For the second time, I call upon the Member for Kwale County, Hon. Zuleikha Hassan to ask her Question. Member being absent and not desiring to be present, the Question is dropped. There is no second segment so we move the next Order.

*Question No.073/2022*

STATUS OF ELECTRICITY CONNECTIVITY  
IN KINANGO CONSTITUENCY

*(Question dropped)*

**BILLS**

*Second Readings*

THE COFFEE BILL

*(Hon. Silas Tiren on 1.3.2022)*

*(Debate concluded on 3.3.2022)*

*(Loud consultations)*

**Hon. Speaker:** Is that the Member for Ugenya being entertained by the Member for Kibwezi West? Who is this Member roaming all over?

Hon. Members, debate on this Bill was concluded before the House went on short recess. What remained was for the Question to be put.

*(Question put and agreed to)*

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

**Hon. Speaker:** Next order!

THE ELECTIONS (AMENDMENT) BILL

*(Hon. Alois Lentoimaga on 3.3.2022)*

*(Resumption of Debate interrupted on 3.3.2022)*

**Hon. Speaker:** Hon. Members, this Bill is sponsored by the Constitutional Implementation Oversight Committee (CIOC). It was moved, seconded and had three contributors being; Hon. Millie Odhiambo, Hon. Akinyi Obara and the person who was on the floor was Hon. Njuguna Wanjiku who had a balance of eight minutes. I believe this must be the Member for Kiambaa, is it? Member for Kiambaa, you have a balance of eight minutes.

The Member has still not acclimatised himself to know what time the House sits. I am sure he must have been informed that when the House resumes, he will be the first one to continue. Well, the Member being absent and not desiring to be present loses his balance of eight minutes and cannot contribute further to this Bill. So, any other Member is at liberty to contribute. I see from the request list Hon. Daniel Maanzo, Member for Makueni.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Speaker for giving me an opportunity. Sorry I was sharing with Hon. Wamalwa the implication of this amendment. In my understanding, it is good because it is dealing with nomination of Members to the county assemblies. The practice has been when a political party meets a threshold somebody from another county - for example, Makueni County may get a nominee from another county like Garissa, Nairobi or even Mombasa. That person does not come from Makueni and may not know the implications of being there and the issues of Makueni end up sitting in the county assembly.

Hon. Speaker, what this new law is trying to do, although it is deleting quite a number of huge sections which were previously there, is limiting nominations to a particular county. So, if there are nomination slots to be given by a political party, using the party list that was presented to the Commission which gives priority to number one, two, three or four depending on the people who have been nominated in that county. Then, automatically that political party will restrict nominations to that county.

This section has been abused before and is seeking to balance nominations in a county. Again, the original idea was to acquire the two-thirds gender which has been done very well in the counties. This is the purpose of this law. Unfortunately, it has been abused while trying to top up gender. People from other counties are taken to places they do not know and the residents do not know them. Therefore, they have to learn how to live with them and the issues of that area so they can be effective in the county they are serving. This is a good amendment by Hon. Kioni and it will serve the purpose. It will improve our county assemblies and the nomination process so that patronage does not become the order of the day. The people in a particular area can then be served fairly if they have their own people topping up the gender, people with disabilities and special interest groups seats through the nominations at the county assemblies by political parties.

I support this great amendment. I am sure that this particular Committee and Hon. Kioni, who I cannot see in the House today because he is most probably campaigning, have thought of it very carefully. I believe he means well for the nation and he is going to make changes that are going to be positive and that particular section of law will no longer be abused by the political parties. I am sure and aware that a lot of people in politics are waiting for that particular moment while they are still in politics or happen to be very good friends with political party leaders or influential people in a political party. Their misconceived ideas are going to be curtailed by this law so that only the deserving people get the nominations in a straight forward manner and serve their people right.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker, for giving me the opportunity to contribute to this important Bill. The issue of nominating members to the

various county assemblies has always been a very big debate and that is why I laud the efforts of the Committee to bring some amendments that bring some semblance and order to the nomination process.

It has been part of our history that after every election we do a top-up and it has always come as a reason that some segments of the society are probably disadvantaged in terms of campaigns. Under the old Constitution, nominations were provided for top-up purposes. Hon. Speaker, the Constitution of 2010 brought in the issue of gender parity such that no single elective body should have more than one third gender.

Hon. Speaker, definitely and naturally, in many constituencies in many counties, women, youth and the disabled stand disadvantaged. This has normally been an avenue to nominate women, youth and the disabled persons so that their voices can be heard and presented in the various county assemblies. Therefore, the proposed amendment to the Election Act by the Committee is timely because it does two to three things at the same time: First, it entrenches the provisions in the Constitution that requires nominations to fill up so that we get the third gender rule and secondly, it gives right room for members to be appointed and nominated from the areas where they live, vote and serve.

Hon. Speaker, either by accident or by design, many party nominations end up being given to people or persons who do not belong to that particular Ward. It has been a practise and I hope that these amendments will cure these problems.

There have been very many complaints that because of friendship to party leaders, party functionaries or party machineries, they end up nominating persons purporting to represent a certain area yet they neither live nor vote there. A joke has always been said of Busia. As Members of Orange Democratic Movement (ODM) from Busia, we have always received a bashing for the fact we have always ended up appointing or nominating Members that are not residents of Busia to the Busia County Assembly. We hope that this particular amendment Bill will cure that anomaly, once and for all.

The amendment Bill needs to have a very clear criterion for nominating Members of County Assemblies (MCAs) because county assemblies remain the backbone of devolution. If we do not get the right persons to sit in county assemblies, we will continuously lose the gains envisaged under devolution. I take this opportunity to urge all party functionaries that abrogate or give themselves the duty to nominate persons to sit in county assemblies to do proper evaluation. It is a shame for a grown man to record that he is disabled yet he walks on two feet, to get nominated to a county assembly simply for the purpose of getting a salary and doing nothing.

It is on record some years back that one functionary from the once-roaring Simba Party nominated his two daughters to sit in the county assembly to the chagrin of everybody. I hope that such bad manners will come to an end. Everybody knows the Simba Party which has the symbol of a lion. I hope that over time, this Bill will cure that particular aspect.

I also propose an amendment to the Bill that party nominations lists be generated after the elections. Quite a number of very hardworking MCAs will lose elections, not because they have not done well, but because of party dynamics or some small issues here and there. We should not lose them for those reasons. I will also propose an amendment that if a Member of Parliament loses this election, instead of going to sit out in the cold, if he or she was an active Member in the House and gained experience, he or she should be allowed to go to the county assembly and provide oversight to ensure that devolution is working.

There are a number of people in this House from various parties who are already in trouble. We should find a way out because it now seems that even senior people will go down to occupy those positions.

With those few remarks, I support the Bill. I believe that during the Committee of the whole House, we will have an opportunity to make a few amendments to align the same with the reality on the ground and to make sure that we save and strengthen devolution.

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

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Speaker, for this opportunity. I also rise to support the Elections (Amendment) Bill of 2021.

This Bill is extremely important because it deals with the issue of nominations lists of party members. We are supposed to ensure that representative Houses of Parliament and our assemblies have all cadres of representation. In other words, we are supposed to have women, youths and people living with disabilities.

This new amendment Bill proposes that we also be considerate of regions. The proposal in the amendment Bill is that for someone to be nominated as an MCA in a certain county, they must be a registered voter in that county. That makes sense. The responsibilities assigned to an MCA, namely, oversight, representation and legislation are similar to those of a Member of Parliament. It is difficult for someone to be nominated to a county which is not their home and purport to represent the people of that county. It does not make sense. It also does not make sense for them to legislate on behalf of people who are not from their region. If you are nominated to a region that is not yours, you do not even know the problems of the people. So, what kind of legislation will you bring aboard that county assembly? Generally, what happens is that such individuals just draw a salary for five years and are a nuisance. We must also understand that cohesion has to be there and our county assemblies have a lot of dynamics. So, when you bring a stranger to an assembly - a person who does not speak their language or is not connect with the people, when the dynamics of that county are occurring this person will be unable to contribute to anything.

So, this is a very logical amendment to the Elections Act and I support it. I also urge my fellow colleagues to support it. Of course, there are other issues we have noted concerning elections. For example, the party lists are presented before elections. As my colleagues have ably put it, sometimes people who should be considered for nominations and be in the party lists, but had already declared themselves as candidates are locked out. This is because this list goes before the elections are done. So, going forward we might consider amending the Elections Act to ensure people who lose out in the party primaries for whatever reasons can also be considered in a later stage.

Hon. Speaker, I support and thank you for the opportunity.

**Hon. Speaker:** Hon. Wamalwa, I had given you jointly with Hon. Mbui.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Speaker. First and foremost, I want to thank Hon. Kioni for this amendment which is very critical because it is trying to operationalise Article 177 of the Constitution, in as far as membership of county assembly is concerned.

Article 177 (1)(b) of the Constitution gives provision for the membership of the county assembly through special seats which are supposed to be given for purposes of managing the two-thirds gender rule. So, that none of the gender goes beyond two-thirds. This matter has been abused. In many county assemblies, I have seen when it comes to nominations for example, you will find someone from Siaya County has been nominated in Kilifi County. This also happened in

Trans-Nzoia where the county assembly nominated a Member of County Assembly from Bungoma County.

The key functions of a Member of County Assembly are to legislate, represent and oversight. When it comes to oversight it should be in line with the relevant county. So, it goes without saying that it will add a lot of value if you nominate someone who is a resident and a voter in that particular county. This is because when it comes to matters representation each county has some unique cultural practices or its own traditions. So, you need somebody who will be able to represent effectively and is registered in that particular county. This has been abused mostly by party leaders because this issue cuts across all political parties.

This Bill is coming to heal, so in a given jurisdiction if they have a provision to nominate, they will only nominate one of their own. Somebody who is conversant with that county. So, when it comes to matters of representation, legislation and oversight they will be done effectively. Another issue that must be handled is people living with disabilities. This is because we have seen people from different counties being nominated to represent people living with disabilities in other counties. Yet, they are not known.

So, this will bring a lot of hygiene in as far as nominations are concerned. As we move forward, last week we had a meeting in Trans-Nzoia County with different aspiring candidates of Ford-Kenya Party and this matter that came up. They raised that some people are heavily involved in as far as matters of the party are concerned. Yet, when it comes to nominations, the party leaders including Hon. Wamunyinyi who is a party leader tend to nominate people from other counties maybe their relatives, girlfriends or boyfriends. So, this will solve a lot of problems.

Hon. Speaker, we had some time back wanted to propose that party lists be presented after elections as opposed to before. This was to ensure that when it comes to controlling the two-third gender rule, nominations can be given to those women who had attempted but lost the elections - the best losers. I remember Hon. Nyokabi in the last Parliament had proposed that and I do not know how that proposal disappeared.

Hon. Speaker, if you allow, we should find a way to amend it. If it is not going to be significant, then we will amend when it comes to the Committee of the whole House so that if possible, those party lists are presented afterwards. Political parties will then be able to reward those women who attempted to run in the elections and were the best in terms of losing instead of getting people from nowhere and they find themselves being sworn in. That will be a very good move and my brother, the Member from Siaya agrees with me that we propose that amendment so that party lists can come after elections. In this way, those women who played a big role and added a lot of value as far as campaigns are concerned can also be rewarded. They will then be able to present their cases effectively particularly when they come from their respective counties.

Thank you, Hon Speaker. I support.

**Hon. Speaker:** Member for Ugunja.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you very much, Hon. Speaker. From the outset, I wish to support the amendment Bill as proposed by Hon Jeremiah Kioni. I wish the House could pay some attention to the issues I am going to raise. It must be understood clearly that this top-up list or whatever we are calling the party list is not just about nominating women because it actually presupposes that either of the two genders can fall short of the one-third quantum in the respective assemblies. As we draw these lists, we usually craft them in a “zebra” manner; we have a woman followed by a man assuming that no one clearly knows the gender that will have fallen short of the requisite numbers in the respective assemblies.

Hon. Speaker, it is indeed true that this process has been abused considerably in the past and this Bill is attempting to cure this problem. The principle behind the party list is that political parties eventually nominate their preferred persons to these assemblies. The political parties are supposed to have latitude and leeway to determine who in particular they would want to be nominated in the respective assemblies. Therefore, it is also true that if we leave it open such that any person can be picked to represent a political party at any assembly, then there is a tendency for people to clamour or fight for the few chances that are available in those assemblies that are considered as lucrative and mostly in cities such as Nairobi, Mombasa, Kisumu and others.

This Bill is going to address that problem once and for all. For instance, if you are not a voter in the great County of Siaya, at no given time should you ever find your name in a party list of whichever party.

Secondly, it must be understood that the party has got the leeway to reward its registered members and that will depend on how it has performed. The determination of how many members are nominated by a political party to an assembly depends on how the party performs in the elections of that year. For instance, if you have a small party like Hon. David Ochieng's - I do not know where he is - and you end up getting zero seats or wards under your leadership in the elections, it clearly follows that you are not entitled to nominate a single person to the County Assembly of Siaya or any other county assembly for that matter. That creates parity, equity and rewards parties for their performance in elections. It also rewards individuals who belong to those parties for the good work they have done.

That is why I also agree with the proposal put forth by my colleagues, Hon. Maanzo and Hon. Wamalwa. We can still effect that through registrations. Those lists need to be presented long after elections when we are clear on the landscape of how each political party has performed and how hard its members have worked to deserve nominations to assemblies. That is very important.

Even as political parties present their lists of nominees to the Independent Electoral and Boundaries Commission (IEBC), it is important that we use that opportunity to enhance the capacity of the respective assemblies. As you know, the law currently allows any person with a minimum level of education to be elected as a Member of a County Assembly (MCA) or a Member of Parliament (MP). These party lists provide an opportunity for political parties to enhance capacity in the assemblies. They can choose to nominate people with requisite capacities and certain academic backgrounds and qualifications who can then go and add value in those assemblies. If long before elections you are presenting names of people who have similar problems to those being elected, what are you doing? Why not use that opportunity as a political party to pick the very best in all categories? Even among the disabled and the youth, there are people who are eminently qualified. Let us use this opportunity in the political parties' lists to enhance the capacities of county assemblies.

Finally, I am glad that we are debating this Bill early enough immediately after resumption from recess. It is my prayer that we can dispense with all these election-related Bills way before we finally break in June, so that the IEBC can put in place mechanisms to implement the proposals that we are passing in this House. Some of the proposals will be integral and important in the management of the elections of 9<sup>th</sup> August.

I am happy that the House Business Committee has prioritised this Bill and other similar ones that have something to do with the elections of August this year.

I support the Bill.

**Hon. Speaker:** Hon. Rasso, you had placed an intervention.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Speaker. I rise under Standing Order No.95. Considering the mood of the House and the fact that the speakers are unanimous about this amendment to the Elections Act, I request that the Mover be asked to reply, so that we move to the next Bill, which is also about elections.

**Hon. Speaker:** Well, Hon Members. You heard the Member for Saku, Hon. Rasso, rise in his place to ask that the Mover be called upon to reply. I have heard some murmurs from some of you. I have no way of knowing whether that is the mood of the House, unless I hear it from you. I am sure many of you can remember the famous words of Speaker William Lenthall spoken on 4<sup>th</sup> January 1642. So, Hon. Members, I will put the Question.

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

**Hon. Speaker:** Mover, Hon. Lentoimaga.

**Hon Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Speaker for giving me this opportunity. From the outset, I want to thank all the Members who have contributed to this Amendment Bill. This is because they have done what is required to ensure the Bill is well debated and passed.

I also want to thank the Committee Members who worked tirelessly and ensured we visited several stakeholders to get the necessary information and input on this Bill. I also want to appeal to Members now that we are almost at the tail end of our Session and obtaining quorum has been a problem. That, this is a critical Amendment Bill so they should turn up when the Question is put so we can pass this Bill without any hiccups.

I beg to reply.

**Hon. Speaker:** Order, Members! Hon Members, I will put the Question.

*(Question put and agreed to)*

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

**Hon. Speaker:** Is Hon. Wandayi here or he has gone out? He made some very passionate plea about election related Bills. Therefore, at the request by the Leader of the Majority Party and the Chairperson of the Constitutional Implementation Oversight Committee, I re-organise the Order Paper. So, the next Order shall be No.15.

Next Order!

#### THE ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL

**Hon. Speaker:** Hon Lentoimaga.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Speaker. I rise to move that the Election Campaign Financing (Amendment) Bill (National Assembly Bill No. 37 of 2021) be now read a Second Time.

Hon. Speaker, the Bill seeks to amend various sections of the Election Campaign Financing Act (No. 42 of 2013), in order to align its provisions with the Election Act, 2011 and further proposes amendments that will enable its full implementation. The Bill seeks to repeal the

provisions of the Act establishing the expenditure committee that is established by a candidate, political party or a referendum committee for the purposes of regulating spending by a candidate, political party or a referendum committee during the election period or referendum campaign period as the case may be.

The Bill seeks to repeal the provisions in the Act establishing the Expenditure Committee that is established by a candidate, a political party or a referendum committee for purposes of regulating spending by a candidate, a political party or a referendum committee during an election period or a referendum campaign period as the case may be.

The Committee observed that public funding of political parties alone cannot sustain campaign requirements of political parties and the candidates and thus it was necessary for candidates and political parties to raise additional funds for campaigns privately.

That it would be unfair for political parties or candidate to be required to raise money from personal sources and then require them to establish an Expenditure Committee consisting of third parties to manage and regulate their expenditures during election period or referendum campaign period.

The Bill proposes to repeal the Political Party Expenditure Committee, the Independent Candidate Expenditure Committee and the Referendum Expenditure Committee respectively. That the Bill further proposes to repeal Section 10 of the principal Act which provides the requirement of a candidate, political party and referendum committee to submit expenditure reports to the Commission containing all records of income and expenditure.

The Bill also proposes to repeal Section 17 of the Principal Act which mandates candidates or political parties to disclose any surplus campaign funds to the Commission and guides how the surplus funds would be applied. If you are raising money from your own sources including selling your assets like land, it would be quite unfair to bring a party from outside who might be infiltrated by your opponents. The Committee found the provision of the law above which requires a political party or Candidate, after the end of the elections to declare surplus funds and afterwards to surrender the funds to charitable cause untenable as most of the said funds are privately sourced.

The Bill further proposes to repeal Section 27 of the Principal Act which mandates the Auditor Controller General upon the request by the Commission to audit the accounts of the campaign expenses of candidates political parties or expenditure committees. This is because almost all the funds applied in the campaigns are privately sourced funds.

Hon. Speaker, the Constitutional Implementation Oversight Committee, in the process of going for public participation, interacted with IEBC, the attorney General, the Department of Justice, the Kenya Law Reform Commission, the Kenya National Commission on Human Rights, the National Gender Equality Commission, the National Council of Churches of Kenya, and the Inter- Religious Council of Kenya to hear their views. The Committee also at diverse dates undertook the hearings on the Bill in the counties of Nairobi, Nyamira, Bungoma, Homa Bay, Busia, Embu, Kirinyaga, Meru, Laikipia, Kilifi and Kwale.

Hon. Speaker, the Kenyan political environment requires that a candidate or political party venturing into elective politics should source for and have sufficient resources to sustain the campaigns. In most cases, the candidate is required to raise the funds from their own personal sources. These sources have even involved sale of assets like land by candidates in order to raise enough resources for campaigns. It therefore becomes hard for a candidate who has disposed of his assets to be required to establish an expenditure committee consisting of parties or persons who may not share the same ideals to manage the funds.

It will also ensure that the committees that oversee the expenditure of campaigns are removed from the principal Act. Hon. Speaker, with the competitive political environment, there is the risk of infiltration and undue influence from the members of the candidate, political party or expenditure committee by opponents. This will breach the trust between the candidate or political party and the expenditure committee members. I do not want to dwell much on this Bill.

I beg to move the Bill and request my Vice-Chairman, Hon. Kaluma, to second.

**Hon. Speaker:** Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you, Hon. Speaker. I stand to second the Election Campaign Financing (Amendment) Bill (National Assembly Bill No. 37 of 2021).

I have only two issues. This law is required to go into force at the beginning of this election. It requires that from the time of party primaries which are called nominations to even the time of the elections, the political parties, the referendum committees, all candidates of political parties and independent candidates must form a campaign expenditure committee which they should give all the money that they will use in the elections. There are regulations which were brought a short while ago. They were nullified by this Parliament on the recommendations of the Committee on Delegated Legislation. However, this provision still remains in the substantive law. If we do not act on it, it will enter into force beginning these nominations. That is why this Bill is very urgent.

Under this Bill, we propose to delete those requirements which are being imposed on all candidates of parties, political parties and the referendum committees whenever they are to form those expenditure committees. The principle is one. The campaigns for the political parties, independent candidates and political parties' candidates are not funded by the State. They are not public functions. If we allow this Bill to enter into force—and I am happy because it has become impracticable—it means that I can time the expenditure committee of my opponent, buy them out and they disappear. These are individuals' monies. This law, in the manner in which it is crafted, infringes on the right to property, including how you handle your money.

We will not remove the requirement that an individual can disclose, if required by the Independent Electoral and Boundaries Commission (IEBC), the accounts which he draws funds from. We are not enforcing the capping limits in law. However, we are making alterations also on the requirement that this expenditure should be audited. The constitutional mandate of the Auditor-General is to audit public funds, but not private funds. We are removing these expenditure committees because the Bill—though it seeks accountability—is based on the United States of America (USA) law where presidential candidates are funded by the public coffers. Those are the things that we seek to do. We are securing accountability. We are now leaving it to the IEBC. They can put in the electoral code of conduct a requirement that you disclose your accounts and they oversee them in the manner they can.

The other reason this law has been impracticable or impossible to enforce is the number of candidates. I am addressing Kenyans. The number of candidates even at the level of party primaries or nominations are thousands and hundreds of thousands. This is in respect of all political parties. Can our office of the Auditor-General audit all of them? Two, even if they do so with their skeleton staff, will they use public funds? We are deleting those requirements of expenditure committee. However, the financial caps for campaigns are still there as accountability measures.

With those few comments, I beg to second the Bill. I ask the Members to support it, so that we can expedite and cleanse that environment.

Thank you, Hon. Speaker.

*(Question proposed)*

**Hon. Speaker:** Member for Kabuchai.

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Thank you very much, Hon. Speaker for giving me the opportunity to give my views on this very important Bill.

When we make such decisions, we must first differentiate between public and private funds. When one looks for money to run his campaign, those are private funds. We do not have a central pocket in Kenya where all candidates draw money to use to campaign. If there are countries which contribute for you, you must declare the balance after the campaign. Again, the Bill does not understand or recognise that we have losers. When you lose an election and then they want to audit and tell you to declare how much you used, you are in pain for lack of money. You have lost money and then they want you to declare what is left in your expenditure committee.

As one Member put it very clearly, one does not need rocket science to finish you. He only comes and buys your expenditure committee and then it runs away with the money. This will bring more problems which we cannot manage. It is as well tedious. When does this law begin to work? Is it before or after nominations? If it is before nominations, we have thousands of candidates who will run as Members of the County Assemblies (MCAs), Members of Parliament, Governors, Women Representatives and President. The office of the Auditor-General does not have enough staff to audit every candidate and how much he or she uses. This is not right. It is only the candidate who is the vision bearer and knows his interest. You can have an expenditure committee that does not believe in your vision. They will abuse the funds that you intend to spend very well. This Bill gives a way-out. It is a strategic leakage that shows how much one has for this Budget. It depends on the constituency which you want to run. We come from different constituencies and demands. The one who runs for a constituency in Nairobi City County is different from the one doing it in Bungoma County. We cannot have a standard value or amount that you need for a certain area.

Thank you, Hon. Speaker. I support the removal of the expenditure committee.

**Hon. Speaker:** Member for Kitui West. She is not in the Chamber. Hon. Kimunya, Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I stand to support the Committee in this Bill which is not only very important, but also timely, especially given the season we are in and the contradictions that we have. We have a law, but we do not have regulations. We all know the history of that issue. It is the IEBC that delayed to bring the regulations. When they brought them, they were written in the wrong way and format. Hence, we have a law, but we do not have regulations. It could jeopardise the whole elections, and bring tension because people will be challenging those that have been elected claiming they did not have these committees yet the committees cannot operate without the Regulations. First of all, it is important that we tidy up our law. I want the Member for Kabuchai to know that in principle, the law is not bad. It is premised on the law that operates in the United States of America (USA). Unfortunately, we seem to have cut and pasted things to bring the USA law into Kenya without looking at what else needed to be done to align it with our local dynamics.

In the USA, any candidate running for a seat, whether as an independent or through a political party, is obliged to form what is called a political action committee. It is that political action committee that fundraises on behalf of the candidate and does everything for the candidate and even accounts for the monies. There are also restrictions as to how much any person can give. I believe right now it is \$2,900 that can be given by any one individual to a candidate. So, there

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are restrictions in terms of that. When that money is pooled together, you then use it for all matters to do with your campaign except for personal issues. This means you cannot buy your suits because you need to appear like a candidate and say people have fundraised for you. There are some limitations as to what you can use that money for. Contrary to what we are providing in our law, that account is never closed until you stop being a candidate. So, even if you lose or win in an election, so long as you are still desirous of running in the next election, you can continue keeping that committee. Unfortunately, in our situation, we had thought after elections, within three months, we must close this account and give the money to youth activities. What has my fundraising got to do with youth, women and the disabled? It does not make sense. That is why in our cut and paste, we never thought about some of these things because when people are fundraising, they will be fundraising for a certain issue. If I am fundraising for issues to do with Kipipiri, which is a potato growing area, I want people to see that if you help me, I will agitate for potato issues. A certain governor in Mombasa might be looking at the blue economy. I have Kipipiri Mountain and I will be looking at climate change. So, if I fundraise then agitate for climate change, then you tell me that after three months that that money should go to the youth, women and issues of disability, it will be a con and a fraud to the people who actually gave money for promotion of climate change issues in Parliament if their money is directed elsewhere.

This is timely. Much as this has been occasioned by the need to synchronise the law and Regulations, it also gives us an opportunity to sit back and say we need a law that will control electoral financing. We also do not want people receiving their money from some terrorist organisations or some undesirable activities that happen in the streets at night. Of course we are still a morally upright society. We want to know where you are getting your money from because whoever pays the piper is likely to call the tune when the person gets into the House.

That does not necessarily mean that we do it the wrong way and so I see this as an interim thing. Let us clean up, go back to default settings and then we sit in the next House early enough. For those who will be lucky to be here, look at what we need to do with our electoral financing. What mechanisms do we need to put in place? How do people fundraise? That is important.

We need to encourage the Kenyan people to fundraise for their candidates. Right now as a candidate, you fundraise for the people. You are forced to pay into every *harambee*, buy a cooking pot and a tent for every area, yet the people want you to represent them. The people do not own you. You seem to own them or you may have bought them through whatever gifts you have given them. When you continue on that basis, you will never get rid of corruption because we start corrupting our electorates through the demands they make of us.

In developed countries, it is the people who promote you to be a candidate and they fundraise for you. At some point they take some students to school to try to train them to become future leaders and politicians and they support them so that you then know that you belong to the people. They have sponsored you; they have a stake in you. In our country it is the reverse. We are taken through the wringer. By the time you are through, I am not sure if these committees will have anything anyway because of our nature. When you start disclosing to the committee that we have now fundraised Ksh10 million, you can be sure by the next weekend, there will be a whole pileup of people who have come to say they would also want to be part of ensuring that it is done so that at the end of it all, you may not even have any money to pay for your electoral expenses such as agents and all that.

I agree that we need to retain the issue of the need for disclosure of the amount and resources. It is important in terms of those expenditures like borrowed expenditure committees which were borrowed from the law in the USA. We can first of all put that on the back burner by

removing it from the law, then we will bring them properly when we know what we need to do for this country. Basically, most of the things are consequential amendments of removal of the committees. The committees have been on hold. There will be no expectations of what would be done on those committees in terms of audits and all that.

The rest is straightforward. I hope the public understands that this is not about us protecting ourselves; it is about ensuring that we do not end up complicating the electoral process with laws that as lawyers may say, *otiose*; not applicable and although they live, there is no environment for them to be alive. In that complication, we could end up with challenges with the litigation society that we have become what would only mess up the output of the will of the people that they have expressed on the 9<sup>th</sup> of August. So, I want to congratulate the Committee for having brought out some of these issues and ask Members that we fast-track this Bill. We do not want to discuss it so clear cut, we can fast-track it so that it can get to the Senate to do their bit. That way we can ease the burden on the electoral body so that they are not committing resources to start receiving reports on our committees and establishing who will go to Kipipiri to look at my committee even when the matter is overtaken by events. The earlier we can do it, the better as we move through this.

I can say it was a good attempt although poorly done in 2013. I wish I was there; we probably would have done it differently. It copies a huge percentage from the US law on this but without the necessary modifications for local scenario.

With those few remarks, I want to thank the Committee and ask that we support them in the passage of this Bill and we move on with life.

I beg to support.

**Hon. Speaker:** Member for Rarieda.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you Hon. Speaker. For some time, I have laboured assuming my card was showing only to discover it was not. I am glad that I am now visible.

I want to congratulate the Committee and to support this amendment Bill. In my view, the law as it is now is highly ambitious, fantastic and near utopic, especially in our circumstances where we do not have the necessary financial and legal infrastructural support for the kind of things that it provides for. I agree with the Leader of the Majority Party that in our circumstances, there is no point of making unenforceable provisions. For example, Section 7 that is to be repealed, makes provisions for a committee, assuming that the committee will work *pro bono*. The section does not even say who is to finance the committee's expenditure or emoluments. That is imaginary. No one will work *pro bono* in such circumstances.

Section 10 provides for political candidates to file a report with a political party. In this country, political parties are funded to a certain limited extent, mostly, by default. As at now, my party, Orange Democratic Movement (ODM) is owed almost Ksh6 billion. Even when they are funded, the political parties never fund the candidates. Why should I make a report to a political party that does not even give me a shilling? On what principle should I do so?

Hon. Speaker, Section 27 gives the leeway for the Auditor-General to audit even the expenditures of independent candidates. Imagine how many independent candidates we have from the level of Members of the County Assemblies (MCAs), Members of Parliament (MPs), all the way to governors and possibly even at the presidency. This section makes that provision without talking about who will fund the Auditor-General. As we speak, the Office of the Auditor-General (OAG) is underfunded and has to stretch to audit the public institutions under its charge. If you were to extent to this, their work will be diluted and impossible.

Hon. Speaker, I agree that we need to carry this along. However, in future, we will need to rethink how we want to regulate campaign financing. The model we have adopted so far is not suitable to our circumstances. The English used to say: Just like the English baobab, the English law has to be unique, you cannot just take it, supplant it and hope it grows.

My only caution to the Chairperson which I wanted to indicate in respect of the earlier amendment is that, the amendment on Section 16 reads: “A candidate, a political party and a referendum committee...” This is the language that has so far been adopted in the rest of the Act and also in the Elections Act. In the recent weeks, we just made amendments and provided for a coalition political party. As we are going to consider the amendments, let every such provision read “a political party or a coalition political party” to cover instances when it is not just an individual political party.

Hon. Speaker, with that, I support.

**Hon. Speaker:** The Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you very much, Hon. Speaker for also giving me this opportunity to contribute to this important Bill. I want to start by thanking the Committee for coming up with these important amendments, more so, bearing in mind that the regulations were nullified by this House. This means that there is the likelihood that some clauses were left hanging and unclear. The initiative to make this amendment is good and commendable.

As I support, I just want to make three observations. Firstly, I agree with those who say that financing of campaigns in this country is not a public function but a private function. Most of the people who aspire to be politicians in this country go out of their way to look for resources. Some will sell family property. Some will get loans from banks. Others will even fundraise among friends. That being the case, I do not see at what point the law would expect me to have my own private resources being managed by a committee. At the end of the day, this being my money, I should dictate how it will be used and who gets it. The fact that there is no public financing of campaigns in this country then means that these particular clauses are misplaced. That is why I agree with the Committee that we need to get these clauses out of this law until we get to the level where in a very structured manner, we can agree on how to conduct our campaign financing.

Secondly, is the issue mentioned by Hon. Otiende where the Auditor-General is expected to go out there and audit the accounts of independent candidates. Looking at the number of independent candidates and the many public institutions that the Auditor-General audits, I think we are expecting too much from this office. As a House, we are aware that the OAG is already underfunded and understaffed. We are creating a responsibility which cannot be implemented because of the numbers. The amount of money that majority of people will spend in campaigns is between Ksh10million to Ksh30 million. We are saying that the Auditor-General should set aside resources to come and look at my resources as an independent candidate where I have spent only Ksh10 million. At the same time, we still expect the Auditor- General to audit accounts of Kitui Central Constituency which has a budget of Ksh100 million yet their office is understaffed. We need to be serious with this law.

My humble request to hon. Members is that we support these amendments and look for a way of fast-tracking and passing this amendment Bill to an Act of Parliament. That way, we will be able to secure and achieve the objectives we are targeting. However, in future, we need to come up with another law. Hon. Kimunya has said that there was an oversight in 2013. Now, we are at a stage where we have learnt a lot and we are more experienced to craft a law that can help this country in the issue of campaign financing.

Hon. Speaker, with those many remarks, I support.

**Hon. Speaker:** The Member for Kwanza.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you very much, Hon. Speaker, for giving me the chance. From the outset, I want to support the Committee for coming up with this amendment Bill.

First and foremost, this is not applicable in this country. I have been in politics for some time and I have participated in five elections. This is not workable here. To me, whoever proposed these amendments is someone who does not know what happens. The proposed amendment is quite inadequate because, in this country, campaign funds are private. I raise money for my campaigns from my relatives, friends or even by selling some of my property, which has been the case all this time I have been in politics. Therefore, I run the risk by surrendering this to the committee.

Hon. Speaker, you know we are all corrupt in this country. People are corrupt. We have that problem with us in this country. Leader of the Majority Party, it is possible that somebody can come and buy your committee and then you have nothing when you have finished your campaigns.

**Hon. Speaker:** Hon. Wanyonyi, when you say you are all corrupt, it does not get this way.

*(Laughter)*

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): It is not with a light touch. It is on a serious note. We are trying as much as possible in this country to see how best we can run our country. But, there are people and elements. You can even bring in your brother who may sell you and you find that the funds are gone. What will you start with? This is an American philosophy. I do not think it is applicable here. In any case, you want to audit money that is personal. I think this amendment is correct and we should support it. Let us implement it as soon as possible, before we go for elections. The worst part of it is that, after you have raised money and there is a balance of Kshs2 million, Kshs3 million or Kshs4 million after you have finished elections, you will take it to charity. It does not make sense in this country.

Therefore, I think this amendment is quite good. We should raise and finish it so that we implement it before the next elections. I support the amendment.

*(Applause)*

**Hon. Speaker:** Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker, for the opportunity to contribute to the Election Campaign Financing (Amendment) Bill of 2021.

Politics is a game of competition. Politics requires amassing resources of different types and forms to campaign for elections. The idea of controlling campaign financing looks plausible, reasonable and most ideal the world over. For us as a country, we have no choice but to find mechanisms under which we can bring sanity into campaign financing.

There have been numerous complaints that money power, resource power, has enabled undeserving candidates to win elections. That is granted. Probably, those who crafted this Bill had that view – that it is important that we do not make money the primary consideration in electing persons into various positions in this country. However, a law should never be cumbersome. A law should not be onerous. A law should not be impossible to implement. A law should not stifle the election process. A law should not continue the disadvantage placed on some category of politicians or aspirants. What the law had provided was a discouragement to women, people of

low educational ability, people in the rural areas and people in informal sectors. Probably, these are people that are unbanked and it became practically impossible for them to participate in elections. It was going to make it even more expensive for them to mount an election campaign.

As my colleagues have said, it is practically impossible to ask somebody to become a member of a committee controlling millions and millions of money which he or she can see being transacted every day yet he or she is not paid for the services rendered. That, Hon. Speaker, is tempting somebody beyond reasonable scale. Therefore, the amendments being proposed in this Bill are timely. They need to be implemented immediately.

I sit in the Committee on Delegated Legislation. When the IEBC brought the Regulations pursuant to the existing Act, we looked at them and questioned them. On the face of it, it was not possible to implement those Regulations. Let us face reality: You have been in elective politics; some of us have been in elective politics for some time even though we managed to come here in 2017. Our announcement was postponed in 2013. Luckily, God's time is always the right time. It is an expensive undertaking. Many a times, you are unlikely to get benevolent benefactors to give you sufficient funds. You end up using your personal funds and family funds. Surrendering those funds to people in a committee that does not even understand how those funds have been acquired and giving them its management on your behalf is asking for too much.

When you look at the various amendments provided here, they talk about an expenditure account in the original Act. As I mentioned, many rural candidates would have no bank. That is why I ask the Committee to make sure that, when they go to Section 2 of the current Act, the issue of an expenditure committee is included amongst the clauses to be deleted in the amendment that provides for an expenditure committee opened by a candidate, a political party or a referendum committee. If we are dealing away with the management committee, we also need to expunge or delete the expenditure account. I also want to draw the attention of the Committee to the fact that we passed a law called the Public Collections Act in which we changed the definition of the word "Harambee". I can still see it being retained here. This will be the most opportune time to delete the same.

The proposed amendment to the party expenditure committee under Section 7 of the Act is acceptable. Section 8 on the expenditure committee is also acceptable. Section 9 on the referendum expenditure committee and submission of expenditure reports is also acceptable. In the 2017 election, before its implementation was postponed, we were forced to open these accounts. We were forced to form committees. We were forced to do so many things. I think this is actionable and it is at the right moment. Asking the Auditor-General to audit accounts of thousands and thousands of candidates who participate in any election is asking for too much. It is beyond the capacity, the call and even the remit of the Auditor-General. The Auditor-General is under no obligation to audit private funds. In any case, the Proceeds of Crime and Anti-Money Laundering Act is an adequate avenue to track down any illegal or illicit flow of funds during the campaign cycle. So, let the Auditor-General do the work he or she is supposed to do. If there is any complaint about excessive expenditure at any time, with the law as it stands now and the amendment speaks to it, nothing stops the IEBC from asking a candidate or a political party to explain their source of funds and determine how the same can be controlled. The provision to stipulate the capping still remains. So, the spirit of the Act remains. What has been deleted or is being proposed to be deleted are those cumbersome provisions.

As I conclude, Hon. Speaker, there is a presumption here that you have to use money to win an election. That is the spirit of the Act yet we know so many people and candidates, by the nature of how they presented themselves to the electorates, who generally spent very little money

or no money at all. I have a friend here, Hon. Mwirigi. He campaigned on a bicycle. You do not need much resources to change tyres of a bicycle. You do not need fuel to ride a bicycle. You can do that without money. Candidates have walked many times in the past, especially Member of County Assembly candidates. They won elections without expending money. We should get this notion out of our minds, that for people to win elections, they need money. I speak this for those aspiring politicians and candidates: Do not go out of your way to look for so much money to bribe voters. If voters do not want you, however much money you give them, they will not vote for you. That is the truth of the matter. I have a candidate in my constituency running for a Member of County Assembly (MCA) seat who has styled himself as XYZ *bila pesa*. His motto has gained traction and there are high chances that he will win that seat. Simply put, he is telling people that he has no money and they should vote for him for his credentials and the things he has done.

I want to encourage the candidates outside there intending to win elective positions to talk to the people and explain their mandates. They should tell them what they will do for them and, most importantly, project an image of a trustworthy and ethical person who believes in transparency and accountability and, respects electorates and other candidates. He should not be one who abuses and insults other candidates throughout the day.

Thank you, I support.

**Hon. Speaker:** Member for Igembe South.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Speaker. I rise to support the Report of the Committee on the Election Campaign Financing (Amendment) Bill. It is a timely Report. These coming elections will be complicated if we go as proposed by the IEBC. For this country to establish a finance procedure that can be followed to the letter, there must be a regulation law that will be followed. Currently, for the coming elections, candidates are funding their campaigns. Therefore, it will be difficult for the Auditor-General to audit accounts of candidates who aspire to vie for various political positions.

We want to have a law that aligns with the USA law. However, the USA law provides for other platforms that make it easy for them. For example, there are committees to conduct fundraising and to check on the candidates. There is a limit on the contribution towards a fundraising for a candidate. In this country, there is no law to limit financing of candidates. When candidates have a fund raiser for elections, there is no law to control the amount of money that will be raised for an MP, Senator, MCA or the President. There is also no law to control how much a person can contribute. It will be difficult and there may be a crisis. Candidates will complain if their accounts are audited. This law will enable us to have a smooth election without candidates complaining that they are followed by the Auditor-General and yet they used their money to campaign.

In this country, one can vie for any political position without spending a single coin. The IEBC arrangement will be cumbersome for such a candidate because he may only have funds to register as an independent candidate then proceed to sell his candidature and manifesto without using any funds. That is what we are supposed to encourage in this country so that we have leaders who are performance oriented. With that, no candidate will claim that they spent money to campaign and, therefore, they will siphon money to reclaim what they spent during campaigns.

In the next Parliament, we can improve this law. Electorates should be encouraged to elect candidates who have manifestos that are attainable and for them from the candidates who campaign for any position. It is right to support this amendment Bill proposed by the Committee so that the coming elections are smooth. In this country we have many politicians who have been in politics for long. They complain about auditing of their accounts and the sources of their campaign money.

If we have an existing law that will help to check the sources of campaign money, the work of the Auditor-General will be simple. I support this Bill and urge the House to support it so that this law can be in place before elections.

Thank you.

**Hon. Speaker:** Hon. Members, there are no further requests for contributions. Therefore, in keeping with our rules, the natural thing to do is to call upon the Mover to reply. Hon. Lentoimaga. Hon. Kioni is not keen in contributing to this one and as you know he is the originator.

*(Laughter)*

I think he is satisfied with what his successor has done.

**Hon. Alois Lentoimaga** (Samburu North, JP): Thank you, Hon. Speaker, for giving me this opportunity. I want to first thank Members. The Bill has been fast tracked. Because of the fast tracking, it is in order to thank them and it means the Bill is well understood. The Members who have contributed have done the necessary by hitting the nail on the head.

It is true that as we deliberated, the issue of the Expenditure Committee was misplaced. If you invite people who are not party to the resources that some of us are using to finance elections, then there will be fear of leaking of secrets. Election is a competitive exercise and politics is about keeping secrets and having intelligence. When you invite people who are not part of your election team, it is like inviting foreigners to your house. So, it is not good for the Expenditure Committee to be involved in private issues that concern finances.

On the issue of the Auditor-General, from my understanding, she should audit public funds only. When you invite her to audit private funds, it is not right. Maybe it is even illegal. We have also established that apart from not having enough resources to audit public funds, she does not have enough personnel. So it is quite in order to say that we do not need the Auditor-General to be involved in this matter. Furthermore, there are more than 10,000 people who compete for positions, right from Members of County Assemblies. I appeal to Members to fast-track this Bill, just like the previous one, so that we can pass it to become law before we conduct nominations.

I beg to rely.

**Hon. Speaker:** Very well. At least we are done with that Bill. Leader of the Majority Party, you are indicated as the person to move the other election-related Bill - the one that appears as Order No. 14. It is in your name. Or do we go back to the Order Paper?

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I would have wanted to move that Bill but the Chairperson of the Departmental Committee on Justice and Legal Affairs has asked that we allow him to present a report tomorrow. We can then consider the Bill immediately we receive that report. The Committee will table a report either tomorrow or Thursday. It is important for us to have the report.

**Hon. Speaker:** I cannot put the question on the Bill by Hon. Lentoimaga for the reason that the House does not have a quorum. Let us go back to the Order Paper.

*(Putting of the Question deferred)*

#### THE CHILDREN BILL

**Hon. Speaker:** Hon. Kimunya.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I want to ask for your indulgence to move this Bill while taking cognisance of the fact that the Committee is yet to complete its report. It is taking too long for the Committee to bring a report yet this is a very important Bill. If you are agreeable, I can move the Bill and we continue processing it while the Committee prepares a report before Third Reading.

**Hon. Speaker:** I agree with you. The Committee is taking forever. Is it the Departmental Committee on Labour and Social Welfare? Hon. Kabinga, Member for Mwea, started on a high note but now he seems to be overwhelmed. I will allow the Leader of the Majority Party to move the Bill and have it seconded, but we will not close debate at Second Reading so that the Committee has a chance to tell us what it is they have heard from the public. Proceed Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to move that the Children Bill (National Assembly Bill No. 38 of 2021) be now read a Second Time. The principal object of this Bill is to give effect to the provisions of Article 53 of the Constitution by making provision for parental responsibility, fostering, adoption, custody, maintenance, guardianship, care and protection of children. Secondly, it contains administrative and regulatory provisions regarding children's institutions. Thirdly, it establishes the National Council for Children Services, which will be the policy body responsible for supervision of planning, financing and coordination of child welfare activities in the country.

As Members will appreciate, the promulgation of the Constitution, which was billed as very transformative, set fast pace for far-reaching reforms in terms of policy, legislation and institutional frameworks necessary to implement those reforms. These were designed to meet the renewed aspirations and heightened expectations of the people of Kenya in the context of a very robust Bill of Rights. Although most of these reforms have so far been accomplished by the 11<sup>th</sup> and 12<sup>th</sup> Parliaments, issues to do with children were kind of left in the back burner. The Children Act of 2001 still remains the operating law under which matters to do with children are considered yet there are very progressive pronouncements in the Constitution on the same matters. The Act falls short of the constitutional standards for promotion and protection of children's rights. It poses major challenges to the full realisation of children's rights. It is in this sense that this noble legal instrument comes for consideration before the Floor of this House.

The pressing need for review of the 2001 Act to accord with the Constitution is anchored on a number of main issues that need immediate reforms as articulated in the Bill. These include the need to change the appropriate age of criminal responsibility of children to accord with the 1990 UN Convention on the Rights of the Child and the 1999 African Charter on the Rights and Welfare of the Child. These documents provide that the right age of criminal responsibility for a child is 12 years. Currently, the Act puts the age at eight years. An eight-year-old child is deemed capable of assuming criminal liability and responsibility and yet the world has moved the age to 12 years.

The other issue is the need to qualify inter-country adoption. For inter-country adoption to be approved by a court, the adoptive parents have to be either citizens of Kenya who are not ordinarily residents in Kenya or citizens of Kenya who have dual citizenship but are not ordinarily resident in Kenya. As such, an inter-country adoption can be allowed only if the adoptive parents are citizens of our great Republic. This has to do with preventing our children from being adopted for purposes other than being given parental care by people who are not Kenyans and who do not necessarily care about Kenya, but would be using Kenyan children for other issues. Several abuses have been cited including organ harvesting, sex trade, and other illegal activities.

This is one of the issues that has raised a lot of concern during public participation, and even within the Committee. By the time we finish this, I will be asking this House to re-look at the matter on adoption especially inter-country so that we tighten the conditions. Some people have even suggested that there should be no inter-country adoption without express authority at the highest level of the Presidency so that we make it a bit difficult rather than giving it to an institution or a CS. We should make it a bit difficult for people to take Kenyan children out there and once they have adopted them, we have no recourse in terms of getting them back. However, the person who authorises a Kenyan child to be adopted should be at a very high risk. We should therefore, set the threshold quite high. That is one of the issues that would be coming at the point of the Committee of the whole House at the Third Reading. I would like Members to concentrate on this date – adoption of children so that we know how to protect Kenyan children.

The other item is the need to update our standards and processes in respect to the foster care placements and indeed, in Section 172 of this Bill; it provides some overriding objectives of foster care to include protection, nurturing of children by providing a safe health environment with wholesome support to long-term parental care towards family reunification in the first instance, and by accommodating children in alternative safe environments and nurturing family relationships intended to last and promote growth of the children in family relationships in the context of Kenya's cultural ethnic and community diversity.

In addition to the objectives, this Bill importantly makes provision for parents who can qualify as foster parents. This is so that anyone who finds a child and decides to foster him or her, there has to be some conditions to ensure that that child would not be moving from the frying pan to the fire in the name of being fostered. It would also bring into issues the whole application process for foster care and the conditions set for that.

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

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

The fourth item that necessitates this Bill is the need to cure manifesting inconsistency within the Constitution. As you would know, it will introduce some new definitions, and diffusion definitions contained in Section 2 of the current Act to conform with the Constitution. It also makes reference to devolved units of service delivery which are the counties thus ensuring that recognition of the changes in our structure of governance owing to coming into effect of our 2010 Constitution.

This Bill makes some substantive improvement to several provisions of the Children Act, 2001 and in respect to Section 4 of the realisation of the rights of the child. It mandates the CS to undertake development, review an implementation of relevant policies, legislation, programs and actions to ensure realisation of the child's right.

In respect to Section 7, the Bill prescribes what shall be paramount consideration in all action and decisions affecting children, and provides a schedule containing a list of matters that must be considered by the public or private social welfare institutions, courts of law, administrative authorities or legislative bodies when taking actions or making decisions concerning children.

Hon. Temporary Deputy Speaker, the sum total of these provisions are a major significant improvement on matters necessary for consideration in respect to what is basically, referred as the best interest of a child.

The Bill goes further to set out the rights of a child in terms of protection from child labour. The proposed provision is a substantive enhancement of the current Section 10, and it prohibits with reference to children the issues of domestic servitude, the use, procurement, offering for slavery, practices similar to slavery, debt bondage, forced or compulsory labour, and provision of personal services by a child whether or not for gain.

We all know how our children have been misused. I am not sure whether we would have survived this law when growing up. Although, we have been providing that labour within a family background, we have also seen how children are being removed from schools to be given some cheap labour because they are cheaper to employ than the gazetted casual workers. This Bill will sort out that issue so that children below the age of consent should be in school. The Government has provided, and our Constitution has mandated it that that basic education be compulsory and free. Nobody hence has a reason not to be out of school. By the time they are finishing their basic education, they are about 18 years of age. This means they can now go and start working and be able to negotiate wages and all that. However, before that, they should not be used as houseboys or house girls by providing labour. We need to protect them within the framework of the law.

Section 20 looks at the protection of the child from abuse. It substantially, expands the scope of the current Section 13 of the 2001 Act by firstly, expanding the scope of abuse of a child to include subjecting the child to emotional and mental distress; and secondly, clarifying that abuse can be perpetrated by means of electronic systems, information communication technology, network or other communication technology and using terms in conformity with The Computer Misuse and Cyber-Crimes Act, 2018. These days, their toys of choice are mobile phones. However, people have also been known to pass within those gadgets material that could well pollute the minds of these children. It would become a crime because the children are going to be protected from any stress or distress that arises from interaction they have with material coming through the IT space.

The Bill further, goes to appreciate that there are instances that may require extension of responsibility beyond 18 years; and basically, expand the scope of Section 28 of the 2001, Act which includes special needs arising from severe disability or developmental disorder as one of the special circumstances that might justify the extension of parental responsibility beyond the age of 18 which is considered the age of the majority but that would be by an order of court.

Another very bold and potentially far reaching provision proposed in this is in Clause 93 of the Bill. This new introduction basically authorises the Chief Justice to firstly designate children's courts in counties and sub-counties by notice in the gazette and secondly, appoint a magistrate or magistrates to preside over cases involving children by notice in the gazette. Additionally, the Bill proposes the appointment of a registrar and deputy registrars to serve in these children's courts. This is certainly, a progressive proposal not only to ensure that issues to do with children are handled with care but it also seeks to reduce delays and gradual relief, especially in criminal related matters. It will also help to avoid the contamination the children are likely to have when they are bungled together with adults in the same courts and cells. We still need to protect them from that contamination.

The Bill makes a timely introduction in respect to a child in need of care and protection, such as the children we find abandoned in the streets. The Bill expands the provisions of the Children's Act, 2001 by including the following new categories of children as falling within the definition of children in need of care and protection: A child who is in a company of a parent or guardian who is detained, held in custody, imprisoned or in remand. The fact that the parent or guardian is held in custody should not make the child be an appendage of the parent in custody

and suffer with the parents. Instead, he/she should be considered as a child in need of independent care and protection. Right now you will find children in Langata Women's Prison. I have never understood how our ladies in a female prison end up getting children. Those children end up being detained within the prison system and yet it is not of their own making that they were conceived and born in such a situation.

The other situation is the child whose parents are unable to provide for him/her proper care and attention by reason of being intensely engaged in litigation of a custody, maintenance of other related family dispute prejudicial to the well-being of the child. So, as they are fighting over who takes the cat, the dog, house or cow, the children are left to suffer. We have seen lots of this. Unfortunately, this has not been necessarily confined to people of lower echelons of society. However, it has happened even at higher levels. We have seen very big families fighting over property and yet the children are languishing in hospitals. They cannot even afford to pay bills because it is not clear who should do it. Those are children who will be considered as requiring care and protection. It will also apply to a child whose parents or guardian is below 18 years. That child has nothing to do with the fact that the mother or father are below the age of consent. We cannot punish the child because of the sins of his/her parents.

The other category are children who have been subjected to forced male circumcision without their consent which has now been brought in because they require special care. A child whose life is in danger or whose security is threatened by a member of the family. A child who is a victim of human trafficking. A child who is kept in any premises and in the opinion of an authorised officer or a medical officer, is overcrowded, unhygienic or dangerous among other things. This list is quite exhaustive but it tries to capture all scenarios where children need to be protected because they found themselves placed there by circumstances beyond their control. Children do not have much control over their circumstances and hence it is only society that can protect them.

Like I said, the last amendment to this Children's Act was in 2001, this is 21 years down the line. Much work and consultation has been done. This is probably the Bill that has received the widest level of public participation. I attended one of those public participations because I really wanted to know what it was that people were discussing. You could see the passion that different stakeholders had on this matter. There were very many people who had something to say about children and their protection. Indeed, the last time I saw the list of the amendments, they were getting to about 300 pages. I asked the stakeholders that there is something called paralysis through analysis. We would also want to have the most ideal. However, what is ideal to one person may not be ideal to another. That is why there is all this protracted need and we are not even getting to finish this public participation.

However, we have to draw a line at some point and say: "Let us give to the Kenyan children a law that they will use for now." It can be modified in future as situations change but for now we know we already have a deficit but we have a law that is not in accordance with our Constitution. We have rights in the Constitution that cannot be operationalised because there is no enabling law and hence time is of essence. I am glad that the Hon. Speaker did not allow that we move this as we wait for the Committee Report.

This is because, Members of this House must pronounce themselves on these matters to do with children and bring this debate knowing also that we need to take it to the Senate. It will be unfortunate after waiting for 21 years, then this Parliament does not give to the Kenyan children a law that will protect them into the future. I would like to see that the 12<sup>th</sup> Parliament has delivered to the Kenyan people. I thank all these stakeholders including the current Chief Justice who has

been involved in the development of this law at different stages in her career. Even before she crossed to be Chief Justice, she chaired the Judicial Committee that was looking at this. The input has been very heavy in terms of what happened within the Judiciary on matters to do with children. The Child Welfare Society and the National Council of Children Services (NCCS) have been involved in this. The United Nations Children's Fund (UNICEF) have been a major player in this matter. Basically, all the organisations that have something to do with children have been very vocal in this. I thank them for their inputs in the development of this Bill.

It is a rather bulky Bill but for the long and short of it is basically the issues I have highlighted. I wish Members can familiarise themselves with this Bill and we get to add other improvements we have, to the work that has been done for the last 20 years by all these experts. Finally, bequeath the Kenyan children the protection they require within the law so that when we see any child out there, we can all say the Kenyan child is well protected within the law.

Hon. Temporary Deputy Speaker, as I conclude, I want to cite part of the wisdom of the late Nelson Mandela Madiba on this subject matter when he said:

“There can be no keener revelation of a society soul than the way in which it treats its children.”

I believe that is our clarion call that there will be no keener revelation of this Parliament than the way it will treat our children in this Republic.

With those few remarks, I beg to move and ask Hon. (Dr.) Otiende Amollo to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. (Dr.) Otiende Amollo

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Temporary Deputy Speaker. I beg to second this Bill.

In 2001, The Children's Act was a landmark. In the face of the Constitution of Kenya 2010, it became a mere beacon. It has become necessary to overhaul The Children's Act. That has taken us all 12 years. It is now time to settle on it and make such adjustments as would be necessary. As is clear in the memorandum of objects, the Bill seeks to align the Act with the Constitution of Kenya 2010, which made far-reaching changes to the rights of children and to reciprocal responsibilities that come with that. For example, what is in Clause 6 of this Bill is drawn directly from the Constitution. This is the right to a name and presumption of citizenship for children who are below the age of eight years. What is in Clause 7 of the Bill draws from the constitutional stipulation that the best interest of the child is always the overriding principle. What is in the proposed Clause 12 of the Bill speaks directly to what the Constitution provides as the right to free and compulsory basic education.

The entirety of the Bill seeks to align itself to the Constitution of Kenya 2010. It is timely, detailed and needs very deep and sober consideration. I urge the Members to really take a keen interest during the Committee of the whole House more than we do sometimes. It has very positive and far-reaching provisions that must be deeply considered. I am acutely aware of our timelines. We will deal with a lot of these issues at the Committee of the whole House. I reserve my liberty to make substantive comments and all amendments as may be necessary.

Hon. Temporary Deputy Speaker, I beg to second the Bill.

*(Question proposed)*

**POINT OF ORDER**

## DEFERMENT OF DEBATE

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): On a point of Order, Hon. Temporary Deputy Speaker.

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

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Speaker, I have listened keenly to the Leader of the Majority Party as he moved the Bill. I have also listened to the Secunder, and all of us agree that the Children Bill is important to the welfare of children.

*(Hon. Amos Kimunya spoke off-record)*

Wait. Do not worry. I will not kill you.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Do you want to kill people here?

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): I know his point of worry.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo, you do not have any plan to do what it looks like.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Speaker, I know that it was important for the Bill to be moved. The Leader of the Majority Party said clearly that the Committee has not presented its report because of the overwhelming interest in the Bill. Given our Standing Orders and procedure, after the few Members who have logged in or shown interest to contribute, you will then put the Question at the end of the Second Reading. My fear is that you will not have done justice to this particular important Bill.

I seek your indulgence and that of the Leader of the Majority Party. Is there anywhere in the Standing Orders where we can defer debate on this particular Bill to the time when the Committee will present its report? We cannot force Members of Parliament to sit in this Parliament to deliberate on important matters. I hope the electorate or constituents who have the issue of children at heart can see whether their Members are present or not. I seek your indulgence and that of any Member who is well versed with the Standing Orders. I know that Standing Order No.1 gives discretion for you to look at the matter. I want the members of the public to know that it is general apprehension that if we proceed as we are now, we will put the Question after the Second Reading and we will not be just to the children of Kenya.

I am ready to contribute. I have my points which I can contribute. However, my palatable fear is that this is an important Bill. I seek your indulgence and direction on how to proceed. Is there any way that we can defer debate until the time the Committee will present its report, and we incorporate all the stakeholders' views? Those Members who will stand to contribute will have the benefit of reading the Committee's report. We will have as many Members as possible debate or contribute on the matter so that we do not deal with it after the contribution of one or two Members who are seated here today.

Hon. Temporary Deputy Speaker, thank you for giving me an opportunity to raise that point of order.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo, you are a professor. You read my mind. Your request is very reasonable. Because we do not have the Committee's report, we will have as many Members as possible who want to contribute to this

Bill. However, the debate will remain open until the Committee tables its report. Afterwards, the Members will get another opportunity to contribute and then there will be a closure of debate. Your request is in order. It is considerate. I have agreed to it. The debate will remain open.

*(Hon. (Dr.) Wilberforce Oundo spoke off-record)*

You have the Floor of the House.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Speaker, I do not intend to contribute now. I will contribute after I reconcile my comments with those of the Committee. However, I commend you for exercising Solomon's wisdom. I hope that God will give more years or enough strength and energy to bring forth many children who will have the wisdom that you have.

Thank you, Hon. Temporary Deputy Speaker.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo, I saw the issue of children coming in. I could tell that it must end in your statement. Thank you for your prayers.

Hon. Members, there are a number of Members who want to speak to this. Before then, I would like to direct that we go back to Order No.5, because we have a Paper that has come and it is critical that it is tabled.

Proceed, Hon. Kanini Kega.

## PAPER LAID

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on its consideration of the First Supplementary Estimates for the Financial Year 2021/2022.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Do you have a Notice of Motion, which is Order No.6?

**Hon. Kanini Kega** (Kieni, JP): Yes, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let it be called out by the Clerk-at-the Table.

## NOTICE OF MOTION

### FIRST SUPPLEMENTARY ESTIMATES FOR 2021/2022

**Hon. Kanini Kega** (Kieni, JP): Hon. Temporary Deputy Speaker, I beg to give Notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the First Supplementary Estimates for the Financial Year 2021/2022 laid on the Table of the House on Tuesday 22<sup>nd</sup> March, 2022, and pursuant to the provisions of Article 223 of the Constitution and Standing Order No.243:

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Approves an increment of the total recurrent expenditure for the Financial Year 2021/2022 by Kshs125,070,384,778 in respect of the Votes as contained in the Schedule;

Approves an increment of the total capital expenditure for the Financial Year 2021/2022 by Kshs13,790,551,509 in respect of the Votes as contained in the Schedule;

Approves an overall increment in the total Budget for the Financial Year 2021/2022 by Kshs138,860,936,287 in respect of the votes as contained in the Schedule; and,

Resolves that the attached Schedule form the basis for the introduction of the First Supplementary Appropriations Bill, 2022.

I thank you, Hon. Temporary Deputy Speaker, and once again thank you for your indulgence.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Okay, Hon. Members, we will go back to Order No.10. We had Hon. Wanyonyi. Are you ceding your ground for Order No.10? I thought you had registered interest to speak. Hon. Odhiambo Akoth.

## BILL

### THE CHILDREN BILL

#### *Second Reading*

*(Hon. Amos Kimunya on 22.3.2022)*

*(Resumption of Debate interrupted on 22.3.2022)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Even though I have just walked in when you were dealing with the Children Bill, I need no introduction. I was one of the people who were involved in the development of the original Children Bill, and I had done quite a lot in regard to this Bill before I left the civil society to come to Parliament. As a matter of fact, I have a Bill, the Child Justice Bill, which correlates to a segment of the proposed Bill. Hon. Lillian Gogo also has a similar Bill before the House. So, I am not a stranger and I wish to indicate that I support the Bill, but with several amendments.

This Bill seeks to give effect to the provisions of the Convention on the Rights of the Child, African Charter on the Rights and Welfare of the Child, and all other conventions relating to children and protocols relating to children that Kenya is party to. It also seeks to give effect to the Constitution, because the original Act was enacted before the Constitution was promulgated, but now after the Constitution, this Act has not been in tandem with the Constitution.

I will just mention some of the positive things that I have seen as an improvement. One is, of course, the issue of inclusion of diversion. As much as possible, we are trying to divert our children from the justice system. The only challenge I have is that the issues of children in conflict with the law have been overly condensed in one small section. Therefore, some of the very significant principles around children in conflict with the law may be lost. The other issue that I think is significant is the age of criminal responsibility. It has been increased or has been proposed

to be increased from nine years to 12 years. That is very important, because you find a nine-year-old child is fairly young if you want to hold them criminally responsible for factors that we have caused sometimes because we have not given them direction or care.

There are many other significant issues that I think I will be happy about. However, I still have a quarrel with some of the issues in respect of this Bill. One of them is the issue of children born out of wedlock. As a woman who is married, I think if I was a selfish person, I should not be promoting this, because I am not likely to bring anybody a child out of wedlock. However, my family may experience a child born out of wedlock, but because of the best interest of the child, I still promote the best interest of children born out of wedlock. When I was in the Cradle Children Foundation, we took to court a matter that was challenging the then Section 24 of the Children's Act, which was discriminating against children born out of wedlock in the case of RM vs the Attorney General, where a two-year-old child was being discriminated by the biological father and was not giving her support. The courts made a distinction about differential treatment and discriminatory treatment and said they are two different things. I have seen that this Bill seeks to try and import those two concepts, getting confused in the process, but on the one hand, trying to make differential treatment a positive principle and at the same time making it a negative principle. We cannot have our cake and eat it. If we want to protect all children, we will protect even children born out of wedlock. I, therefore, will be bringing an amendment that is in tandem with the Constitution that protects children under Article 53 of the Constitution that protects children born out of wedlock. Therefore, there is no reason to start designating children that these are born out of wedlock and these ones are born within wedlock. They were not there when the two consenting adults were having children. They did not ask the child's permission to be outside the wedlock. So, once a child is born, we must take care of all of them. Therefore, I will be bringing amendments so that we take care of the children in the same way.

The other issue that I find problematic is the issue of adopted children. We are also trying to designate who their relatives are within the law. Once you adopt a child legally, that is your child. So there is no reason for us to start designating that this is your child up to this level. It is your child. If you do not want to adopt, do not. Once you adopt a child, they have all the legal rights that should accrue to any other child.

The other issue that I think is of concern to me is on the issue of custody and even the way we are defining legal custody. I will be proposing certain amendments in relation to the issue of legal custody and the way it is defined under this Bill. I may not go to every issue that is of concern to me, but one of the other issues that is of grave concern is the way we are defining intersex children. You discover that the way we are defining intersex children is discriminatory and stigmatising. The Kenyan Government has classified an intersex person, and there are laws that define an intersex person. What people need to understand is that an intersex person is not a transgender, neither are they lesbian or gay. He is a child who, through no fault of their own, has two organs, both male and female, occurring at the same time. We cannot call them as children with weird or problematic gender. It is not their problem. It is like the way you were calling people imbeciles and idiots before, which I have seen in one of the annexes or appendixes in this Bill. That is something that had already been amended in the law. People have mental challenges. They are not imbeciles and idiots, and neither can we call people by all these funny names. They are intersex, not these funny classifications that we are giving them. If you look at Clause 24(3), we are saying male/female and children with a disorder of sex development. They are not children with disorder of sex development.

The other thing that I am concerned about is in terms of the issue of definitions. We are making reference to a lot of things without making definitions in respect thereof. We are talking about cyber bullying, cyber stalking and a lot of criminal offenses relating to cyber, which is all very good, but I think we need to refer to them or define them in the Bill.

The other issue that I would want to say is that I know this was obtained in the old Act that we refer to the officers that check on children as approved officers. However, we should use a friendlier term like child welfare officers, not in relation to the Child Welfare Society, but because they perform welfare checks on children. Even if you do not want to confuse, we should call them welfare officers of children. The reason is because there is a negative connotation because of the children who are taken to approved schools.

The other issue of concern to me is the issue of sentences. The sentences are fairly lenient. I have proposed amendments, which I am going to send this evening, that seek to enhance some of the lenient sentences. I can see that my time is up, and because of that, I will be proposing my amendments at the Committee of the whole House, and they are quite a number. I know the Leader of the Majority Party would want to put this on the Order Paper of tomorrow, but because of the number of amendments we are proposing, he could perhaps consider putting them on another day.

With those few remarks, I support with extensive amendments.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Gogo.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you so much, Hon. Temporary Deputy Speaker. I appreciate the time you have given me to contribute to this Children's Bill. I think I should also be appreciated as one of the proponents of the introduction of the Children Bill. I worked on that Bill during this 12<sup>th</sup> Parliament. It was taken over by the Government such that it could not be brought in as a Private Member's Bill. It was then brought in through a Committee as a Government sponsored Bill. I appreciate the persons who have worked on it. The Bill I was working on even went through gazettment. All the same, we are using one stone to kill many birds. At the end of the day, the beneficiary of our efforts is the Kenyan child.

Allow me to support this Bill and the work that has been done on it by all the stakeholders that have made it possible for us to take care of, and think of the Kenyan child through legislation. That is the main work of the National Assembly.

As has been already been talked about by the Leader of the Majority Party, the objective of the Bill is to give effect to the provisions of Article 53 of the Constitution by making provisions for parental responsibility. I support this Bill because of what it has covered on fostering the children of Kenya, including adoption, custody, maintenance, guardianship, care and protection of the child. I am also impressed by the efforts that have been put in making administrative provisions for the regulation of children institutions and institutions mandated to cater for the welfare of the children of this country.

I have also looked at what the Bill seeks to do in establishing the National Council for Children Services, which is a policy-making body responsible for supervision of planning, financing and coordination of child welfare activities in this country. That had been done in a haphazard manner.

I also appreciate the effort that has been put in to make the Bill in line with the Constitution of Kenya 2010. We want to bring in the provisions of the Constitution of Kenya 2010 that had not been formally used to address issues of children, so that this Bill stays in line with the supreme law of the land. That is one of the reasons I rise in support.

If we look at the Children's Act of 2001, we want to particularly look at the need there is to change the age of criminal responsibility. That has already been talked about by my senior, sister

and mentor, Hon. Millie Mabona, as she talked about the need to look at the age of criminal responsibility of children in accordance with the 1990 UN Convention on the Rights of the Child, and the 1999 African Charter on the Rights and Welfare of Children. I am also impressed by the need to qualify inter-country adoption so that for them to be approved by a court, adoptive parents will have to be either citizens of Kenya who are not ordinarily resident, or citizens of Kenya who have dual citizenship but are not ordinarily residents in Kenya.

I also want to point out another good aspect of this Bill. It looks into or seeks to cure the manifesting inconsistency that is with the Constitution. It introduces new definitions and reviews. It also reviews the definitions contained in Section 2 of the current Act to conform with the Constitution. In regard to this, the amendment would really be very important to bring in the definition of what “in the best interest of the child” is. When it comes to making judgements in courts, litigation issues and everything is normally done in the best interest of the child. But there is no specific definition of “in the best interest of the child”. What is in the best interest of the child is most of the time left for the courts to decide. If we bring it into law and define what “in the best interest of the child” is, it is going to guide judgements, because it is going to be anchored in law. I am so happy about discussing matters that affect our children, especially by anchoring them in law and putting into perspective what concerns minors who are not able to be in this House to bring their agenda as we talk about it and bring in things that positively affect the Kenyan child.

I also rise to support this Bill as it makes substantive improvements on provisions of the Children’s Act, especially with respect to Section 4, which is on the realisation of the rights of the child. It also mandates the cabinet secretary to undertake the development, review, implementation of relevant policies, legislation programmes and actions to ensure the realisation of the rights of the Kenyan child.

I support this Bill in respect to what it does to Section 7, especially its prescriptions that there shall be paramount consideration in all actions and decisions that affect children in Kenya. It also provides a Schedule that contains a list of matters that must be considered by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies when taking actions or making decisions concerning children, especially the children of Kenya.

Another aspect of this Bill that is impressive is in respect to Clause 20, which is on the protection of the child from abuse. This Bill substantively expands the scope of Section 13 of the 2001 Act by expanding the scope of abuse on the child to include subjection of the child to emotional and mental distress. One of the main problems we have faced as a nation is the rate of suicidal cases among our children, paediatrics and children who are described or put under the category of children. More often than not, we realise that so many of our children in this country go through emotional abuse and mental distress. This has been well-covered by giving clear definitions. Also, this Bill has done clarification that abuse can be perpetrated by electronic means through information and communication technology systems. This Bill looks at networks or other communication technology systems that bring mental distress to our children. That has been well-covered. Also, the use or misuse of computer systems and even the Computer Misuse and Cybercrimes Act has also been nicely curved out as part of this Bill.

As I finish, I hope we are going to make necessary amendments and have this law to protect the Kenyan child.

Thank you so much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Shall we have Hon. Gichimu Githinji?

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute on the Children Bill 2021. I am very passionate about children matters. In my initial years of practice, I was in a law firm that was dealing with matrimonial and children matters and I saw the emotions that were at play when we were handling children's cases. I thank the architects of the Children's Act 2001, which is proposed to be improved by this Bill. Previously, children matters were under the Matrimonial Causes Act and Matrimonial Properties Act. So, it was difficult to separate issues of property, marriage divorce and children. After the enactment of the Children's Act, which made some strides in separating and improving issues of children from other matters, we have seen a lot of improvement in handling children matters.

This Bill, having perused several parts of it, seeks to improve the Children's Act, 2001. One of the areas that the Bill is seeking to improve is adoption. In the current Act, it is difficult to seek adoption orders. This Bill seeks to streamline and give proper procedure of adoption. I have participated in several adoption cases and they were difficult. I believe this Bill will make adoption easier and children will benefit from it.

Another area is the children's courts. In the current Act, there are no specifications on how children's court should be handled. This Bill proposes to introduce specificities that should be in a children's court, including friendliness of the court. Another important aspect is the introduction of a registrar of the children's court. Children's courts have been managed under other jurisdictions. The Bill separates the children's court from other courts so that administrative issues can be done without pegging hope on other registrars who are handling other matters. An area of the children's court that can be improved on this Bill through an amendment is the contradiction of Clauses 93 and 94. In Clause 93, the Chief Justice is supposed to gazette magistrates to preside over cases involving children in any area of the country. Clause 94 says that the magistrate in charge of a court station, his or her representatives shall preside over all cases involving children irrespective of the court's jurisdiction. In my own construction, I believe it is a contradiction. We should just have one clause that says that magistrates who are in charge of every court station should be the ones to preside over children matters so that we do not have a case of the same law saying that a person in charge of a court station and he is not gazetted can preside over children matters. That is something we can amend at the appropriate time. If the Committee will not propose that amendment, I will propose it.

Another area that has been improved is maintenance and responsibility towards children. The Children's Act 2001, is not clear. At times there has been wrangles in courts over who should take care of what. The Bill is clear and magistrates will have an easy way of adjudicating over children matters.

We have 251 clauses in this Bill. It may not be possible to ventilate on each clause of this Bill. By and large, it is an important Bill towards achieving protection and care of children in this country and protecting their interests.

With those remarks, I support.

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

**Hon. Stephen Mule** (Matungulu, WDM-K): Thank you, Hon. Temporary Deputy Speaker. First, I want to commend the drafters of the Children's Bill 2021. From the outset, I support the Bill for several reasons. The first reason is that the right to protect our children in the Republic of Kenya and to ensure that our young generation, which is the future of this country, is protected, is taken care of. It is important to know that parental responsibility is mandatory under this Bill.

We need to look at adoption. We know that the procedures to adopt children in this country are tedious. This Bill has properly taken care of the adoption process. The other thing, as my colleague has said, is custody of children. It has been taken care of. When there is a difference in a relationship or a marriage, the Bill ensures that the children are taken care of. There is maintenance and how to look after the children in the Bill. We also have guidance, care and protection of children and administration of children institutions in the country in the Bill.

This Bill is elaborate and it needs support from all of us, as Members. It contains related provisions on parental responsibility and extension of the responsibility beyond the 18<sup>th</sup> birthday of the children. The Bill is timely, considering the changes in the culture of our society that are brought about by the social media. The western culture is influencing the African culture. We are going to see how best we can protect our children and the youth from some of the practices being introduced through the social media, coercion, recruitment and being encouraged to adopt weird practices like gayism and lesbianism. I believe at the Committee of the whole House, we will sit down as Members of Parliament with lawyers to see how best we can protect the young ones. If you look keenly, some of the people who introduce this kind of culture to our young boys and girls regardless of where they come from, disregard the African culture. We need to do the best. I need to sit down with Hon. Gichimu during consideration of amendments at the Committee of the whole House to protect the young ones.

If somebody tries to introduce a culture which we cannot accept as parents, guardians and leaders in this country, how do we protect the Kenyan people? This responsibility squarely lies in this Parliament. As I said over the weekend in my constituency, we will be very firm to protect the youth of this country. Some practices being introduced to our youth are completely out of religious teachings, African teachings and normal practice of what we expect. I believe this Bill will carry all those provisions to make sure that we can protect the children and the youth in this country. The Bill establishes a National Council on the Rights of Children. It also provides for the role the county governments need to play. The county governments are supposed to administer all matters to do with children at the county level.

The issue of financial provisions for the council is well taken care of in clauses 53 to 63. The Bill provides for the appointment of a Director of Children Services to provide guidance to make sure that all the issues we are talking about are taken care of. Clauses 64 to 69 contain general provisions relating to children's institutions, including their establishment and governance structures. This is quite key because for a long time, we have seen several children's homes that are not well guided. We also do not know whether we can fund the homes through NG-CDF funds. After this Bill is passed, we will be able to fund these homes to make sure that the most vulnerable children can be put in places where they can be taken care of. There is provision for establishment of children's court. This is within the provisions of the Constitution. Children in this country need to have a court where their matters can be adjudicated. Sometimes it can be traumatising for young ones when their issues are discussed openly. When they grow up, they will not understand why they were born in such a cruel world.

The Bill also deals with maintenance and custody of children. Maintenance of children, especially those who live in children's homes, is not easy. They need care, clothing, shelter and love. Maintenance of young children is a responsibility of parents and the Government. There is the issue of the guardian who takes care of the children. We need to have clear provisions on guardianship. The same has been taken care of in the Bill. Guardians should know their responsibilities and boundaries.

Hon. Temporary Deputy Speaker, you need to add me a few minutes. This is a matter that is very close to my heart. I defend the voiceless. The issue of conflict in law is well taken care of in clauses 219 to 245. We need to make sure that conflict in law does not affect children.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Take one minute to conclude that thought.

**Hon. Stephen Mule** (Matungulu, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for adding me one minute. This is a good Bill that will protect the young ones in this country. It is very comprehensive. We will pass it before the end of this 12<sup>th</sup> Parliament. We will have done justice to the young people in this country. We are going to bring amendments to make sure that we protect children from homosexuality. We cannot accept those practices. It is high time we protected our children and the youth in totality. I thank Hon. Kimunya, the Leader of the Majority Party, and the Attorney-General's Office for a well thought out Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Hulufu Oda.

**Hon. Hassan Hulufu** (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this Bill. It is a very comprehensive Bill. It covers all areas which will help us as a country to take good care of our children. You will realise that our children are exposed to a lot of exploitation and abuses, sometimes, unfortunately, by their own parents and next of kin. This Bill will help us to deal with child abuse. For instance, when you look at child labour, you realise that children who come from economically disadvantaged homes are used to earn incomes for their households by working as farm helps or herding in pastoralist communities. In some instances in urban centres, for example, they are used to beg on the streets. With this law, we shall be able to shield our children from those kinds of abuses.

The Bill also gives effect to various constitutional provisions relating to children's rights such as the right to basic education. It highlights parental responsibility to enroll their children in institutions that provide basic education. It also provides for children access to social security. In situations where parents or guardians are not able to take care of their welfare, the Bill obligates the two levels of Government and other stakeholders to make provision for the same.

Hon. Temporary Deputy Speaker, if you look at the various provisions relating to the various rights, for example, to education, health, religious education, protection from child labour, issues of inheritance, and of children with disabilities, when it comes to children with disabilities, their rights to access basic education is minimal. We do not have special schools in most part of this republic, including the entire north and the upper Eastern, where I come from; Moyale to Isiolo, Wajir, Wajir and Mandera. It is only if the parents or guardians have the ability to transfer a child with disability to a special school in other parts of Kenya because these facilities are not available. However, with the passage of this law, I am optimistic that we can have it concluded and have it assented to before the end of this 12<sup>th</sup> Parliament. We shall be able to use it to make sure that the national Government, county governments and other stakeholders make provisions for institutions providing special education in different parts of our republic.

If you look at the right of children to picketing and protest, when kids observe certain things that happen in the environment, including at school, there is need to distinguish issues of indiscipline and genuine expression of concern. I am sure this law and other regulations which may come along with this law once it is passed will provide opportunities for our children to voice their concerns within some legal framework.

If you look at the right of a child to a name and registration of the same as the case is for special education institutions, the offices for registering children after birth, particularly in the north, are only found at the county headquarters. With the passage of this Bill, it will probably

help us, as Members of Parliament, using the NG-CDF to establish offices of registration of births and deaths in locations, and wards, so that these offices can then have personnel posted by the Director of Children Services so that the registrations can easily take place.

In the current situation, when children reach the age of enrolling in school and are required to have birth certificates, in most of our counties, we are either forced to pay *per diem* to the officers to go round and do some kind of mobile outreach or the parents are forced to travel many kilometres to county headquarters to access the services. I am sure given these challenges which we have, particularly those of us from the northern Kenya, this Bill will help us address such concerns.

The Bill is so comprehensive and bulky. I hope we shall have an opportunity to digest it appropriately, try and see to it that once it is passed, all the provisions relating to the enhancement of children welfare are going to be attained, including the issue of extending responsibility of parenting beyond the age of 18. There are children born with disabilities and, therefore, the attainment of the age of 18 may not be sufficient for them to lead an independent life outside the care of their parents or the guardians. Therefore, that provision is a good one.

With those few remarks, I would like to support the Bill, thank the drafters and hope that we shall conclude the debate and have it passed before the term of our current 12<sup>th</sup> Parliament.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall now have Hon. Sitienei Jepkemboi.

**Hon. (Ms.) Janet Sitienei** (Turbo, Independent): Thank you, Hon. Temporary Deputy Speaker. I wish to add my voice to that of my colleagues. Outrightly, I would like to thank the drafters of this Bill and all the stakeholders for bringing the Children's Bill 2021, which seeks to align the Children's Act with our Constitution, which is the supreme law. This Bill has a provision that seeks to protect the children and their welfare. Our children have a right to basic needs like food, shelter, and clothing, and this Bill is going to ensure that the welfare of our children is taken care of. It will also protect our children from harmful cultural practices.

I support this Bill because it contains provisions on parental responsibility, so that we can look at the children who have been left by their parents who sired them, but have not taken responsibility. This Bill is, therefore, going to seek parental responsibility and ensure that every child who has been sired must be protected by that parent.

I strongly support this Bill because it has a provision for extension of responsibility. We have a number of children who have disabilities that still go beyond the age of 18, and are subjected to a lot of abuse. I believe this Bill is going to help such kind of children. Most of these children, especially those who are mentally derailed and are living with disabilities are abused or taken advantage of when their parents are away. This Bill provides for safeguarding the interest of the child, as properly documented in the First Schedule and, therefore, it is going to give the child primary consideration, which is critical.

I, therefore, support this Bill because its passage will ensure that we have no or few street children. The Government is going to take responsibility in the provision of institutions to take care of these children. Most parents are hiding children who are living with disabilities in their households. They are never taken to school nor provided for and would, in turn, suffer to death. This Bill, therefore, is going to ensure that those interests are safeguarded. That is why I take this opportunity to support the Bill and thank the people who put it in place, including the Leader of the Majority Party.

Thank you for giving me this opportunity.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wangare Mwaniki.

**Hon. (Ms.) Wangari Mwaniki** (Kigumo, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

I rise to add my voice to this very important legislative framework concerning the vulnerable in our society. They say that the way to gauge the conscience of a society is to look at how they treat their vulnerable members. Our children do not have a voice, and most of them do not even know where they can run to for help. I am, therefore, very happy for the drafters of the Bill, and for Parliament rising to the occasion to provide and do their job, which is to provide the legislative framework to protect our vulnerable children.

The 2010 Constitution gave a robust Bill of Rights, but a lot was not done to give justice to our children. However, there was the mention of our children in Article 53, which this Bill seeks to expound on and provide a much deeper legislative framework to govern the way we treat our children.

Hon. Temporary Deputy Speaker, the Children's Act 2001 made an attempt to give a legislative framework to govern the way we manage affairs relating to our children, but this one is an improved version. It is going to give us a broader mechanism on issues to do with fostering our children, adoption mechanism, custody, maintenance, guardianship, care and protection. It will also provide the regulation mechanism and a legal framework, including the establishment of the National Council Children Services, which we believe would be a better body to take care of our children given the inadequacies of the Child Welfare Society at the moment. So, this Bill also recognises the two institutions of governance; the national Government and the county governments. It apportions responsibilities relating to our children to both the national and county governments

Equally, it has given detailed issues relating to criminal responsibilities, including provisions to the right of criminal responsibility of a child, which has been amended to 12 years. Issues to do with adoption have been thorny, where we have had no clear way. We have had people coming from abroad and adopting our children with no clear regulatory mechanism. This Bill disallows some of those previous abuses and provides who can adopt our children

Hon. Temporary Deputy Speaker, the Bill also provides the proviso for the cabinet secretary to undertake review, implementation policies and legislative actions even as changes in our society occur. As we develop with this type of information and age, our children get exposed to unnecessary materials or information that their minds cannot digest. This Bill is giving answers to those concerns. We know at times our children have been subjected to pornographic materials and violence from Information Communication and Technology (ICT) materials that affect their development. This Bill protects us and provides a legislative framework for which the rise of the children in relation to those kinds of issues are concerned

Another thing that the Bill seeks to provide and which I am very happy with, is on areas of emotional and mental distress. Many times our children cannot speak for themselves, and so they get depressed. However, we have not had mechanisms on how we can ensure protection of our children and ensuring that they are not subjected to mental abuse through cyber-crimes and information in this era of ICT.

I agree with my colleagues who have said that the responsibility of a child goes beyond the 18 years that the previous Bill had provided, particularly where a child takes time to develop, has development disorders or severe disabilities. The court can grant custody of such a child either to the parents or to a responsible body.

On the issue of children courts, this Bill has gone extensively to provide for designated courts and registrars to handle matters relating to our children, even in relation to children relief and criminal related matters. So, this Bill will be an answer to many of the issues that previously were a challenge to those taking care of our children.

The Bill has equally given provisions on how we can take care and protect our street children. A child is a child, irrespective of whether they are street children or from a normal home. They all deserve care by the society and the Government. So, this Bill is proving for what can be done in case there is a child who needs that care and protection. It provides mechanisms on how the Government can take care of them in a foster home.

The responsibility of the Bill rests on counties. It will ensure that some of the challenges we have been finding in the villages, where we have pure orphans, is dealt with. Most of our villages do not have foster homes where orphans can be taken care of. So, this Bill is giving answers to those kind of situations. As my colleague said, we will hope that even in devolved funds, including the NG-CDF, provisions can be made on how quick attention can be given when we need to take care of such children.

We know what has been happening to our children in human trafficking, issues relating to female genital mutilation (FGM), and all that. So, we hope that with the passing of this legislation, those issues will be addressed legislatively. Also, there will be institutional framework to take care of our children.

Therefore, with those few remarks, I add my voice and support the Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Njiru Muchangi.

**Hon. Eric Njiru** (Runyenjes, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this important Bill. I thank the Leader of the Majority Party, Hon. Kimunya, for this good job that has been done on the Children's Bill 2021. Children are our future. We have a duty as a nation, a Parliament and as a people, to protect the welfare of our children, so that we can live to see a better nation tomorrow. This Bill seeks to protect our children from exploitation, both sexual or in terms of labour.

I have gone to places and heard very sad stories of children who were sexually taken advantage of just because they were naïve, curious or disabled. However, we now have a Bill that will ensure that our children are not exploited sexually, or even by those people who want to acquire cheap labour offered by children.

This Bill seeks to enhance the role of parents in the welfare of our children. We know that there are parents who sire children and abandon them along the way at the point of birth or later in life, which is a very bad thing. Some of these children are very brilliant and deserve attention. They deserve love from both their parents. We have children who roam around in the streets, yet both parents are alive and present. This Bill seeks to protect the children and ensure that their parents take good care of them. They have a right to quality education and healthcare. There is no reason a child in this country should lack quality education. In most cases, you find that the children who come from very poor families sometimes struggle and lack school fees. This Bill seeks to ensure that none of our children lacks an opportunity to go to school or even attention whenever necessary, may it be healthcare or medication.

Hon. Temporary Deputy Speaker, our children also have a right to expression. You realise, especially in these modern days, that our children have opinions and ideas. They require attention. We need to encourage the habit of listening to them. Even though they may not be right every time, they require attention so that we can get along with them properly.

This Bill also seeks to protect our children from archaic cultural habits that demean them, including FGM. We believe that after the operationalisation of this Bill, our children will not be exploited or taken advantage of by those bad elements in our society. This Bill also gives both the county governments and the national Government roles that are clearly spelt out to ensure that the welfare of children is taken care of.

I hereby support the Bill and ask all the Members to support it so that we can build a better nation.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, there is no further interest in this Bill. However, I had earlier indicated that the debate will remain open until the Committee tables its report. Then we will still have further opportunities for Members who would like to speak to this important Bill.

Next Order!

## BILLS

### *Second Readings*

#### THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Chairperson of the Departmental Committee on Finance and National Planning. She is not present. The Bill is dropped. It will be re-scheduled by the House Business Committee (HBC) at the appropriate time.

*(Bill dropped)*

Next Order!

#### THE NATIONAL ELECTRONIC SINGLE WINDOW SYSTEM BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to ask that this Bill be stepped down to await the report of the Committee, which I believe is scheduled for adoption this weekend.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party, that Bill is stepped down.

*(Bill deferred)*

Next Order!

#### THE HUDUMA BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, for the same reason of the lack of a report, and the Members of the Committee not being here to give their views on this Bill, I ask that it is stepped down for now.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party, I agree that the Bill should be stepped down to give room for the report of the Committee.

*(Bill deferred)*

Next Order!

THE ELECTIONS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Temporary Deputy Speaker, we had already discussed this Bill with the substantive Speaker and agreed that we await the report of the Committee. Hopefully, we will get it tomorrow. If we do not get it, we will seek the indulgence of the House to start debate on it tomorrow. The Committee is working on it and I hope they will have the report tomorrow. In the meantime, we can step it down.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party, I agree that the Bill should be stepped down.

*(Bill deferred)*

Next Order!

THE ADVOCATES (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Did you read out Order No. 15?

**Hon. Members:** We considered it.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Okay. The Chairperson, Departmental Committee on Justice and Legal Affairs. He is not here. For the same reason, the Leader of the Majority Party will wait for the report of the Committee to be tabled first.

*(Bill deferred)*

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, there being no other business and the time being 6.07 p.m., this House stands adjourned until Wednesday, 23<sup>rd</sup> March 2022 at 9.30 a.m.

The House rose at 6.07 p.m.