

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 19th March, 2015

The House met at 2.30 p.m.

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

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:-
Mr. Elijah Memusi Kanchori.

Hon. Speaker: Order Members, you must welcome the new Member in the usual parliamentary tradition.

(Applause)

Yes, now you got it right. What you were doing earlier on was not the right way to welcome a new Member.

Hon. Members, those who are making their way in, please can you do it quickly so that we can proceed to the next business? Take your seats quickly, hon. Members. You can sit wherever you are.

COMMUNICATION FROM THE CHAIR

DEMISE OF HON. GRACE OGOT

Hon. Speaker: Hon. Members, on a sad note, I wish to communicate to this House the demise of hon. Grace Ogot.

The morning of Wednesday, 18th March 2015, was a sad day for the National Assembly and, indeed, the nation of Kenya. On that day, we lost one of our own, the most illustrious former Member of Parliament for Gem Constituency, the late hon. Grace Ogot. The late hon. Grace Ogot passed on at the Nairobi Hospital while undergoing treatment.

The late Grace Ogot was born in Asembo in the then Nyanza Province in 1930s. She went to Ng'inya Girls' High School and Butere Girls' High School. She then trained as a nurse at the Nursing Training Hospital in Uganda. Later, she worked in London before returning to Kenya in 1958 to work at Maseno Hospital. Besides nursing, she worked as a journalist with the British Broadcasting Corporation (BBC) Overseas Service, as a radio announcer and a script writer.

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The late hon. Grace Ogot demonstrated service to her country through her talent as a writer and is well known for her first book, the *Promised Land*, which was published in 1966. In 1968, her collection of short stories titled *Land Without Thunder* was published. Mrs. Ogot was recognized for her blossoming literary career and was named as a delegate to the United Nations General Assembly in 1975.

In 1976, she was named as a member of the Kenyan Delegation to United Nations Education, Scientific and Cultural Organization (UNESCO). She was also the founder of the Writer's Association of Kenya, and served as its Chairperson from 1975 to 1980. She was an extraordinary woman who pioneered women liberation in Kenya, as matters of the girl-child were close to her heart.

In 1983, she became one of the only handful women to serve as Members of Parliament (MPs) and the only female Assistant Minister in the then Cabinet. She was elected MP for Gem in 1985, after a two-year stint as a nominated Kenya African National Union (KANU) MP to become the second elected woman MP in Kenya, after Mrs. Grace Onyango.

The then President, His Excellency Daniel Arap Moi, later appointed her an assistant Minister for Culture. In 1988, she was reappointed to her ministerial position and elected as the Member of Parliament for Gem Constituency, a position she held until 1992. The late MP was the wife of renowned academician, Prof. Bethwel Ogot, and the couple had four children.

Hon. Members, on behalf of Members of the National Assembly and, indeed, on my own behalf, I wish to take this opportunity to condole with the family of Prof. Bethwel Ogot, the people of Gem Constituency, and all our friends for the loss of that champion of women rights and a prolific writer. May the Almighty God grant comfort to the bereaved family and give them strength to bear the profound loss.

May her soul rest in eternal peace.

In tribute to our departed former Member, I request that we all stand to observe a moment of silence.

(Hon. Members observed a moment of silence)

Thank you, Members. May her soul rest in eternal peace.

Before we go to the Next Order, I will allow a few minutes for a few hon. Members to state their condolences.

Hon. Abongotum: Thank you very much, hon. Speaker. I just want to remind you that this week we also lost the late Justice Kasanga Mulwa. The late Justice Kasanga Mulwa used to be a Member of Parliament for Kibwezi and also a retired Judge of the East African Community Court. Therefore, I do not know whether we will get communication on this sad matter this week or the next one. Will I be in order to suggest that we combine the two so that we can also pay tribute to the respected Member of Parliament as well as the Judge of the East African Court of Justice?

Hon. Speaker: Hon. Members, you may have seen at the entrance the photograph of the late hon. Justice Jackson Kasanga Mulwa; in appreciation of the fact that he too served in this august House for a period of about 14 years as a Member of Parliament. The Office of the Speaker has not received the usual communication. However, it is fair

that as I allow Members to condole with the family of the late hon. Grace Ogot; we could also give our condolences to the family of the late Justice Kasanga Mulwa, as we await formal communication.

Let us hear from the hon. Member for Gem Constituency.

Hon. Midiwo: Thank you, hon. Speaker. First of all, I thank you for your good words on our mother, Mama Grace Ogot, who was truly a humble person with an illustrious career, both inside and outside Parliament. It is a sad day for us. I take this opportunity to send my condolences to the family of Prof. Ogot. I also want to send my condolences to the family of Justice Kasanga Mulwa.

A month or so ago, I was sick and admitted at the Aga Khan Hospital in Kisumu. The late Grace Ogot was also in the same hospital. After a few days, I was transferred to the Nairobi Hospital, as she was also transferred to the same hospital and admitted in the same wing. At the top of that wing was Justice Kasanga Mulwa. Therefore, I had an occasion to visit both of them while I was there. It is sad that they did not make it. I thank God that I was able to come out of there. I know it is the will of God and may He rest their souls in eternal peace.

I send my condolences to my constituents. I can see one of them walking down. I send my condolences to them all.

Thank you very much.

Hon. Kemei: Thank you, hon. Speaker. On behalf of the people of Sigowet/Soin Constituency and students of literature and communication, I wish to send my condolences to the family of the late Prof. Ogot.

Parliament is a body made up of various professionals. We from the profession of journalism are proud that Prof. Ogot represented us very well in parliamentary duties.

I wish to recognise that.

Hon. Speaker: Hon. Daniel Kitonga Maanzo.

Hon. Maanzo: Thank you, hon. Speaker for giving me this opportunity. I would also like to send condolences to the people of Makueni where the late Justice Kasanga Mulwa was a Member of Parliament for 15 years. He was a lawyer and an advocate of the High Court of Kenya, who also became a judge of the East African Court of Justice (EACJ) and served Kenyans there for a long time.

I would also like to say that later on I took the seat of Kasanga Mulwa. His ancestral home is in Makueni Constituency. He is a highly respected former Member of this House. The people of Makueni remember him fondly after many years of service and especially for the bridges he built there. There are seasonal rivers which kept on sweeping people away. In fact, he did his first campaign using a Volkswagen Beetle which was swept away by one of the rivers for which he later on put up a bridge. Therefore, I wish to send my condolences as well to the people of Gem. I wish their families and the Member for Gem, who is next to me here, well during this time of grief.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Florence Kajuju.

Hon. (Ms.) Kajuju: Thank you, hon. Speaker. I also register my condolences to the family of the late Grace Ogot and the people of Gem. I appreciate that lady who set the path for the women of Kenya because she was a first. She did what she could for us to follow her vision.

I also pass my condolences to the family of the late Justice Kasanga Mulwa. Justice Kasanga Mulwa served in Meru County as a judge. He was a renowned judge. It is from Meru that he was sent to the EACJ. He was an able leader who led by example. May their souls rest in eternal peace!

Thank you, hon. Speaker.

Hon. Speaker: Hon. Christine Ombaka.

Hon. (Ms.) Ombaka: Thank you, hon. Speaker, for giving me this opportunity. I want to take this opportunity to pay glowing tribute to Mama Grace Ogot whom we dearly called *Nyar* Asembo. She came from Rarieda Constituency and was married in Gem Constituency. She was my representative in Parliament in the 1980s. She passed over power to my brother-in-law, the late Oki Ooko Ombaka. She left Gem a very well managed constituency. She cared for the children of Siaya as well as widows. She came up with a women group that was called Mabati Women Group whose aim was to build houses for women using iron sheets so that they could harvest water and would, therefore, not need to go to the river. She left a lot of development programmes in Gem. I want to take this chance to condole with the family. I hope that all of us here will appreciate the power of women, if they are given a chance.

Thank you very much, hon. Speaker.

Hon. Speaker: Dr. Pukose.

Hon. (Dr.) Pukose: Hon. Speaker, thank you for giving me this opportunity. On behalf of my people of Endebess and Trans Nzoia at large, I want to send our condolences to the people of Gem and Makueni following the passing on of Justice Kasanga Mulwa and hon. Grace Ogot. This is a lady of great literary repute. For us who did a bit of literature, we remember the books that she contributed for the development of English in this country. We shall really miss her. May her soul rest in eternal peace.

Thank you.

Hon. Speaker: Hon. John Munuve.

Hon. Mati: Thank you, hon. Speaker. I had the privilege to know Mama Grace Ogot and Kasanga Mulwa. Grace Ogot was a great fighter for freedom. I remember attending the United Nations (UN) General Assembly with her in 1997 in New York, at a time when Dr. Njoya had been badly beaten up at Uhuru Park while fighting for the second liberation. She stood firm at the General Assembly to condemn the act of beating up Njoya.

As for hon. Justice Kasanga Mulwa, he was a great man. My last professional interaction with him was when he worked as the Chairman of Wiper Democratic Movement Appeals Board in the just concluded elections. Those of us who know, it was a very difficult time. I would say that I owe my seat to Justice Kasanga Mulwa because, although I had won the nomination with 12,000 votes, somebody with 3,000 votes had been given the certificate. Kasanga Mulwa threatened to resign if I did not get my certificate given that all the results showed that I had 11,000 votes and the person who had been given the certificate had 3,000. So, I partially owe my seat to Justice Kasanga Mulwa. I also happen to have known him at the time he was serving in the EACJ in Arusha. I was then working for the Canadian International Development Agency (CIDA) in Arusha when he was sworn in. We have lost two great people.

I would also like to send my condolences to my people of Kamayaye who have lost four great sons in a grenade attack in Wajir in the last 24 hours. I have just come from Nairobi Hospital where the only survivor had spent---

Hon. Speaker: Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Thank you, hon. Speaker. I also wish to add my voice in sending condolences to the family of the late Grace Ogot. As has been said by hon. Jakoyo Midiwo and hon. (Dr.) Christine Ombaka, the late Grace Ogot was born in Rarieda and her father, the late Nyanduga, was one of the pioneer educationists in our constituency. More importantly, at one point - and most people do not remember - the late Grace Ogot sat in this Parliament with her younger brother, Bob Jalang'o, who was the first Member of Parliament for Rarieda.

Those of us who grew up admiring the Nyanduga family where the late Grace Ogot was born, remember her for her famous books: *The Promised Land* and *Land Without Thunder*. So, I take this opportunity to say fare thee well *Nyar Asembo* as you head to the "promised land", a "land without thunder."

I thank you, hon. Speaker.

Hon. Speaker: Hon. Soipan.

Hon. (Ms.) Tuya: Thank you, hon. Speaker. I wish to add my voice and join my colleagues in sending my sincere condolences to the families of hon. Grace Ogot and hon. Justice Kasanga Mulwa. On hon. Grace Ogot, she has been a trendsetter in honouring, respecting, promoting and guarding the rights of women of this country. Given that he was also a former Member of this House, I wish to urge my colleagues that the best way we can honour hon. Grace Ogot is by passionately and in a concerted effort support the two-thirds gender threshold as enshrined in our Constitution. It will take this nation forward.

On hon. Justice Kasanga Mulwa, besides being a serious and very renowned legal mind in this country, he was also a trendsetter in the promotion of quality education in this country. I am a beneficiary by extension. May the souls of those great Kenyans rest in peace.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Gideon Ochanda.

Hon. Ogolla: Thank you, hon. Speaker. I want to take this opportunity on behalf of the entire Bondo fraternity to send our heartfelt condolences to the family of the late hon. Grace Ogot and to the husband, Prof. Ogot. The two are great authors and teachers in this country. They were my teachers although I did not have the occasion to sit in their classes. However, I want to believe that they are great teachers who have taught me. The late hon. Grace Ogot was an author and we went through a lot of books that she wrote. Prof. Bethwell is still alive and God has given him the opportunity to be with us. We want to believe that God will give him strength as we take *Nyar Asembo* to her resting place.

May God rest her soul in eternal peace. Thank you.

Hon. Speaker: Let us have hon. Wandayi.

Hon. Wandayi: Thank you. I also wish to send my condolences to the families of the late hon. Grace Ogot and late hon. Kasanga Mulwa. I happen to have gone to school in Gem Constituency when the late hon. Grace Ogot was the Member of Parliament

(MP). That was between 1987 and 1990. I can attest to the fact that the late hon. Grace Ogot was a very generous MP and many a times, we would look forward to her visit to the school. That is because whenever she came, she could not leave without buying us loaves of bread. The late hon. Grace Ogot was the epitome of humility. Despite her many achievements in life, she did not forget the common person unlike many of our current leaders. She was somebody who was sociable and very generous. I remember the many development projects that she initiated in Gem Constituency such as the development of the great schools such as St Mary's Yala and Sawagongo High School where I went. I wish to condole with those families very profusely and pray that God may continue to help them during these difficult times.

Thank you.

Hon. Speaker: Let us have hon. Dennitah Ghati.

Hon. (Ms.) Ghati: Thank you. On behalf of the people of Migori County and on my own behalf, allow me to send my condolences to the people of Makueni and Siaya on the passing on of hon. Kasanga Mulwa and hon. Grace Ogot. As a young girl growing up through high school and university, I read a number of her books. Although I never met her physically, I read the great books that she authored. She was a great author. As a woman of this country, I know *Mama* Grace Ogot has been in the frontline in championing women and girls' rights. That is exactly what we do. As my colleague, the hon. Member for Narok has said, the only way to honour that lady is to ensure that the gains that we are making as a country - and especially the women - are not going to get lost; but those that we are all going to embrace in this House and move forward. In this House, we have discussed about honouring people who have gone before us. I want to ask this House to consider honouring people like the late hon. Grace Ogot and the late hon. Justice Kasanga Mulwa by erecting monuments, constructing and naming roads after them. That is the only way we are going to ensure that they are remembered. I wish to send my condolences to the people of Siaya and Makueni constituencies.

Thank you very much.

Hon. Speaker: Let us have hon. Rachel Nyamai.

Hon. (Ms.) R. K. Nyamai: Thank you, hon. Speaker for giving me this opportunity to join my colleagues in sending condolences to the people of Gem Constituency. I remember the late Grace Ogot through the stories which I read as a young girl and the efforts that she made towards empowering women in this country. I would like to remember her for being a literacy icon in this country and as a politician who was able to juggle between family, politics and also to remain as a professional; which is a challenge to all of us here. We need to ensure that we make contribution towards our political professionalism.

The late exposed Kenya to the world and showed the ability of Africans to be able to compete at world level. I would like to send my condolences to the people of Makueni Constituency. I remember the late hon. Kasanga Mulwa last year at the height of nominations, when hon. Munuve Mati called and told me that he was just about to lose his well earned certificate. I would like to say that, that is a person that we need to learn so much from, especially those of us who are leading political parties. It is important to be fair and honest and follow his footsteps.

Thank you.

Hon. Speaker: Very well. May their souls rest in eternal peace. Hon. Members, before we go to the next Order, I wish to recognise the following institutions sitting in the Speaker's Gallery: Magomano Girls High School from Nyandarua County and Kiganjo Secondary School from Nyandarua County. In the Public Gallery we have St Joseph's Gategi Girls from Embu County, Kipsaos Secondary School from Elgeyo Marakwet County, Githurene Girls from Embu County, Chua Secondary School from Machakos County and Kanyariri High School from Kabete in Kiambu County. You are welcome into Parliament. Next Order.

PETITIONS

REMOVAL OF CHAIRPERSON AND A MEMBER OF EACC

Hon. Speaker: Hon. Members, this is a Petition brought under Standing Order No. 225 which requires that the Speaker reports to the House any Petition other than those presented through a Member. I wish to convey to the House that my Office has received a Petition regarding the removal of the Chairperson and a member of the Ethics and Anti-Corruption Commission (EACC).

The Petition is signed by one Oriaro Geoffrey, stating that the Chairperson, Mr. Mumo Matemu and a member, Ms. Irene Keino, of the EACC:-

- (a) are in serious violation of the Constitution and the EACC Act, the Anti-Corruption and Economic Crimes Act and the Penal Code.
- (b) have shown gross misconduct in performance of their functions and duties as Commissioners, and
- (c) are incompetent in the management of the Commission.

In this regard, the Petitioner prays that:-

1. this House resolves that this Petition discloses grounds for removal of the named Chairperson and Commissioner under Article 251 paragraphs (a) (b) and (d) of the Constitution and
2. the National Assembly recommends to His Excellency the President to appoint a tribunal to investigate the named Chairperson and Commissioner in accordance with the provisions of Article 251(4) of the Constitution.

Hon. Members, in accordance with paragraph 3 of Standing Order No. 230, this Petition shall now stand committed to the Departmental Committee on Justice and Legal Affairs for consideration. The work of the Committee is to guide the House, by way of a Report, on whether the Petition satisfies the grounds for removal of a member of a Constitutional Commission as set out in Paragraphs 1 and 2 of Article 251 of the Constitution. The Committee has 14 days within which to submit a report to the House as required under Paragraph 4 of Standing Order No. 230.

Further, once the Committee tables its Report, the House will have 10 days to decide whether or not the Petition contains valid grounds for removal of the Chairperson and Member of the Commission.

I thank you.

Hon. Speaker: Hon. Maanzo, do you have a point of order?

Hon. Maanzo: Yes, hon. Speaker, under Standing Order No. 226, where you may allow a comment.

Hon. Speaker, I would like to state that the matter that has been brought to the House through the Petition is also said to be pending in court. Therefore, the Committee that you have committed the Petition to will have to verify that information in the first instance. Proceeding with the matter when it is in court would be contravening the law.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Maanzo, the Office of the Speaker may not be in possession of certain information that you have. If you appeared before the Committee, you can raise the issue that you have just raised. This kind of petition is not in the category that hon. Members would be expected to make interventions at this stage. However, you are absolutely right to go and raise those issues with the Committee, so that the Committee can address them. I am sure that the Committee is comprised of Members, many of whom are in your profession. They should be able to address the issue that you have raised. I do not want you to comment on it at this stage because I will be prejudicing what you are likely to do in the Committee.

Yes, hon. Jessica Mbalu.

DISPUTED OWNERSHIP OF TISYA PRIMARY SCHOOL LAND

Hon. (Ms.) Mbalu: Hon. Speaker, I have a Petition that has been approved by your Office on the dispute of ownership of Tisya Primary School land, Plot No.280, Makueni/Masongaleni Settlement Scheme.

I, the undersigned, on behalf of the residents of Masongaleni Ward of Kibwezi Constituency, draw the attention of the House to the following:-

- (i) THAT, Tisya Primary School, located in Masongaleni Ward in Kibwezi Constituency, is built in Makueni/Masongaleni Settlement Scheme;
- (ii) THAT, the school has been in existence on the said parcel of land since 1996;
- (iii) THAT, the first KCPE examination was done in 2003 and the school was officially registered with the Government as a public school in 2009;
- (iv) THAT, in a letter dated 23rd November, 2012 to the school, one Phillip Mutiso Makau, through M/s Wambua, Kituku & Company Advocates, has claimed ownership of the piece of land on which the school stands;
- (v) THAT, the said Phillip Mutiso Makau holds a title deed to the said parcel of land, which was issued way after the land was set aside for public utility after the school was built and operationalised;
- (vi) THAT, Phillip Mutiso Makau has gone ahead to cultivate the entire parcel of land occupied by the school - including toilets - and put it under cultivation furrows and he persistently roams around the school threatening pupils and teachers, thus resulting to parents withdrawing their children from the said school, posing a threat to the closure of the school;
- (vii) THAT, the school has dug a well, which is the only source of water to over 1,000 families living in the area;
- (viii) THAT, losing such property to a private developer would severely prejudice the local community as it will impede access to education and clean water and would, generally, affect the livelihoods of the said community;

(ix) THAT, in a letter dated 24th July, 2009, addressed to the Ministry of Education by the Ministry of Lands, Urban Development and Housing, the District Land Adjudication and Settlement Officer in Kibwezi acknowledged that the school was built on the disputed plot and stated that the plot was owned by one Ainsworth Matheka Kioko, an unknown person in the school; and,

(x) THAT, issues in respect to which this Petition is made are not pending before any court of law or any constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Lands, intervenes to establish the *bona fide* owner of the said land.

Hon. Speaker, your Petitioners will ever pray.

Hon. Speaker: Hon. Mwinyi, what is your point of order?

Hon. Shimbwa: Bw. Spika, naomba kukueleza kwamba nilileta Petition Bungeni mwezi wa September, 2014 kuomba ardhi ya Serikali kwa sababu ya sehemu ya uwakilishi Bungeni ya Changamwe lakini, mpaka sasa, Kamati ya Ardhi haijatoa jibu. Zaidi ya miezi mitatu imeshapita sasa. Kwa hivyo, nakuomba uishurutishe Kamati ya Ardhi iwajibike na kuwatendea haki wakazi wa Changamwe.

Ahsante, Bw. Spika.

Hon. Speaker: Hon. Members, there are matters which can be dealt with administratively. I am assuming that you can write a formal letter of complaint, so that we can respond to it.

Yes, hon. Mwiru!

Hon. Mwiru: Mhe. Spika, namuomba Mheshimiwa mwenzangu aweze kufuatilia yale ambayo yanazungumziwa Bungeni. Ripoti ambayo anadai kwamba Kamati yangu haijaweza kuifanya, tayari tumeiwasilisha katika Meza ya Bunge hili.

(Applause)

Hon. Speaker: Hon. Munyi, be attending the Sessions of this House more regularly so that you can know what is happening in the House. Now, you see! Your Report has been tabled and yet you are not aware. Are you going to deny that it has not been tabled, in all fairness? I would want to agree with the Chairman of the Committee on Lands that the Member raising the issue should pay greater attention to the business of the House, so that you may know if a Report has been tabled.

More importantly, reports of petitions that come through individual petitioners are usually sent to those petitioners, if they do not come through a Member of Parliament. They are sent to the petitioners in the hand of the Clerk of the National Assembly. With regard to your Petition, hon. Mwinyi, since you say that you are the one who brought it to the House, the Chairperson has said that he tabled the Committee's Report. I recall that he tabled many reports but it is not my business to know which specific one has been tabled. Like yesterday, the Chairman of the Committee on Transport, Public Works and Housing tabled eight Reports. Therefore, it is the business of the Members who had petitioned the House to go and read those Reports and make sense of the Committee's resolutions. Thank you.

Next Order!

PAPERS LAID

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

The Public Finance Management (Equalisation Fund) Guidelines, 2015

The Performance Report of the Independent Policing Oversight Authority for the period of January-June, 2014, prepared pursuant to Section 30 of the Independent Policing Oversight Authority Act, 2011.

The Annual Report and Financial Statements of the Kenya Institute of Curriculum Development for the year ended 30th June, 2013.

The Report of the Auditor-General on the Financial Statements of Prisons Industries Fund for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of National Authority for the Campaign Against Alcohol and Drug Abuse for the year ended 30th June, 2014, and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Export Promotion Council for the ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Jomo Kenyatta University of Agriculture and Technology Enterprise Limited for the year ended 30th June, 2014, and the certificate of the Auditor-General therein.

Thank you, hon. Speaker.

Hon. Speaker: In fairness, Members who have interest in Public Finance Management (Equalisation Fund) Guidelines, report to the Committee on Delegated Legislation. I would advise Members who have raised issues about this to really pursue what that Committee will be deliberating on. The Chairperson, Committee on Regional Integration, the Floor is yours.

Hon. (Ms.) Kajuju: Hon. Speaker. I beg to lay the following Paper on the Table of the House, Today, Thursday, 19th March, 2015:-

The Reports of the Select Committee on Regional Integration on:

The Nordic East African Community Trade and Investment Conference, Gavle, Sweden from 27th -28th May, 2014; and,

The Benchmarking Visit to Canada from 11th - 15th June, 2014.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Members, before we go to the next Order, allow me to recognize students seated in the Speaker's Gallery from Longisa Boys High School, Bomet East Constituency.

Next Order!

NOTICE OF MOTION**CENSURE OF SPEAKER JUSTIN MUTURI**

Hon. Musimba: I thank you, hon. Speaker for giving me this opportunity. First I want to extend my condolences to the people of Gem through hon. ---

Hon. Speaker: Hon. Musimba, this is the time for notices of Motions. Proceed to do that.

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

THAT, pursuant to the provisions of Standing Order No. 87(1) and noting with concern that the Speaker of the National Assembly, hon. Justin B. Muturi, EGH, MP has and continues to degrade the character and the ability of the hon. Members of this August House through making of contemptuous, malicious, and unfounded allegations against them; aware that the said allegations have eroded the collective dignity, esteem and honour of Members of Parliament in and out of the House, concerned that the Speaker in so doing has failed in his constitutional duty to protect the dignity, honour and integrity of Parliament and specifically the National Assembly; this House expresses its displeasure and disappointment with the conduct of the Speaker and censures him.

Thank you, hon. Speaker

(Applause)

Hon. Speaker: Hon. Members, hon. Patrick Musimba has today, as directed, complied with the provisions of Standing Order No.87 and, as I promised yesterday, I direct that in keeping with practice, this Motion will be the only business to be transacted by the House for a period of not less than three hours on Tuesday, 24th March, 2015.

(Applause)

Hon. Speaker: What is your point of order, hon. Kamama?

Hon. Abongotum: On a point of order, hon. Speaker, considering that this matter is so weighty in this House, would I be in order to actually demand that this issue be debated today, we dispose it off now so that we can finish this business once and for all. We want to do it now!

(Loud consultations)

I can be seconded by my Chairman here.

Hon. Speaker: Hon. Asman Kamama, we have considered this matter and were it not for the fact that our standing Orders demand - and specifically Standing Order No. 87(1) - that the Mover be permitted a lee period of three days, I, personally would have been quite comfortable to have the Motion debated today. Standing Order No.1 does not apply where there are clear specific provisions of the Standing Orders. It only applies where there are no provisions on the same matter. However, it is also fair that the Member be given sufficient time to collect material that he may wish to use.

Hon. A.B. Duale: Hon. Speaker, you have said it very well. We do not want to break our very own Standing Orders which are very clear and explicit. From the day that type of a Motion is moved, it takes us three days and that should takes us to the next sitting of the House on Tuesday, which will give some of us time to know the reasons and the people behind everything. On Tuesday when we come, we can debate from our conscience. We need to give everybody time, all the 349 Members because it is in the

Standing Orders. Standing Order No. 1 cannot be used because that is the only weapon of the Speaker. The matter we are discussing touches on the Speaker. Again the Speaker cannot use his own veto which is Standing Order No.1 to bring the debate forward. However, I am sure every Member is entitled within the Constitution and Standing Orders to bring up any matter. The people of Kenya have given us the powers even to impeach the President, Deputy President and Cabinet Secretaries. The only person you cannot impeach on the Floor is the Leader of the Majority Party because he will go back to his coalition. They will remove him in a PG and that is the right direction hon. Speaker. I want to thank hon. Musimba. You have not committed any crime. You have done exactly what the law provides for you. Hopefully, we pray that we all come back on Tuesday and we have the three hours to deal with it.

Thank you, hon. Speaker.

Hon. Speaker: Very well. Hon. Members, let us not debate because there is nothing to debate about. The Motion will be there on the Order Paper on Tuesday. It is perfect. He has processed it correctly. I am satisfied myself that it is in order. I am sure that everybody understood what he read.

Hon. Speaker: The Leader of the Majority Party.

BUSINESS FOR THE WEEK COMMENCING
24TH TO 26TH MARCH, 2015

Hon. A.B. Duale: Hon. Speaker, pursuant to Standing Order No.44(2)(a), on behalf of the House Business Committee, I rise to give the following Statement regarding the business appearing before the House the week beginning Tuesday, 24 March, 2015.

On Tuesday minus the three hours you have allocated for that Motion, scheduled are several Committee Reports including:-

1. The Special Report by the Public Investments Committee on the Recapitalisation and Balance Sheet of Telkom Kenya Limited.
2. Report on the Departmental Committee on Finance, Planning and Trade regarding the privatisation of the Public Sector Owned/Controlled Sugar Companies and;
3. Report of the Fifth Ordinary Session of the Pan-African Parliament and the Annual Speaker's Conference, 2014

Further, in the event of the consideration of the Committee of the whole House on the Protection Against Domestic Violence Bill, 2013, and the Public Audit Bill, 2014; if not concluded today, then it follows that these Bills will also be put down for Tuesday next week.

Hon. Members, please, note that the Public Audit Bill, 2014, has a constitutional timeline which we extended to 27th May, 2015. The Bill concerns county governments – and I hope the Senate is hearing me - thus it will require consideration by the Senate.

The House Business Committee is of the view that we should conclude deliberations on this Bill and the Public Procurement and Assets Disposal Bill, 2014 by the end of this month, before we go on recess to give the Senate time to consider them.

On Wednesday morning, priority will be given to the following Private Members Bills. These includes:-

1. The Retirement Benefits (Deputy President and Designated State Offices) Bill, 2013 if the Budget and Appropriations Committee will have concluded the outstanding issues.
2. The Traffic (Amendment) Bill, 2014 and;
3. The Alcoholic Drinks Control (Amendment) Bill, 2014.

Once these Bills are concluded, we shall continue debate on Members Motions. Also to be considered for Second Reading next week is the Division of Revenue Bill, 2015 and Fair Administrative Justice Bill, 2015. The Division of Revenue Bill must be passed by the two Houses by 31st March, 2015. Other Bills and committee reports will also be slotted for consideration.

Regarding the Cabinet Secretaries appearing before the Committees on Tuesday 24 March, 2015, the schedule is as follows:-

1. Cabinet Secretary for Agriculture, Livestock and Fisheries at 10.00 a.m. before the Departmental Committee on Agriculture, Livestock and Co-operatives to answer questions from hon. David Wekesa, hon. John Kobado and hon. Opiyo Wandayi.
2. Cabinet Secretary for Lands, Housing and Urban Development at 10.00 a.m. before the Lands Committee to answer questions from hon. S.S. Ahmed, hon. Aramat Lemanken and hon. Irshadali Sumra and;
3. Cabinet Secretary for Transport and Infrastructure at 11.30 a.m. before the Committee on Transport, Public Works and Housing to answer questions from hon. Geoffrey Odanga, hon. (Ms.) Sunjeev Birdi, hon. Irshadali Sumra and hon. (Ms.) Fatuma Ibrahim Ali.

Finally, the House Business Committee will meet on Tuesday 24 March, 2015, at the rise of the House, to consider the remaining business for the rest of that week. I now wish to lay this document on the Table of this House.

Thank you.

(Hon. A. B. Duale laid the documents on the Table)

Hon. Speaker: Hon. Gumbo, what is your point of order?

Hon. (Eng.) Gumbo: On a point of order, hon. Speaker. I have no intention whatsoever of anticipating debate, but you will recall that last week when the Leader of the Majority Party gave a programme for this week, he had indicated that the Public Audit Bill would come for Third Reading. Indeed, it has. At that point, I rose on a point of order to notify him and the Committee Chair, that I had put down quite a number of amendments and I would prefer to have an opportunity to discuss those amendments with the Committee Chair.

Subsequently, I have reached out to the Committee Chair and asked when I would be called to discuss those amendments. I have been flipping through the Order Paper and I notice with concern that some of my amendments have not been included. This is worrying because the amendments I have here are quite many. The process of making amendments on our own is very laborious. When you make amendments and somebody subjectively makes a decision to delete them without giving you the opportunity to pronounce yourself on your thought-process as you were making those amendments, I

wonder then what that does to Article 94(5) of the Constitution. It appears then that there are other bodies, other than the National Assembly, that can make decisions.

More importantly, looking at the amendments that have been attributed to me, many of them have been re-arranged, not just for the purposes of editing, but for the purposes of substantially changing the intention of the amendments. Therefore, this puts me at a loss. I have been in this House and I know that when you place an amendment, it is the duty of the relevant Committee or the Legal Office to call you so that you can explain the thought-process behind them. This is because some of it might appear lacking substance, if somebody else looked at them, without the input of the one proposing them.

When somebody deletes some amendments which have been proposed by a Member, what does that do to our function of law making? I would wish to request the Chair to make a pronouncement on this matter.

Hon. Speaker: Are you talking about amendments to the Public Audit Bill?

Hon. (Eng.) Gumbo: Yes, amendments to the Public Audit Bill.

Hon. Speaker: That is for the Departmental Committee on Finance, Planning and Trade.

Hon. (Eng.) Gumbo: Yes, it is for the Departmental Committee on Finance, Planning and Trade.

(Hon. Gaichuhie greeted another hon. Member)

Hon. Speaker: Hon. Gaichuhie, what you are doing is not right. You may want to shake hands with everybody, but there is an issue which is being raised touching on your Committee. Are you able to respond?

Hon. Gaichuhie, hon. Gumbo says he appeared before your Committee and made proposals. He says he does not see them here, perhaps, you could respond.

Hon. Gaichuhie, Hon. Speaker, the amendments on the Order Paper are the ones which were brought to the Committee. I want to confirm that they are the amendments of the Committee. We never said that any individual Member cannot bring his or her own amendments.

Hon. (Eng.) Gumbo: Hon. Speaker, hon. Gaichuhie did not understand what I was talking about. I said that I had proposed a number of amendments to the Public Audit Bill. On Wednesday last week, I had requested that I be given an opportunity to defend those amendments before the Finance, Planning and Trade Committee. That opportunity was not granted.

Looking at the Order Paper today, some of the amendments I had proposed are not appearing. Some of the amendments that I had proposed have also been reconfigured in a manner to change the substance and meaning of those amendments. That is what I raised.

Hon. Gaichuhie: Hon. Speaker, the amendments appearing in the Order Paper are Committee amendments and not any individual Members amendments. I thought that any Member is free to bring his amendments. It should not necessarily be through the Committee; he is free to bring them on the Floor of the House because the Committee considered amendments that were brought by other stakeholders who cannot represent themselves on the Floor of the House.

Hon. Speaker: Very well, hon. Gaichuhie! Hon. Members, it is fair that we treat what hon. Gumbo is saying with the seriousness that it deserves because what hon. Gaichuhie has said is true. Any hon. Member is at liberty to propose amendments. Hon. Gumbo had felt that if, perhaps, he appeared before the Committee, the Committee would have even owned up some of his proposals. As you say, hon. Gumbo, your intended amendments are not what is contained in the Order Paper. The best you can do is to drop this Order until such time when you can produce what your amendments were. If your amendments have not been brought here, then that is an administrative matter. Hon. Gumbo says that the way his amendments are, is not the way he submitted them. Perhaps, you have a copy of the ones you submitted. That is an administrative matter. He can sort out the matter with the Clerk's Department.

Leader of the Majority Party, what do you have to say?

Hon. A.B. Duale: Hon. Speaker, we should not dwell on this matter so much. The final amendments to the Public Audit Bill will be on the Order Paper either on Tuesday or Wednesday. By law, even if a Committee does not agree with a Members' amendments, such Members can bring their own amendments. According to the statement that I read today, we are not dealing with the Public Audit Bill. We have done consultations and we are going to do it next week, so that we can take care of all the hon. Members who have amendments. In that case, hon. Gumbo, the amendments on which you have agreed with the Committee are okay. However, please, bring the ones you have not agreed next week on Tuesday or Wednesday, so that we can deal with them.

Hon. Speaker: There is no need for an argument on this matter. Whether he understands it or not, we said the best we can do now is not to consider this business today because of the issue that you have raised, and also taking into account what the Leader of the Majority Party has said. That gives you enough opportunity to bring your amendments in the form that you intended them to be. Take them to the Clerk's Office, so that they are put in the Order Paper. Unfortunately, hon. Gumbo, you want me to do administrative work from the Chair.

Hon. (Eng.) Gumbo: --- (*Off record*)

Hon. Speaker: Let them be included. The business is not going to be conducted today and you want us to discuss it. Can we not do other business? The business is neither going to be considered today nor Tuesday. It will be discussed on Wednesday. Therefore, there is so much time. Hon. Gumbo, I know that you are very meticulous with regard to your proposals. Just approach the Clerk's Office to ensure that your amendments appear in the form that you submitted them, so that they will be considered in the manner that you wish to have them considered. We have also made a decision that Committees of the whole House should not be converted into Second Reading stage of Bills. The Bills will have been debated sufficiently during the Second Reading. Therefore, what you should bring out during the Committee of the whole House should just be the technical bits. The Mover should just rise in their place and explain what he or she is moving, proposing to amend or deleting clauses for various reasons. One or two people may comment. If there is need for clarification, the Mover can clarify after which the House should be called upon to make a decision. It should not be an occasion for re-opening debate. Let us hear the wisdom of hon. Anyango.

Hon. Anyango: Thank you, hon. Speaker. I feel the Committee is being superficial. Hon. Gumbo has a long list of amendments he is proposing. If we were to deal with them in the House, it will be voting “Ayes” or “Nays”. He is proposing that the Committee should do a more thorough job by allowing him to articulate these amendments before them so that they are refined adequately before being brought either as Committee recommendations or if he refuses what the Committee says, he will subject them to the vote in the Committee of the whole House. We cannot have so many amendments listed by a Member without reference to the Committee responsible. The Chairman should let the Member take the amendments before the House and the hon. Member is pleading that he wishes he were able to argue them before the Committee so that we reach better quality output over the particular amendments.

Hon. Speaker, you are right. We are not going to debate these amendments in the Committee of the whole House. Let the Departmental Committee finish their job by letting hon. Gumbo to appear before them with the amendments before those amendments are brought to us. As you have explained, there would be better quality output.

Hon. Speaker: Unfortunately, the Committee has already tabled its Report on their proposed amendments. In fact, my assumption is that when the Committees do table their Reports, they are circulated for the entire membership to read and see what the Committee will be coming up with. Unfortunately, a trend has emerged where Reports by Committees are not read by hon. Members so that, at the stage of the Committee of the whole House, the amendments do not become debate. I have witnessed such a situation. I encourage hon. Members to read through the Reports of the Committee to see the amendments they have proposed. Now we are past that stage. To tell the Committee to begin another sitting is not fair. There is no rule in our Standing Orders that limits a Member to only have 20 or 15 amendments. If the proposed law has 1,000 clauses and the Member feels that they have proposals to amend each clause, except for the convenience of the House, that has happened.

If the Committee has already tabled its Report, then would it be fair for us to insist that hon. Gumbo must be heard by the Committee and yet, he is able to prosecute his proposed amendments? I am sure that hon. Gumbo is able to move his amendments; notwithstanding the number of amendments that he has, since the Committee has tabled its Report. Let us just go through the full process of allowing the Committee to move the amendments. Hon. Gumbo should be able to move his amendments in the Committee of the whole House and then the latter will make a decision one way or the other. We cannot start saying that the Committee goes to sit again. Hon. Gumbo, I am sure you are up to the task. I have no doubts in my mind.

Hon. (Eng.) Gumbo: Hon, Speaker, I thank you. Actually, my problem was not even with the Committee *per se*. It was just with the fact that some of the amendments I had proposed have not been included in the Order Paper. However, I thank you. I will approach the Office of the Clerk because the matter is now administrative. I will explain the idea behind those amendments, so that they can be put back in the Order Paper.

Thank you.

Hon. Speaker: Next Order!

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD FOR BILLS

Hon. A.B. Duale: Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period of the following Bills-

(i) The Division of Revenue Bill (National Assembly Bill No. 11 of 2015) from 7 to 2 days.

(ii) The Fair Administrative Action Bill (National Assembly Bill No. 10 of 2015) from 14 to 7 days.

Hon. Speaker, the reduction of the publication period for these two Bills is very important to this House. To begin with, the Division of Revenue Bill (National Assembly Bill No.11 of 2015) has statutory timelines and ought to be passed by both the National Assembly and the Senate by 31st March, 2015. I urge that the period of the publication of the Division of Revenue Bill (National Assembly Bill No.11 of 2015) be reduced from seven to two days. This will allow the Bill to go through the First Reading and other stages in a timely manner as it has to be forwarded to the Senate for consideration. In this regard, I urge the Budget and Appropriations Committee to fast-track the consideration of the Bill and report to the House.

Two, the Fair Administrative Action Bill (National Assembly Bill No.10 of 2015) is one of the constitutional Bills with a deadline which the House extended to 27th May, 2015. I also urge that the period of publication of the Fair Administrative Action Bill (National Assembly Bill No.10 of 2015) be reduced from 14 to seven days. We need to fast-track the deliberation of this Bill to ensure that we are not caught up by time since its passage will also involve consideration by the Senate. The relevant Committee should ensure that public participation is conducted in good time before reporting to the House.

Hon. Speaker, it is very important to note to hon. Members, at this juncture, that the House is scheduled to proceed to a short recess on Friday 3rd April, 2015 to 14th April, 2015. With this in mind, we are time constrained thus the need to do and fast-track the consideration of these two Bills. It is a simple procedural matter and I am sure we want to beat the 27th May constitutional deadline and make sure that the Division of Revenue Bill is passed. It is the one that will set the stage for the county governments to prepare their budgets and allow the Senate to prepare the County Revenue Allocation Bill, 2015.

With those few remarks hon. Speaker, I beg to move and ask hon. Katoo ole Metito to second.

Hon. Katoo: Thank you, hon. Speaker. I rise to second this Procedural Motion. I do not intend to take much time because it is straightforward. We are trying to be a little bit ahead of time considering that the constitutional deadline on the Fair Administrative Action Bill is 27th May. As the Mover has correctly said, those days have been reduced by our short recess of ten days beginning Friday next week and it will involve both Houses. Without anticipating debate, should there be any disagreement, in terms of

amendments on the other side, we may need to form a mediation committee. Taking that into account, we wish to finish all this business before 27th May because we extended time and hon. Members should know that we are not allowed by the Constitution to do the extension more than once. Therefore, it is a straightforward matter and I beg to second.

(Question proposed)

Hon. Speaker: Hon. (Prof.) Nyikal wants to express himself.

Hon. (Prof.) Nyikal: Thank you, hon. Speaker. Both the Bills are time bound, one by the financial procedures and the other by the Constitution. However, in the case of the second one, I would like to be assured that the Report of the Committee is ready because we have reduced the time and it is an important Bill. When we have a Bill like this and the time is reduced yet the Committee Report is not available, we get ourselves into a bit of confusion. That is it hon. Speaker.

Hon. Speaker: Absolutely. Hon. Members, reading the mood in the House, I will put the Question.

(Question put and agreed to)

BILLS

First Readings

THE DIVISION OF REVENUE BILL THE FAIR ADMINISTRATIVE ACTION BILL

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

MOTION

ADOPTION OF REPORT ON VETTING OF NOMINEE FOR APPOINTMENT AS AMBASSADOR TO SOMALIA

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the vetting of the nominee for appointment as Ambassador, laid on the Table of the House on Tuesday, 17 March, 2015, and pursuant to Article 132(2)(e) of the Constitution, approves the appointment of Major General (Rtd.) Lucas K. Tumbo as Ambassador to the Federal Republic of Somalia.

(Hon. Gethenji on 17.3.2015)

(Resumption of Debate interrupted on 18.3.2015)

Hon. Speaker: I am aware that the Chairman for the Departmental Committee concerned had begun replying. But, due to other engagements as written to the Speaker, he is requesting that the Vice-Chairperson hon. Bare Shill continues to reply.

Hon. Shill: Thank you, hon. Speaker. I take this opportunity to thank all hon. Members who have spoken and supported the Report. I have all the faith that this House will adopt the Report of the Departmental Committee on Defence and Foreign Relations on the vetting of the nominee for appointment as ambassador and approve the appointment of Major General (Rtd.) Lucas K. Tumbo as ambassador to the Federal Republic of Somalia.

Of late, the relationship between the two countries has been rated low because of the absence of active diplomatic or political relationship which is due to our absence in Mogadishu. As we speak, 20 flags of different countries have been hoisted and their ambassadors put there except our country which is a neighbour to Somalia. Issues of maritime boundaries, insecurity concerning *Al Shabaab* and others, the Jubaland politics and the presence of our troops are some of the reasons. Out of ten security concerns, seven are Somalia-related.

Hon. Speaker, for a while, our embassy since the civil war in Somalia, was based in Nairobi for many reasons. It was based in the NSSF Building, but it is not tenable anymore. After we approve this nominee, we expect the Executive to immediately post him to Mogadishu so that he can raise our flag among other countries. I expect to see a day when our Executive will send a high-powered Government delegation to send a strong message that we are there and it must be felt properly.

One of the reasons why we should have an embassy down there is for purposes of issuing visas and other services including trade. It has been noted recently that because we deny Somalis visas, many of them take the *panya* route. They come all the way from Mogadishu on transit to Nairobi, end up in Entebbe, Uganda and they come through *panya* routes. It is worth to note that one of the terrorists, who involved in Westgate, passed that route. Therefore, it is very important that we establish our embassy so that we can give services to the people so that we discourage them from coming through *panya* routes or trying to do human trafficking.

Apart from that, there are many Kenyans in Somalia. There are over 10,000 Kenyans in Somaliland, over 5000 Kenyans in Puntland and another 5,000 in Jubaland and elsewhere. In Mogadishu alone, there are over 5,000. These are teachers, medics, nurses, architects, builders and many of them are working with Non-Governmental Organizations (NGOs). Therefore, it is very important for us to have an embassy in Mogadishu. As you are aware, one of our generals is soon going to be in charge of the AMISOM and, therefore, it is very important.

Thank everybody who has spoken. Therefore, I move to reply.

Hon. Speaker: Hon. Members, for obvious reasons, we may not---Tea break is important. We do not seem to operate unless we have had tea. The matter will be dealt with in the next sitting.

(Putting of the Question deferred)

We will move to the next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee read)

[Hon. Speaker left the Chair]

IN THE COMMITTEE

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

*(Resumption of consideration in
Committee interrupted on 17.3.2015)*

THE PROTECTION AGAINST DOMESTIC VIOLENCE BILL

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Members, this is the Committee of the whole House convened to consider the Protection Against Domestic Violence Bill, (National Assembly Bill No. 28 of 2013). We resume from Clause 15.

Clause 15

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 15 of the Bill be amended in subclause (2) by deleting the word "encourages" appearing immediately after the words "respondent who" and substituting therefor the words "aids or abets".
What we have just done is simply to replace the word "encourages" with the words "aids or abets" which is more of a legal terminology that is acceptable generally and that is used across legislations.

Thank you.

(Question of the amendment proposed)

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

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

(Clause 15 as amended agreed to)

Clause 16

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 16 of the Bill be amended in subclause (1) by deleting the words “including those provided by religious institutions and any suitable cultural programmes subject to their satisfaction that these programmes will not in any way undermine the objects of this Act or the values and principles of the Constitution” and substituting therefor the words “or any other programme that is acceptable to the court” Religious institutions are not necessarily the only institutions which have programmes that are acceptable.

We are saying that it should be open to any other institution that is acceptable in terms of taking care of the children's rights.

Thank you.

(Question of the amendment proposed)

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

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

(Clause 16 as amended agreed to)

(Clause 17 agreed to)

Clause 18

Hon. Chepkong'a: I have checked the notes of the Committee. This clause was not proposed to be deleted. I therefore, drop the amendment as contained in the Order Paper.

(Proposed amendment dropped)

(Clause 18 agreed to)

Clause 19

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 19 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “is inciting or encouraging, or has incited or encouraged, the respondent to engage in behaviour against a protected person where that behaviour, if engaged in by respondent, would amount to domestic violence” and substituting therefor the words “aids and abets the respondent”;

(b) by deleting sub-clause (2);

(c) by deleting sub-clause (3)

The reason is similar to that which we gave for Clause 15. That is replacing the word “encourages” with the words “aids and abets the respondent.”

That is more of a legal terminology that is also acceptable across all other legislations. I am proposing that sub-clause be deleted and I drop the deletion of subclause (3).

(Proposed amendment to subclause (3) dropped)

(Question of the amendment proposed)

Hon. Okoth: The Chairman is moving a little bit fast. May I ask him to explain why he is deleting sub-clause 2?

The Temporary Deputy Chairman (Hon. Kajwang’): Sorry, what did you say?

Hon. Okoth: What is the explanation behind the deletion of sub-clause 2?

The Temporary Deputy Chairman (Hon. Kajwang’): Chairman, can you explain that deletion?

Hon. Chepkong’a: Thank you, hon. Temporary Deputy Chairman. The reason we are proposing deletion of Clause 19(2) is that, that particular subclause proposes that a direction may be made pursuant to subclause 1 on whether the behaviour against a protected person was committed before or after the person became a protected person. Now, you cannot apply the law retrospectively before the matter was brought before court. It has to be determined whether that behaviour was committed before the matter went to court or not. That is inconsistent with the law itself. There is no application of law retrospectively. So, we are saying that it is a bad law in itself. It remains unconstitutional and even if it went to court, it would be struck off.

Hon. Okoth: Thank you for the explanation.

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

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

(Clause 19 as amended agreed to)

Clause 20

THAT, the Bill be amended by deleting Clause 20

Hon. Chepkong’a: Thank you, hon. Temporary Deputy Chairman. Again, with regard to this clause, while reviewing the notes of the Committee, we found that it was proposed to be deleted wrongly in the Order Paper. I, therefore, drop the proposed deletion.

(Proposed amendment dropped)

(Clause 20 agreed to)

Clause 21

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 21 of the Bill be amended—

(a) in subclause (2) by deleting the word “follow” appearing in paragraph (b) and substituting therefor the word “stalk”;

(b) in subclause (7) by deleting the word “modified” appearing immediately after the words “revoked or” in paragraph (b) and substituting therefor the word “varied”;

(c) by deleting subclause (8);

(d) by deleting subclause (9);

We are replacing the word “follow” with the word “stalk”. It cannot be illegal to follow someone. However, to do it in a negative manner, that is what is illegal.

Secondly, we have also replaced the word “modified” with the word “varied”.

Again, the word “varied” has been used consistently in the Bill. We do not know why the word “modified” was introduced yet “varied” is explained and interpreted in the Bill.

I propose also that Clause 21(d) be dropped. I am dropping amendment of Clause 21(d). Thank you, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang'): Did I hear you properly on the amendments that you intend to drop or the ones that you are pursuing? I am seeing amendment to subclauses 8 and 9. Which one were you expressing yourself to?

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, just for clarity sake, I am proposing that Clause 21 be amended in subclause 2 by replacing the word “follow” with “stalk”. Secondly, I propose that subclause 7 be amended by deleting the word “modified” and replace therefor with the word “varied”. We are also proposing that subclause 8 of Clause 21 be deleted. The reason is that the word “modified” as interpreted thereon is being removed because it does not make sense. What is contained in Clause 21(7) is the interpretation of the word “varied”.

I am proposing also that subclause 9 of Clause 21, as proposed for deletion and as contained in the Order Paper be dropped. I am, therefore, proposing that we drop the amendment proposed of Clause 21(d).

The Temporary Deputy Chairman (Hon. Kajwang'): So, the amendment to subclause 9 is dropped. We are, therefore, considering subclauses 2, 7 and 8.

(Proposed amendment to subclause (9) dropped)

(Question of the amendment proposed)

Hon. Gikaria: Thank you, hon. Temporary Deputy Chairman. I need to understand because I am a little bit confused. Is the Chairman proposing that subclause 8 be deleted as a whole? He has already proposed some amendments that is, deleting the word “modified” and replacing it with the word “varied”. Is there an option of removing

the word in subclause 8? I am a little bit confused regarding subsection 8. He has proposed that it be deleted but I can see---

The Temporary Deputy Chairman (Hon. Kajwang’): No, he is proposing to delete subclause 8.

Hon. Gikaria: I am saying that he has indicated that under Clause 21(b) we remove the word “modified” and substitute therefor the word “varied”. Is it not the same thing just to remove the word “modified” and put “varied” in subclause 8?

Hon. Chepkong’a: (*Inaudible*)

The Temporary Deputy Chairman (Hon. Kajwang’): Are you satisfied?

Hon. Gikaria: Yes, he says that they do not mean the same thing.

The Temporary Deputy Chairman (Hon. Kajwang’): No, I do not need clarification. It is clear enough.

Member for Rarieda.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Chairman, I am also having the same confusion like my colleague, hon. Gikaria. Maybe, it is the way the Chairman of the Committee has explained it. The way you are explaining it, to me it looks like what you have deleted, you are bringing it back by another deletion. Could you just take a little bit of time to explain what you hope to achieve by the proposed amendment in subclause (8) and (9)?

The Temporary Deputy Chairman (Hon. Kajwang’): That will be the third time he is rising to say the same thing.

Hon. Chepkong’a: Just a final clarification, hon. Temporary Deputy Chairman. The word we are replacing is “modified” as contained in the clause. We are doing that because the word “varied” has been used consistently in the Bill. So, it was a misnomer to have it there. It does not make sense to contain the word “modified”. You vary a court order, you do not modify it. That is the language of the court. It is not a modification, rather it is a variation. If you apply to court, you apply for variation---

The Temporary Deputy Chairman (Hon. Kajwang’): Chairman, I follow you. He has already proposed to change the word “modified” to “varied”. So, there is no need for sub-clause 8 which wants to define something which has already been changed. It is very clear that way, is it not?

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

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

(Clause 21 as amended agreed to)

Clause 22

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 22 of the Bill be amended by deleting subclause (5);

As I stated, we have reviewed our notes and found that Clause 22 (5) was not proposed to be amended and so I drop that particular amendment.

(Proposed amendment to subclause (5) dropped)

(Clause 22 agreed to)

Clause 23

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 23.

I am being asked where these amendments came from. Possibly we need to explain.

The Temporary Deputy Chairman (Hon. Kajwang'): That kind of question can only mean that Members have not gone through the Committee amendments, which are available in the Table Office and also on Order Paper. They need to be considered. You can see that the Chairperson is in the mood to finish the consideration of the Bill today. That is why he is in hurry.

Let us proceed.

Hon. Chepkong'a: We propose that Clause 23 be deleted as contained in the Order Paper. The reason is that the police have been given inordinate powers that are unchecked. The law states that a police officer may arrest the respondent without a warrant and on the request of the applicant or applicant's representative. If the applicant is asking you or directing the police to arrest a person--- You can only report a complaint, but you cannot direct the police to arrest somebody. It can only be done through a court, when someone applies to the court and an order is issued that the person be arrested. The policeman cannot on mere suspicion alone, and it is not sufficient to be directed by the applicant or respondent to arrest a person. That is contrary to Article 245 of the Constitution which states very clearly that no person shall direct the Inspector-General of the Police while performing his functions to do anything. He must act independently and in accordance with the law.

That is why we are proposing the deletion of that particular clause.

(Question of the amendment proposed)

Hon. Ochieng': Thank you, hon. Temporary Deputy Chairman. I wish to support the deletion by the Chair for the reason he has explained. I want to request hon. Members who are concerned to note that this is a matter where there is a law in this country on enforcing orders of the court. You do not need to go this way of putting the sword of Damocles on someone's head for five years; that he can be arrested at any time on request of anybody. Therefore, I support the deletion.

The Temporary Deputy Chairman (Hon. Kajwang'): Who is claiming a point of order? Member for Ol Jorok, I can see your name here on intervention. Can I hear your intervention?

Hon. Waiganjo: Hon. Temporary Deputy Chairman, it was not actually an intervention. I just wanted to buttress the importance of this deletion. As it were, we are ousting the jurisdiction of the court or the process of contempt of court in enforcement of

orders. Therefore, we cannot grant police officers a blanket sanction that anytime they want to arrest a person on suspicion of breaking a court order they may proceed and do so. I want to assure the Members that this deletion is an important one from this Bill.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Johnson Sakaja, with the assurance from the Member of Ol Jorok, do you approve or you have a contrary opinion?

Hon. Sakaja: Hon. Temporary Deputy Chairman, I would just like to add a different aspect towards that. We have seen the nature through which people are trying to bring in certain provisions in other laws that affect the laws that have primacy. For example, the National Police Service Act has primacy on issues of how the police operate. It would not be wise to give them powers that they do not even have within the National Police Service Act. Additionally, this will obviously be open to abuse. It is not wise to bring in issues affecting laws that have primacy on a specific issue, whether it is on the police or any different department in this country. I support the amendment as proposed by the Chairperson.

The Temporary Deputy Chairman (Hon. Kajwang’): Speaking as the Chairperson of the party that is in Government, I am sure, if he is worried about the excessive use of police force, then Members should obviously be persuaded that there must be a point in deleting that section.

Hon. Sakaja: I am sure the Chair is aware that the police are independent in the new Constitution.

The Temporary Deputy Chairman (Hon. Kajwang’): The police are independent of political parties.

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

(Clause 23 deleted)

(Clause 24 agreed to)

Clause 25

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 25 of the Bill be amended—

(a) in subclause (1) by deleting the words “has received an explanation of the order in accordance with section 31” appearing immediately after the words “protection order”;

(b) by deleting sub-clause (2);

What we are seeking to do is to remove the words in the second sentence, “has received an explanation of the order in accordance with section 31”. If you look at Clause 31 (2), it negates that so that this becomes superfluous. Clause 31 (2) states that:-

“No order under subsection (1) shall be invalid for the reason only that the court did not explain any particular matter contained in the order to the respondent. Those

particular words seek to negate that when Clause 31 (2) is very clear. We are seeking to clean up the Bill to ensure that the entire Bill is in tandem with the other clauses.

Thank you.

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

(Clause 25 as amended agreed to)

(Clause 26 agreed to)

Clause 27

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 27 of the Bill be amended—

(a) in subclause (1) by deleting the words “of the first class” appearing immediately after the word “Courts”;

(b) in subclause (2) by deleting the words “soon as possible” appearing immediately after the words “court as” in paragraph (b) and substituting therefor the words “may be directed by the court”;

(c) by deleting subclauses (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13);

We are seeking to remove the words in Clause 27(1) by deleting the words “of the first class” appearing thereon and replacing with the word “Courts”. As you know, we no longer have courts referred to as first class. There are now various categories of courts such as, Senior Principal Magistrate, Principal Magistrate and Chief Magistrate. That is what is contained in the Judicature Act. First class courts were those of the colonial experience and, therefore, they no longer exist in our legislation.

The second thing that we are seeking to amend is in subclause (2). We are seeking to delete the words “as soon as possible” appearing immediately after the words “court as”. Those words will be replaced by the words; “may be directed by the court”.

Hon. Temporary Deputy Chairman, it is unclear when you state that the person will be brought to court as soon as it is possible. It should be under the direction of the court. You are leaving it to the discretion of the people. You are leaving it to the subjectivity of the person. We would like to be objective. Therefore, we want to leave it to the courts to decide. We are, therefore, proposing that those words be replaced thereon.

The other ones that we are seeking to delete are subclauses 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13. The reason is that these subclauses seek to import the provisions of the Criminal Procedure Code and the Civil Procedure Code into this law. What we are seeking to enact is a substantive law. We are not seeking to enact procedural laws. Clause 46(1) provides that:

“The Rules Committee established under Section 81 of the Civil Procedure Act shall make rules to regulate any matter of practice or procedure under this Act.”

So, issues of procedure have already been regulated and it touches on all other legislations. It does not matter whether it is a civil or a criminal matter. Criminal matters are regulated under the Criminal Procedure Code while civil matters are regulated under the Civil Procedure Act. It is completely unnecessary to reproduce the Civil Procedure Code and the Criminal Procedure Code in this legislation.
Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Westlands, do you concur?

Hon. Wetangula: I support the amendment, hon. Temporary Deputy Chairman, especially the second part as the Chairman has explained. It is normally the courts that give direction. We cannot leave it to the whims of those who are doing investigation because they can do it forever. So, I support.

The Temporary Deputy Chairman (Hon. Kajwang’): Anybody with a contrary opinion? I only want to listen to a contrary opinion. If you are supporting, that is all right. However, if you have a contrary opinion--- Who does? Member for Seme, do you have a contrary opinion?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, I just want to be assured of the deletion of the subclauses. The explanation has been that these are in other Acts and, therefore, there is no need to import them.

The Temporary Deputy Chairman (Hon. Kajwang’): Chairman, can you allay the fears of the Member?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, I have not finished. What I want to be assured of as a lay person is that I often see that when people are charged, they are charged in accordance with that Act. Would this mean that when you are in court then you have to refer to the other Acts and not just this one? I need to be assured.

The Temporary Deputy Chairman (Hon. Kajwang’): Can you help with this explanation quickly?

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, in simple language what we are seeking to do in this Protection Against Domestic Violence Bill is to create a substantive law to deal with those criminal activities that are committed within a domestic set-up. The issue of regulation of procedure is already contained in the Civil Procedure Code and the Criminal Procedure Code. If somebody has breached a court order, which is a criminal matter, the procedure on how the applications would be brought to court is already set out in the Criminal Procedure Code. I will be speaking to this again in the subsequent clauses. Even on issues of appeal, they are contained in the rules that have already been established in court. So, it is not necessary for us to reproduce the same rules and put them here. When the rules change, it should be left to the Rules Committee as contained in Clause 46 where we have provided for it very clearly.

Thank you, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): All right. Is there anybody else with a contrary opinion? All right, I will put the Question.

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

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

(Clause 27 as amended agreed to)

Clause 28

Hon. Chepkong’a: Thank you, hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 28 of the Bill be amended by deleting subclauses (2), (3) and (4).

This part deals with the mode of application which is purely a procedural matter. So, we are proposing that Clause 28 be deleted because it is dealing with procedural issues that are already contained in the Civil Procedure Code. We do not need to import it here otherwise we make the legislation bulky while other legislations have already provided for the procedure and it is being used for all other legislations that we have passed in this House.

Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): The Member for Igembe North, what is it? Member for Igembe North, are you in the Chambers? These are very interesting Members. Nominated Member, is this very deliberate? Is something out of order?

Hon. Sakaja: It is just an intervention. What hon. Gikaria and other Members are requesting is that once hon. Chepkong’a speaks, you could translate whatever he has said into English because they have no idea what he is saying in certain instances. Assist the House by translating that language into simple English.

(Laughter)

The Temporary Deputy Chairman (Hon. Kajwang’): All right. The Member for Meru is available and will try to translate as much of this information as possible. The Member for Kitui South is also available.

Hon. (Ms.) R.K. Nyamai: On a point of intervention, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): On an intervention, yes please.

Hon. (Ms.) R.K. Nyamai: Hon. Temporary Deputy Chairman, I would like to agree with hon. Sakaja that it is important that it is properly put so that all of us read from the same script.

Thank you.

The Temporary Deputy Chairman (Hon. Kajwang’): The concerns are well noted. The Chairman, although I understand that you are speaking English, will you be kind enough to break down your English in a manner that these Members who are representing constituencies may be able to interpret these legal issues to their constituents? Do not speak like you are before the Supreme Court, speak like you are before the National Assembly.

Hon. Chepkong’a: I thank you.

The Temporary Deputy Chairman (Hon. Kajwang’): I have not opened it for discussion. Where was I?

Hon. Chepkong’a: I was just noting, hon. Temporary Deputy Chairman. As you know, I go through Nakuru and he gives me a transit visa. So, I have no problem. I will try my best.

The Temporary Deputy Chairman (Hon. Kajwang’): Thank you. Those are light moments that make work easy in Committee.

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

(Clause 28 as amended agreed to)

Clause 29

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 29.

The reason being, and again just to simplify what I am saying, if you look at the proposal contained in Clause 29, it is providing for procedures of serving summons. The procedure of serving summons is already contained in Civil Procedure Act. So, you do not need to reproduce it here because it is contained in another legislation. You are going to appear before a court which is implementing the same legislation. When it comes to rules and procedures, it is contained in that particular legislation. The courts already have that legislation to support any substantive legislation so that, when you make an application in court with regard to say children protection, the procedure that is contained in the Civil Procedure Act or Criminal Procedure Code will apply. It applies to all legislations that have been passed by the National Assembly.

(Question of the amendment proposed)

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

(Clause 29 deleted)

(Clauses 30 and 31 agreed to)

Clause 32

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 32.

The reason for this is that these are powers that are contained within the court system itself. For instance, what this clause is suggesting to do - if I can read for clarity-

“A court may order the revocation, variation or extension of a protection order on an application under this section.”

It is normal when you apply for a variation and revocation, you will have to quote the rule under which you are coming through as contained in the Civil Procedure Code. So, it is not necessary for us to reproduce the Civil Procedure Code in this substantive legislation because that is already contained and it can be amended from time to time by the Rules Committee as contained in Clause 46. If, therefore, it is amended, you have to bring that amendment again to this particular legislation and it becomes very difficult to amend legislations from time to time yet we can amend only one legislation to deal with issues of procedure.

Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, I know I am not in Law School but let me talk.

The Temporary Deputy Chairman (Hon. Kajwang'): No, you are absolutely in the National Assembly. It is within your right to talk on behalf of both Some people and the nation at large.

Hon. (Prof.) Nyikal: I may have to explain to Some people why this Bill was passed while I was present. If I do not understand it, it will not be fair. What I am getting as we go along is that certain parts of other laws were imported. What I would like to know is: Were they imported verbatim or by implication? This is so that what is being said in this Bill could as well have been done in those other laws. I do not understand why we would pick a part of a law and import it verbatim into another law. That is the impression I am getting.

The Temporary Deputy Chairman (Hon. Kajwang'): It happens all the time that you get legislative proposals that sometimes duplicate what is already in the library. Many times drafters easily repeat what has been provided for but it is your role as the Legislature to clean that chaff and tell the drafters that we have already passed this as law. This is a new one and that is what the Departmental Committee on Justice and Legal Affairs is trying to do; cleaning the legislation.

Hon. (Prof.) Nyikal: I have faith in the Departmental Committee on Justice and Legal Affairs.

The Temporary Deputy Chairman (Hon. Kajwang'): Thank you. Hon. Member for Wajir, I recognise you. Do you have a contrary opinion to this?

Hon. (Ms.) F.I. Ali: Hon. Temporary Deputy Chairman, I am waiting for an amendment on Clause 46.

The Temporary Deputy Chairman (Hon. Kajwang’): I will surely get there. Are you on the Order Paper? Is your amendment on the Order Paper? Put her on the microphone.

Hon. (Ms.) F.I. Ali: Hon. Temporary Deputy Chairman, I have an amendment and I have consulted with the Chairman of the Departmental Committee on Justice and Legal Affairs.

The Temporary Deputy Chairman (Hon. Kajwang’): All right. You are just warning the Chairman that this is a minefield and when I reach there I should go slowly. I suppose that is the same thing with the hon. Member for Kitui South.

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

(Clause 32 deleted)

Clause 33

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 33.
Just to inform the House, when we went through this Bill, we thought that it was drafted by a person who wanted to reproduce the entire Civil Procedure Act. He was referring to the Civil Procedure Act and the Civil Procedure Code and thought that we can import this and that to the Bill. For instance, Clause 33(1)(a) states:-

“Where a protection order is made or varied by the court, the court shall –
(a) arrange for the order to be drawn up.”

It is not the responsibility of the court to draw orders. It is done by the clerks in the registry. It is drawn by the lawyers, and then taken to the courts for approval. This is already contained in the Civil Procedure Code. You do not need to reproduce it here. That is bringing the Civil Procedure Code to this other Bill.

Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

(Clause 33 deleted)

Clause 34

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 34.

Now, it is a bit clear. What you are seeking to do is to refer to the Civil Procedure Code when it comes to the terms of bail. When courts grant bail, there is already a guideline that is contained in the Criminal Procedure Code. So, we should not reproduce it here.

Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Member for Matungulu, do you have a contrary opinion?

Hon. Mule: No.

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

(Clause 34 deleted)

Clause 35

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 35.

This is a procedure that is already provided for in the Criminal Procedure Code and Civil Procedure Code. When a matter is to be conducted in camera, it is for the court to determine, particularly when it deals with the children’s rights. The practice in courts is that a directive is given for the court room to be evacuated except for persons who are relevant to the case. So, we propose that this is not necessary because it is adequately provided for in other legislations. Also, the courts exercise discretion on it.

Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Nyandarua, do you have a contrary opinion.

Hon. (Ms.) Muhia: Hon. Temporary Deputy Chairman, I want to have a contrary opinion by leaving the issue to the court to subject the victim, be it in camera or otherwise. I feel we should expressively state in the law that the judgement should be made while only the concerned parties are present. I do not see why we should let the court to decide, as it is traditional. Not all judges may be reading from the same page. Today, a judge can be in a good mood and decide to do it in camera. So, should we not put it in black and white? I propose that it does not need to be amended.

The Temporary Deputy Chairman (Hon. Kajwang’): Is there anybody else with a contrary opinion?

Yes, Member for Ndhiwa!

Hon. Oyugi: Hon. Temporary Deputy Chairman, I would like to request my hon. Chair to agree with us not to delete this particular provision. During the Committee proceedings, there were some which were erroneously deleted. I think this is one such

provision. There is no harm in having unexpressed provision of the law that requires the court to go in camera, especially with regard to cases like this one. It deals with privacy and violation issues, which several people might be uncomfortable with. I am, therefore, requesting our honourable Chair to agree with us that we do not delete Section 35, but retain it as it is in the original Bill.

COMMUNICATION FROM THE CHAIR

PRESENCE OF DELEGATION FROM UK ON SPEAKER'S ROW

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Members, I wish to introduce to you a delegation from the United Kingdom, who is seated on the Speaker's Row. The delegation comprises of the following persons.

May I ask the guests, when your name is called, you please honour the National Assembly by just rising and bowing.

- | | | |
|--|---|-----------------------------|
| 1. Rt. Hon. Philip Hammond | – | Foreign Secretary |
| 2. Mr. Nic Hailey | – | Director of Africa |
| 3. His Excellency Dr. Christian Turner | – | High Commissioner |
| 4. Dr. David Hall | – | Political Counsellor |
| 5. Mr. Stephen Burns | – | Head of Communication |
| 6. Mr. James Hooley | – | Private Secretary |
| 7. Mr. Graham Hook | – | Special Advisor |
| 8. Mr. Owen Basset | – | Deputy Head of Press Office |

Hon. Members, I can also see the High Commissioner of Kenya to the United Kingdom, Lazarus Mayo. The team is being led by the Chair of the Committee on Defence and Foreign Relations, who, as you know, is an indefatigable Member of this House.

Hon. Members, can you give a round of applause to the members of the delegation who are visiting us?

(Applause)

The Temporary Chairman Speaker (Hon. Kajwang'): Our guests, we appreciate and recognise you. We are in the Committee of the whole House.

Hon. Members, is there anybody else with a contrary opinion to the amendment before us?

(Hon. Oyugi consulted loudly)

Member for Ndiwa, you should not be campaigning or creating a caucus. The Member for Kibra can speak for himself.

Let us hear the Member for Kiharu.

Hon. Kang'ata: Hon. Temporary Deputy Chairman, I feel the deletion of this proposal is good because there are instances where the media may have an interest in a case. It is important for us to shame some of those people who perpetrate domestic violence. If we shut out some other interested parties, like the public and the media, we

may be aiding some of those people who perennially commit Acts of violence in a domestic set up. Therefore, we need to give that discretion to the court, so that in some instances where the matter is of public interest, the court may as well allow it to be publicised.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Members, I do not want to subject this to debate. Departmental Committee Chairman, can you respond to the misgivings of these Members?

Hon. Chepkong’a: Thank you, hon. Temporary Deputy Chairman. As you know, I did not want to bring up this matter for debate but since clarification is being sought, let us respond.

Clause 35(3) states very clearly that nothing in this section shall limit any other power of the court to hear proceedings in private or exclude any person from the court. It recognises the fact that the court has powers to exclude people, whether in private or public. That power is already contained in the Civil Procedure Code and in the Criminal Procedure Code. Courts have already been given the power. They are not just exercising powers that do not exist in law. We do not need to reproduce those provisions here. Those are procedural issues regulated under Clause 46. So, if they are amended, it applies to all legislations.

Thank you, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Members, I am careful not to open debate on this matter. Now that you are convinced, please, convince others, hon. Kangata?

Let us hear hon. Sakaja.

Hon. Sakaja: Hon. Temporary Deputy Chairman, the Departmental Committee Chairman has eloquently convinced me why I should not support his amendment. He has shown that there is no need to be very finicky about it. Clause 35(1) (e) talks of any other person that the court permits, meaning that the court has d discretion. Clause 35(3) says that nothing shall limit the power of the court. So, there is no need to be so stuck on that position, if there are Members who feel that certain people’s right will be infringed upon if this is removed. Therefore, I beg him, since it is not such a big issue, based on Clause 35(1) (e) and Clause 35(3), to drop his amendment on Clause 35.

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

(Clause 35 agreed to)

Clause 36

Hon. Chepkonga: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting clause 36;

It is the responsibility of the courts, and that is the discretion that has been granted to the courts both in the Constitution and in other enabling legislations, to determine whether to admit evidence in the first instance or on appeal. Those are matters that are contained in the Evidence Act. For you to legislate and state the court, on appeal can receive evidence

against or in contravention of other legislations, would be improper. We are therefore proposing that for uniformity and to ensure this Bill does not become a stand-alone Bill in which evidence is then procured at the appeal stage.

(Question of the amendment proposed)

Hon. (Ms.) Kajuju: I state that this clause should not be deleted since we are legislating on domestic violence. It is a special case that has been there. We have to consider some situations as special interest groups. In passing legislation, what we need to look at is whether there is any prejudice being caused by that particular provision or whether there is any conflict. I do not think the Chairperson has been able to tell us if there would be any conflict with any other laws if this clause is retained. Therefore, I do not agree that we delete it.

The Temporary Deputy Chairman (Hon. Kajwang’): Somebody else with a contrary opinion? Member for Kibwezi East, the Floor is yours.

Hon. (Ms.) Mbalu: Thank you, hon. Temporary Deputy Chairman. I support my colleague in objecting the deletion of this clause. It does not do any harm to put this clause there. In any case, for a fair determination of a case, and here we are talking about domestic violence--- In any proceedings of the court, evidence is paramount so I do not support the deletion.

The Temporary Deputy Chairman (Hon. Kajwang’): One more person with a contrary opinion which is different from what the two Members have said? It must be a third option so as not to repeat what I have heard already. It should be contrary to the Chairperson’s idea; deletion and also different from what the other Members have said. There is nobody opposing the deletion? Then let me have one or two Members who will help the Chairperson to support the deletion. Chairperson, clarify it because it seems an easy point.

Hon. Chepkong’a: I have a legal counsel here so that we consult from time to time. Our own clerks are our counsel. It is clear in the Evidence Act what evidence can be adduced. However, when legislation states that the court may receive any evidence it thinks fit, it is already covered by the Evidence Act. When you provide for this, it is in conflict with that other legislation. The best way, if that is what the National Assembly wanted to do, is to say, “Notwithstanding what is provided in the Evidence Act.” The evidence, which is the legislation, covers all the other substantive legislations when it comes to the taking of evidence. You cannot provide this as a stand-alone and it states it as a substantive law to deal with procedural issues that are provided in the Evidence Act. It is very clear and ---In terms of practice.

Hon. Waiganjo: Thank you, hon. Temporary Deputy Chairman. I really want to support the Chairperson on the deletion of this part. What we are doing is repeating legislation that is already in place. When you say you can take evidence, it is the mandate of the court. There is the Evidence Act. Let us not fear that the courts may refuse to take evidence.

The Temporary Deputy Chairman (Hon. Kajwang’): Order, Members! Just the fact that legislation or a proposal seems to say “fair determination of the case” should not excite us. The Constitution itself has demanded for the courts to be fair and the

Constitution is the supreme law. It does not matter what the legislation will say and just the fact that the court may receive any evidence it thinks fit, some evidence is illegally obtained. Some courts will have discretion to see what evidence is fair to put before the case or not. However, when you provide in legislation, the court must receive any evidence however obtained. Member for Ndhiwa, you have withdrawn your intervention. It is also good to listen to the advice that you freely have in the Chamber because at times it may lead you to a better legislation.

Proceed, hon. Member!

Hon. Oyugi: Thank you, hon. Temporary Deputy Chairman. I would like to support the Chairperson of Justice and Legal Affairs Committee in this particular deletion for two reasons. One, the rules of evidence are well highlighted in the Evidence Act in terms of how to proceed with any of the evidentiary issue. Two, if you read this particular clause, it talks about issues of appeal. If a court goes to appeal, there are always two things. One, you are either appealing on a point of law or appealing on a point of fact and those are not things that you can adduce in Appellate Court. I think the Chairperson is in order to recommend deletion.

I support.

The Temporary Deputy Chairman (Hon. Kajwang’): Do I feel that the House has been enlightened on the issue beforehand and is ready to vote? Member for Kilome you still---Just a minute, before you give the microphone, nominated Member, hon. Sakaja, you seem to have followed the procedure. Can you speak a word before I allow the Member for Kilome because I need Members to understand what we are doing here? The point should be that phrase “the court may receive any evidence”. An appeal could be on issue of fact or law. In legislation, when you say “any evidence” even on appeal you can compel the court to receive new evidence even though it is proceeding on fact.

Hon. Sakaja: I get the feeling that a lot of provisions in this Bill, which is a good Bill and I support it, have come out of a lot of paranoia and fear of what might not happen with the procedure. The piece of law that has primacy on issues of evidence is the Evidence Act. It will be difficult to create a provision that stands alone here that either negates the provisions of the Evidence Act or that could actually be abused. Either way, even the provision that is coming, the judge has discretion as to whether or not to receive evidence at the first instance. It is not proper to introduce something that may contravene the Evidence Act which has primacy on evidence on all criminal and civil matters within our courts.

Hon. (Ms.) Muia: Thank you, hon. Temporary Deputy Chairman for giving me this opportunity just to say something. I am just coming from my constituency. I really wanted to be here so that I say something on this Bill. I do not support because the courts can ask for any evidence.

Women are just held somewhere at the corner. If it were something favouring men, this Motion would have gone through very early. But, as long as it is pinning down women, I do not accept it. If you want this to take place, please, make amendments then it will be accepted. Therefore, we decline because the courts will decide whether to ask for any evidence or not.

I do not support the amendment.

The Temporary Deputy Chairman (Hon. Kajwang’): Well, you do not have to rise on a point of order. I will not allow gender sensitivities to prevail when we are considering legislation.

Order, Member for Kilome!

From where I sit, I understand this law to concern men as much as it concerns children and women. I know of many men who have faced domestic violence.

Let me put the Question so that you can express yourself by voting or not voting.

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

(Clause 36 agreed to)

Clause 37

Hon. Chepkong’a: I beg to move:-

THAT, Clause 37 of the Bill be amended by deleting subclauses (4), (5), (6) and (7);

We seek the deletion of the four subclauses and retention of subclauses (1) (2) and (3). The reason is that when you make an application, it is inconceivable that the protected person cannot have been a party. If the application is being made, it is being made on behalf of that person. That person is already conscious that the application is being made on his or her behalf. So, there are no proceedings which are brought where the respondent or applicant is not a party so that you claim that your notice of appeal shall be given to the protected person who was not a party. That is not possible because all protected persons are in the first instance parties to any proceedings.

Thank you.

(Question of the amendment proposed)

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

(Clause 37 as amended agreed to)

Clause 38

Hon. Chepkong’a: Hon. Temporary Deputy Speaker, I beg to move:-

THAT, the Bill be amended by deleting clause 38;

The reason for this is that, all that which is provided in Clause 38 is procedure on appeal, whether it is from the Magistrate’s Court to the High Court or from the High Court to the Court of Appeal. The person who drafted this forgot that there is also an appeal to the Supreme Court. But it is provided very comprehensively in the rules and procedures that have been made by the courts pursuant to what is already indicated in Clause 46. That is on the Rules Committee which provides for procedures of appeal. It is

also regulated and is amended from time to time in consultation with the court users. When the rules are amended and they have been contained here, it means you must bring an amendment to this legislation and any other legislation. It will provide for rules in all the substantive legislations which run into hundreds. It means that we must amend all the legislations. That is not the best way of using time of the National Assembly. Therefore, we propose that to be deleted as contained in procedural legislations.

Thank you.

(Question of the amendment proposed)

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

(Clause 38 deleted)

Clause 39

Hon. Chepkong'a: I beg to move:-

THAT, the Bill be amended by deleting clause 39;

The reason for this is that it makes reference to Clauses 37 and 38 on the procedure of appeal from the High Court to the Court of Appeal. It does not also show that there is the Supreme Court. It means you are restricting the rights of the person who wants to go all the way to the Supreme Court, if they want a determination on a matter of law, not necessarily a matter of fact. Matters of fact are determined by the High Court and by the Court of Appeal. But, if somebody is aggrieved and feels the matter requires to be determined by the Supreme Court, it is not contained here, yet it is contained in other rules. This is too restrictive.

Thank you.

(Question of the amendment proposed)

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

(Clause 39 deleted)

Clause 40

Hon. Chepkong'a: I beg to move:-

THAT, clause 40 of the Bill be amended by inserting a new subclause immediately after subclause (3)—

“(4) A publication under this section shall be made thirty days after the final determination of the proceedings”

The publication should not be made on interim orders but on final determination of the proceedings. This is just to clarify what that particular clause is seeking to achieve.

Thank you.

(Question of the amendment proposed)

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

(Clause 40 as amended agreed to)

(Clause 41 agreed to)

Clause 42

Hon. Chepkong'a: I beg to move:-

THAT, the Bill be amended by deleting clause 42;

Hon. Temporary Deputy Chairman, the reason is that this is already provided for in the Constitution. It is, therefore, unnecessary for us to repeat it here. It just seeks to explain that nothing in the Act shall limit or affect the power of the court to make an order under any law relating to marriages or matrimonial causes. There are already Acts with such provisions. Hon. Members will remember that we have already passed the Matrimonial Causes Act and the Marriage Act. Therefore, we do not need to mention them here.

Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

(Clause 42 deleted)

Clause 43

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 43 of the Bill be amended-

- (a) by deleting subclause (1);
- (b) in subclause (2) by inserting the word "have" immediately after the words "shall";

Hon. Temporary Deputy Chairman, the reason is that we are importing the provisions on perjury, which are contained in the Penal Code, into this legislation. That is completely unnecessary. If somebody makes a false statement in any application or an affidavit, there is already a provision to deal with that situation in the Penal Code. The penalty is heavier than Kshs200,000. When we saw the figure of Kshs200,000, we realized that it is too little for somebody who has perjured himself or herself. So, that is already contained in the Penal Code.

Thank you, hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

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

Question, that the word to be inserted

be inserted, put and agreed to)

(Clause 43 as amended agreed to)

Clause 44

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting clause 44.

Hon. Temporary Deputy Chairman, the reason is that it makes reference to other proceedings that are *sui generis*. They are completely different from civil or criminal cases. There are only two branches of law. A matter is either civil or criminal. When you say "other proceedings", you are presupposing that there are other branches of law that exist other than these two. We are saying that if it is a constitutional reference, it is a civil matter and if it is a criminal matter, it is regulated under criminal law. There are no other proceedings other than criminal and civil law.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Chairman, now I understand why once in a while you run into trouble when you use words like *sui generis*. Hon. Members feel that you are holding a gun which has ballistics in it. Member for Ndhiwa, you have the Floor.

Hon. Oyugi: Thank you, hon. Temporary Deputy Chairman. I appreciate the Chairman of the Justice and Legal Affairs Committee. I appreciate his use of the legal word *sui generis* and other such terms. However, the way this Bill has been crafted is such that it is civil-criminal. The clause says that you can go ahead with criminal proceedings but you cannot go on with civil proceedings. In civil proceedings under any other court, the orders that may have been given under this particular clause stay. We have to appreciate each other. Criminal proceedings are allowed under Clause 44 but civil proceedings, which are not in consonance with this clause, are not. I really hope that the Chairman gets that particular meaning before we can delete the whole clause. I persuade him to find reason with me.

Thank you.

The Temporary Deputy Chairman (Hon.(Kajwang')): So, shall I put the Question? Have we generated enough consensus on this one? Am I moving too fast? We have to move fast because there is a lot of agenda. Who is not satisfied?

Yes, Member for Kibra!

Hon. Okoth: Thank you, hon. Temporary Deputy Chairman. I also want to appeal to the Chairman of the Justice and Legal Affairs Committee to let us keep this clause. I do not see any harm in retaining it. The nature of this law, as it is, is both civil and criminal and we have to give it that space. This provision addresses that aspect. Many of the people who seek protective orders do not pray that the perpetrators of violence against them be necessarily held under criminal penalty. They just want to be protected and get a chance to reconcile their families. Therefore, this clause should remain as it is. I do not see any harm in retaining it. Since it does not do any harm, I beg the Chairman to let it stay.

The Temporary Deputy Chairman (Hon. Kajwang’): Yes, Nominated Member!

Hon. Sakaja: Hon. Temporary Deputy Chairman, I am still convinced to support the amendment. I beseech my colleagues sitting together to give us a more compelling argument as to why another order that is issued on a civil matter, for example under the Matrimonial Causes Act or even another that has nothing to do with this potential law, should be subservient to an order issued under this law. What makes this law superior to orders made under any other law, especially when it is not a related issue or even if it is related? An example in this Bill is dealing with a child but having to recognise a civil order dealing with matrimonial issues. Why should this one weigh more? Give us a compelling argument. If you do, we will support you.

The Temporary Deputy Chairman (Hon. Kajwang’): Yes, Member for Ol Jorok!

Hon. Waiganjo: Thank you, hon. Temporary Deputy Chairman. I want to support the Chairman of the Justice and Legal Affairs Committee on this one. First of all, we cannot mix two regimes. We cannot mix the Criminal Procedure Code and the Civil Procedure Code. Secondly, we may prejudice other proceedings if we do not delete this clause. For instance, it says “all other inconsistent subsisting orders and proceedings other than criminal proceedings commenced by any written law shall be suspended”.

How do we suspend proceedings other than the ones under this Act? Why should we do that? In my view, we may prejudice ongoing proceedings unrelated to this Act by simply getting an order of protection. Therefore, Clause 44 should go.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Members, the last person to speak on this one shall be the Chairman.

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, the Member for Ndhiwa, hon. Oyugi, who is an able Member of my Committee, is my very good friend. Let me just read out this clause for, purposes of understanding. It says that where an order is issued under the Act, and while such an order remains in force all other inconsistent subsisting orders and proceedings--- This clause presupposes that there are other orders which have been issued by other courts either of concurrent jurisdiction or even higher. You are, therefore, suspending those orders by merely saying it is inconsistent with that other order which has been issued by a competent court. The best thing you can do – and that is the procedure contained in the civil procedure and criminal procedure codes – is your appeal against that inconsistent order or that which is contrary. You can also bring it to those proceedings so that it can be nullified by a court of law. It cannot be nullified by an Act of Parliament. You will suspend an order of a competent court.

Thank you, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang') Hon. Members, we will take a vote on this one.

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

(Clause 44 deleted)

Clause 45

Hon. Chepkong'a: Thank you, hon. Temporary Deputy Chairman. I beg to move:-
THAT, the Bill be amended by deleting clause 45.

The reason being, anything that was unconstitutional about child marriages was also unconstitutional even in the former Constitution. This new Constitution did not come to write something that was wrong in the former Constitution. Even this one is saying that there were child marriages which were entered before and those child marriages were illegal even under the old Constitution under the old regime. It is inconceivable that you can have a legislation which is purporting to legalise something that was unconstitutional at that time and which is also unconstitutional even this time.

Thank you, hon. Temporary Deputy Speaker.

(Question of the amendment proposed)

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

(Clause 45 deleted)

(Clause 46 agreed to)

(Hon. Okoth walked into the Chamber)

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Member for Kibra, shall I hear you?

Why are you darting across the Chamber? An hon. Member of the Assembly does not need to dart. You keep your seat. Where are you now? Can you go back to your seat? I will wait until you are in the human rights corner where you seem to be more comfortable. I will wait for you. I will hold until order is restored.

(Laughter)

What is causing a lot of excitement hon. Member for Kibra?

Hon. Okoth: Thank you for giving me the opportunity, hon. Temporary Deputy Chairman. I canvassed with the Chairman of the Committee and we had reached a

consensus that I will be allowed to introduce an amendment adding one or two specific things that were important to Clause 46.

The Temporary Deputy Chairman (Hon. Kajwang’): Clause what? Clause 46 be done what?

Hon. Okoth: Clause 46 yes. I was to add some amendments to it, to propose an amendment adding specific clauses to Clause 46.

The Temporary Deputy Chairman (Hon. Kajwang’): A further amendment to Clause 46?

Hon. Okoth: Yes.

The Temporary Deputy Chairman (Hon. Kajwang’): But there was no amendment preferred by the Chairman on Clause 46, was there?

Hon. Okoth: There was and he knows.

The Temporary Deputy Chairman (Hon. Kajwang’): Well, I am looking at the Order Paper. Just show me where. Can you hold the Order Paper in your hands and show me where the Chairman was proposing an amendment?

Hon. Okoth: Hon. Temporary Deputy Chairman, it is not in the Order Paper. Let me explain. It is a canvassed Floor amendment and the Chairman allowed me to bring it. You remember that even the hon. Member for Wajir had signalled to you that there was a hot potato- Clause 46 coming up which you rushed through.

The Temporary Deputy Chairman (Hon. Kajwang’): Well, you know these are the learning grounds also. Hon. Member for Kibra you ran into two problems. If there was no amendment suggested on Clause 46, it can only mean that you would have prosecuted it were you to prefer that amendment yourself, as an hon. Member and it would have been a written proposal which is signed by the Speaker and which is on the Order Paper. It is a learning experience for all of us and so I do not hold it on you but those are the Standing Orders.

Hon. Okoth: Hon. Temporary Deputy Chairman, I think you should let the Chairman of the Committee speak.

The Temporary Deputy Chairman (Hon. Kajwang’): He has nothing to say because he is not proffering anything on Clause 46. He would be speaking as an hon. Member for Ainabkoi and not as the Chairman of the Departmental Committee.

Two, you realise that we have stepped on to Clause 2 meaning that we have passed there. But that is minor, I would have bent on it and I would have listened to you but because you do not have a written amendment--- If you want that order hon. Member for Kibra, I will read the relevant Standing Order which shows that every amendment must be in writing. Let me just take you back to the Standing Order because I can see that this is really causing you a lot of anxiety. Look at Standing Order No.55. Are you on Standing Order No. 55 (1)? It says:

“The proposer of an amendment to a Motion shall, before moving it, hand the proposed amendments in writing, signed by the proposer to the Clerk, at least, two hours before the order is read.”

A Motion carries the same understanding as an issue in the Committee of the whole House. I think you see that the Temporary Deputy Chairman is proceeding on the Standing Orders.

Hon. Okoth: Hon. Temporary Deputy Chairman, I am actually asking for your discretion because in 55(2) it says in “exceptional circumstances” you may allow some amendments.

The Temporary Deputy Chairman (Hon. Kajwang’): In exceptional circumstances, Floor amendments will still be in writing. Which is this exceptional circumstance?

Hon. Okoth: We have it in writing.

The Temporary Deputy Chairman (Hon. Kajwang’): You mean Standing Order No.55 (2) which says:-

“Despite paragraph (1), the Speaker may, in exceptional circumstances, allow a Member to move an amendment to a Motion before the Assembly at any time during consideration of that Motion.”

Hon. Okoth: Can I submit it?

The Temporary Deputy Chairman (Hon. Kajwang’): That is all right but then you would have to canvass those exceptional circumstances. So, can we hear you on the exceptional circumstances?

Hon. Okoth: The exceptional circumstances are that we have a matter of national interest here for the proposers of the Bill which includes specific protection measures that we removed under Clause 8. Rather than calling for re-committal of that, we could add “under very specific things such as shelters and professional services” as some of the things to be ascribed under Clause 46 under the rules and regulations to be made.

I canvassed this with the Chairman and many hon. Members who have done due duty the whole afternoon are waiting for those protections to be considered and voted on procedurally. I think we should not kill the spirit based on a technicality but I beg your indulgence and hon. Neto can help to explain the special circumstances. We have been working on this together.

The Temporary Deputy Chairman (Hon. Kajwang’): I will have Nominated Member Johnson Sakaja. Do not arrogate yourself the power to know which hon. Member will speak to what.

Hon. Okoth: I was just begging for help.

Hon. Sakaja: Thank you, hon. Temporary Deputy Chairman. I would like to join my fellow hon. Member in seeking your indulgence to allow this amendment. When we were at Clause 8, I remember I tried to rally the Committee to understand that the reason why the Committee Chairman wanted to drop Clause 8 was because of the perceived conflict between county executives and the Cabinet Secretary and the fact that, that would make this a Bill concerning the counties and that would have made it untidy. It would mean going to the Senate to be looked at afresh.

Hon. Temporary Deputy Chairman, I ask the House to consider the fact that by amending that and dropping Clause 8, we would have dropped a very important part of this Bill which is the creation of safe houses and protection mechanisms. So, I humbly beseech you to consider that amendment in Article 46 and, of course, it will aid in consideration of the issues that have been raised by the Chairman with respect to the conflict affecting the Cabinet Secretary dealing with county executives. There is no provision in law that allows the Cabinet Secretary to deal directly with county executives on such a matter.

So, if hon. Members brought it in a more neat way that provides for safe houses for victims of domestic violence, be they children, women or parents, I think that is a noble idea that we must support.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Members, the Chair is very sympathetic to whatever amendments you want to bring before the House but the Chair is tied to your Standing Orders to keep fidelity to them. They are not procedural technicalities, they are substance. I want you to look at Standing Order 133(2) which says:-

“(2) No amendment shall be moved to any part of a Bill by any Member, other than the Member in charge of the Bill, unless written notification of the amendment shall have been given to the Clerk twenty-four hours before the commencement of the sitting at which that part of the Bill is considered in Committee.”

“Bill” meaning what we are discussing right now. This is to a Bill, not a motion. The Member who is proposing to make this amendment has just given a hand-written copy of his proposal. Let me tell you why it is not procedural; it should go through the process of analysing, aligning it with the law and also you should give the Chair an opportunity to look at it. That is the intention. It is not just a procedural thing, it is substantive. Even if you go to sub-section 3 it states:-

“(3) Despite paragraph (2), where an amendment has been moved to any part of a Bill in accordance with this paragraph, any Member may move an amendment to that amendment on delivering to the Chairperson the terms of his or her amendment in writing” which the hon. Member has done despite paragraph (2).
Yes, hon. Member for Seme.

Hon. (Prof.) Nyikal: I have certainly been educated a little. I find that whether it is Standing Orders or what, what we are likely to miss out---

The Temporary Deputy Chairman (Hon. Kajwang’): I will not allow it. You cannot seem to make a suggestion that demeans the Standing Order.

Hon. (Prof.) Nyikal: What is being demeaned---

The Temporary Deputy Chairman (Hon. Kajwang’): Order, hon. Member for Seme! The phrase that “Despite Standing Order or what” implies that Standing Order is not substantial. Give him the microphone to withdraw. Would you please press the intervention button?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Chairman, I happily withdraw the remark and now put the question. What it appears is that if you had dropped what is in Clause 8(1), we are losing out in the whole law an extremely important part, which is the shelters and the services. I happen to have had experience of dealing with such issues and you have, if I followed you right, said that the Chairman of the Committee may do this. Mine would be to indulge him that this is so important that if we would agree and bring it, we would have what is extremely important in the whole of this law. That is important.

You indicated that the Chairman of the Committee can do that. I would appeal to him that we bring it.

The Temporary Deputy Chairman (Hon. Kajwang’): Somebody once said that the law is an ass. That is a tragedy of how law-making is all about. I feel you but you have skipped the gun.

(Hon. (Ms.) Kajuju and hon. Sakaja spoke off record)

Before you get into an argument, hon. Member for Meru and nominated Member, looking at these Standing Orders again, you have called on us time and again to enforce these Standing Orders. I can see that the Member for Kibra is very happy when paragraph 3 of that Standing Order says “Despite paragraph 2” as though to make it easy for him. That is before you consider the preceding phrases which go:-

“(3) Despite paragraph (2), where an amendment has been moved to any part of a Bill in accordance with this paragraph, any Member may move an amendment to that amendment on delivering to the Chairperson the terms of his or her amendment in writing.”

There must be an amendment moved. This is implying that it can only be done on a further amendment. There must be amendment on the Floor and then you can do what you have purported to have done, to bring me an amendment written and that you want to argue on exceptional circumstances and then we entertain it as the House. That is what my reading of these Standing Orders seems to be suggesting. Let me just rule the Member for Kibra to be out of order. I hereby pronounce myself that the Member for Kibra is out of order.

(Clause 2 agreed to)

(Clause 1 agreed to)

(Title agreed to)

Hon. Chepkong’a: On a point of order.

The Temporary Deputy Chairman (Hon. Kajwang’): Chairman, do I hear you on intervention?

Hon. Chepkong’a: I thank you, hon. Temporary Deputy Chairman, Before I---

The Temporary Deputy Chairman (Hon. Kajwang’): No, I see you are on intervention.

Hon. Chepkong’a: Yes, I am on intervention. I wanted to clarify what my very good friend and former Member of Departmental Committee on Justice and Legal Affairs said. What he canvassed, I mentioned to him that on the question of safe houses, it is

already provided for adequately. As you remember, the Bill by hon. (Ms.) Odhiambo-Mabona, the Victim Protection Bill-it is an Act now- provides for the protection of victims. If it is deemed that a person who is protected under this Bill is a victim, then the Victim Protection Act kicks in. Once that Act kicks in, the Witness Protection Unit shall then provide safe shelter for that person who is being protected. We have provided over Kshs160 million this year for the Witness Protection Unit to provide safe houses and shelters for persons who have been abused. Those who have been abused within a domestic setup and the court have found that there are already adequate mechanisms to deal with that. It is very comprehensive.

Hon. Members you passed it here under the Victim Protection Act as it is right now. Safe houses are already provided under the Witness Protection Unit legislation. We have also provided money. Last year, we provided Kshs160 million for the Witness Protection Unit to hire and to lease houses where they will protect these persons. So it is already protected. If you are convinced I will be glad. I do not want people to leave here very unhappy yet we have legislation dealing with it. I would have been the first one to ensure that we move that amendment. Since we already have a legislation dealing with that, I would like to beg hon. Members that we accept this situation and move on.

The Temporary Deputy Chairman (Hon. Kajwang’): You know you forgot. I can see you were in intervention but those were not issues at all. I just gave you because you have been a studious Chairman. You forgot what you needed to have done.

Hon. Chepkong’a: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Protection Against Domestic Violence Bill, (National Assembly Bill No. 28 of 2013) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

Hon. Kajwang’: Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Protection Against Domestic Violence Bill, 2013 and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Mover.

Hon. Chepkong’a: Hon. Temporary Deputy Speaker, I beg to move that the House agrees with the Committee in the said Report.

I also request hon. (Ms.) Kajuju to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Ms.) Kajuju: Hon. Temporary Deputy Speaker, I second the Motion.

This is a great day for the women and men of Kenya because this is a Bill that is going to support the entire family. It is not just one gender, it is not a gender issue; it is a whole family set up issue. I, therefore, second.

(Question proposed)

(Question put and agreed to)

Hon. Chepkong'a: I beg to move that the Protection Against Domestic Violence Bill, 2013 be now read the third time.

This is a very important Bill to all genders; not only women but it includes women, men and children. It seeks to ensure that those who have been abused in a domestic set up are protected. This law is one of those legislations that are anticipated by the new Constitution that must be passed by August, 2015. This legislation provides for the protection and relief of victims of domestic violence. It also protects spouses and any children or other dependant persons and also other matters that are connected with the family. So, it is a very important Bill when it comes to family issues. I want to thank the Members who have supported this Bill since we are supporting a legislation that has far reaching consequences in terms of protection of the family. I thank every Member who contributed. I would like to request hon. Florence Kajuju, the Member of Parliament from Meru County to second.

Hon. (Ms.) Kajuju: Thank you, hon. Temporary Deputy Speaker. Let me pass my congratulations to the Chairman of the Departmental Committee on Justice and Legal Affairs because it is under his chairmanship that we have been able to rise to the occasion and ensure that domestic violence is recognised within an African setup. I have experienced situations where persons have experienced domestic violence in a family and when they report such a situation, they are sent away and told that it is not a matter for the police or it is not a matter that is supposed to be investigated.

This Bill gives every law-enforcing officer the capacity and the *locus standi* to intervene and arrest a situation that would otherwise mess up a family. I appreciate the Eleventh Parliament and the Departmental Committee on Justice and Legal Affairs for going through this Bill and passing it in the manner it is.

I appreciate and thank you all. We have done it as the Eleventh Parliament.

Asante sana.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we are in the Third Reading stage of the Bill. I can see a few requests. I want to assure you that most of you will speak to this Bill. We are not in the Second Reading, but in the Third Reading.

Let me hear comments from the Member of Parliament for Matungulu; hon. Stephen Mule.

Hon. Mule: Thank you, hon. Temporary Deputy Speaker. First and foremost, I want to congratulate my colleagues for a job well-done. For the first time, we are looking at a law which protects all families within the country without discrimination against any gender.

Secondly, it is a law which is long overdue in this country, during this Century. We need to look at the country from the family perspective. This is a law which will sort out a lot of problems. It is a good day especially for all family members in this country to know that they need to adhere to the rule of the law. We are not going to allow families to be ruined because one thinks that money, power and intellectual-- We have to stick to the rule of law in this country.

I want to congratulate this Parliament because most of the Bills passed touch squarely on the common *mwananchi*; the local person *mashinani*. It is important that we keep up with this spirit to make sure that we move this country forward, despite issues of politics which is our profession. This country must move forward.

For the first time, we can assure families in this country that this Parliament has a duty to protect them. We have achieved it at this hour. I request all Members of Parliament to support this Bill in its totality to make sure this law is implemented.

I kindly ask the Chairman of the Committee on Implementation of the Constitution to make sure that he picks up this law like yesterday and make sure all that needs to be implemented is done. We need to ask the relevant authorities to come up with very clear policies based on the laws which we have passed. We should not waste our time in this House making good laws and then issues of policies deter implementation. People should not hide behind curtains. We do not want to make a law then it goes straight to the shelves and is not implemented. I would wish to see this House rise to the occasion within the next three or four months. If the law is not implemented, we suspend the business of this House and make sure that it is implemented to the letter. We are not going to threaten anybody, but we make sure that laws made here are not just put on the shelves.

It is important to note that there is no way we will have a nation if families are not protected. This nation will not be at peace when families are not protected and educated, but are left suffering. There is no way this country can move towards the Millennium Development Goals (MDGs) or Vision 2030---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, we are in the Third Reading stage where we are making comments. I will allow you to just make comments.

Hon. Mule: Thank you. Finally---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): However, try to be brief because I have about 12 requests.

Hon. Mule: Thank you. I stand guided, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Let me also take this opportunity to appreciate the Members who have been in the House. You have been there to do what you were elected by your people to do, starting with the Chairperson who did a very wonderful job of taking us through the Committee of the whole House and the contributions from Members. This is a wonderful job. The public

out there should know what we do as Members of Parliament. We are elected to make laws. This was one of the law-making processes.

Let me give the Chairperson the Floor to make his comments. The Member for Ruaraka, hon. Kajwang’.

Hon. Kajwang’: Hon. Temporary Deputy Speaker, perhaps I could have spoken after my colleagues, but thank you for allowing me to make valedictory comments. I want to congratulate my colleagues who have sat with me for the three occasions when this Bill has been considered in the Committee. I now know that laws are made by just the resilient few who are resilient enough to stay on and exercise their minds to process legislation.

I also want to recognise the Members who have proffered a lot of professional opinions to the legislation for free, thereby making sure that we have a legislation that has a better output. I also recognise those Members who have prodded the other Members to clarify the law. This is because this law must be user-friendly. This law concerns that old *mama* from Ruaraka or that mother in Mathare or Korogocho who does not know anything about English, but knows that she must be protected against domestic violence. So, it has been a learning experience.

There is need for Members to take Committee work seriously because that is where most of these issues of technicality and reconciling the law are done. Even if you are not able to be in those committees--- Although this was being handled by the Departmental Committee on Justice and Legal Affairs, no Member should have the excuse not to attend any of those committees anyway. Even if we did not, there is still the Report which comes before the House from that committee. Studious Members would look at that Report, make comments and, thereafter, make the proposals on the Order Paper. That way all of us are able to speak with one voice. However, I want to thank you all for the good job you have done.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken. The Member for Thika Town, hon. Alice Ng’ang’a, please, let us just make our comments.

Hon. (Ms.) A.W. Ng’ang’a: Thank you very much, hon. Temporary Deputy Speaker. I take this opportunity to thank the Chairperson and all the Members who contributed to this Bill. I have never sat down in Parliament like I have done when this Bill was being discussed. I have been here throughout because I really wanted to contribute though today I did not catch the Speaker’s eye.

Family is a very important institution. We should respect and guard it. This Bill is talking about family, domestic violence and how to protect the family. It is the family that nurtures the children when they are growing up to become important people in the society. It is also the same family that protects both men and women.

This Bill has talked about protection of everybody. Just like the way we respect other institutions, it is high time for everybody to know that the family should be respected. Every person, even at the family level, has a voice and an opinion. Their opinion should be respected and not that when you have divergent opinion you start fighting. Now there are procedures and rules that both sides should engage in. It protects both men and women. We have heard of how men are usually molested every now and

then. I congratulate the Members and the Chair. It is a wonderful Bill. I am proud that we have it now.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. I will give another three then we can go on. Do I read the mood of the House? Let me have the hon. Member for Kibra. Please use one minute.

Hon. Okoth: Thank you. I am happy and grateful that so many people have worked hard to push this Bill to this level. I would especially thank the members of the Kenya Women Parliamentary Association (KEWOPA) and the Kenya Human Rights Caucus who have put their minds and time into it to make sure that this Bill that is important for our families has come through. I wish that as we go to the regulations, the struggle is not complete and that the regulations that will be made will grant us the things that we were not able to secure in the primary Bill. This is so that we get them in the regulations especially the temporary shelters and safe houses which are distinct and different from what is provided for under the Victims Protection Act and the Witness Protection Bill. The Protection Against Domestic Violence Bill was asking for other shelter separately and access to professional services necessary such as counselling, psycho-social support and legal services. Nevertheless we have made a great step and I want to thank everybody who contributed to this.

God bless Kenya.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Let us have hon. Susan Musyoka. Please use your one minute. Remember that this is not the Second Reading. We are just making comments. At my discretion, I want to appreciate the Members who are in the House to pass this at the Third Reading of the Bill and the Committee of the whole House.

Hon. (Ms.) Musyoka: Thank you. I want to thank the Chair and all the Members who have put so much effort into this Bill. This is one of the most important Bills. To see it going through is a great day for Kenyan families. The first institution that God made was the family and being so important and having violence in families, we have done something worthwhile for Kenyans. I cannot wait to see its implementation and to see Kenyans being protected by law. The first thing that we should do is to strengthen the structures that already exist. We need to have desks in police stations and hospitals where people can report these cases without being harassed. We are going to champion such activities. I am sure that with this Bill we have so much power to protect the rights of the victims. With this, coupled with the Victims Protection Bill, we are good to go.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for a minute well spent. Let us have hon. John Waiganjo, Member for Ol Jorok Constituency.

Hon. Waiganjo: Thank you very much. This is a great day. Parliament should stand proud. This is a very important piece of legislation. The next step is to make sure that most Kenyans are aware of this piece of legislation so that whenever there is domestic violence, they can run with this Bill. We already know that there is escalating violence within our domestic setups. This Bill has widened the scope of people with *locus standi*. I am happy.

I hope that Kenyans, wherever they are, appreciate what the House has done today, so that they do not associate us only with bad things. When we do something good, we need to pat ourselves on the back.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Kenyans should, indeed, know that the domestic violence Bill is for both women and men.

Let us hear a comment from the Member for Muhoroni, hon. Onyango Oyoo.

Hon. Oyoo: Thank you very much, hon. Temporary Deputy Speaker.

I want to take this opportunity to commend the Chair and the Committee Members, and those who have deliberated vastly on this important Bill. This Bill will go a long way in solving many unnecessary domestic problems and squabbles in this country. As hon. Members know, the bedrock of a country is the steady families that we have. I want to loud the Eleventh Parliament for considering the bedrock of this country and making sure that sound family values are upheld. We have passed the Witness Protection Bill. We are also passing this Bill today. I believe with the same spirit and gusto, which our Excellency the President exercised by signing very fast, the Marriage Bill, which many people thought he would not. It ended up freeing the Kenyan men folk from the Central Kenya region, who forever were not willing to have permanent spouses beyond----

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your minute is over, hon. Oyoo.

Let us hear hon. Christine Ombaka.

Hon. (Ms.) Ombaka: Thank you, hon. Temporary Deputy Speaker. I am proud because this is a historic day. We have come up with a Bill that is going to protect the family. When a family is protected, the nation is protected. It is a Bill which protects women, men, children, old men and old women as well as people living with disability. It is an encompassing Bill. Therefore, it is the right Bill. We are proud of it. We now wait to see its implementation. I am proud to hear from my eminent Chair of the Committee on Justice and Legal Affairs saying that funds have been allocated for its implementation. We are, therefore, moving right ahead to start implementing it. I am very proud to be a Member of the Eleventh Parliament which will be associated with this wonderful Bill whose purpose is protection of the entire country.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member for Shinyalu, you have one minute.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker.

We all strive for patriotism and patriotism starts at the family level. The amount of democracy that can be cultivated there will give us the energy to embrace our country in love and friendship. It is very important that we will not hear any more of the instances we have had in the past, of men beating up their wives and wives beating up their men and people beating up their children. Charity begins at home. This Bill is an opportunity for us to promote positive universal living values.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us hear a comment from the Member for Kitui South, the Chairlady of the Committee on Health.

Hon. (Ms.) R. K. Nyamai: Thank you very much, hon. Temporary Deputy Speaker, for giving me this opportunity.

I would like to join my colleagues in congratulating the Parliamentary Committee on Justice and Legal Affairs, and indeed all Members of Parliament who have worked through this important piece of legislation, which is going to protect Kenyans. The enactment of such law is actually long overdue. We should be happy. I am happy to be a Member of the Eleventh Parliament, which has seen this process come to pass. I look forward to seeing its implementation.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Next is the Member for Dagoretti South, hon. Dennis Waweru.

Hon. Waweru: Thank you, hon. Temporary Deputy Speaker. I want to take this opportunity to congratulate the Chairman and the Members of the Committee for a job well done. For sure, it is good that we have been able to clearly define 'violence'. It is also important that we have been able to state clearly what 'domestic violence' is.

I think this is a win for women, children and people with disability. It is also a big win for the men of this country who in some areas have had some incidents. Going forward, people can interact and get married from any region of this country without any fear.

(Laughter)

I want to say it is a good registration and I am proud of it. It is good for our women, wives, daughters and that is the direction we should take as a House as we go forward. I also congratulate the Committee.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you and thank you also for our men.

Hon. (Ms.) Muhia: Thank you, hon. Temporary Deputy Speaker. I am most excited because the day this Bill started its journey I was in Ol Kalou Constituency rescuing a girl who had been subjected to gender-based violence. She had been raped and had real problems. I am happy because the Justice and Legal Affairs Committee has given justice to Kenyan people today. I am also happy because of the women caucus at that corner. They have walked through this journey with us. In fact, they have brought us together, done a lot of research and they have been encouraging us.

Finally, I wish to see the President sign this Bill very fast but we should also remember that Bills are passed and never implemented. I encourage Members to sensitize the public and do civic education so that they are aware of the new law. Tomorrow I want to see newspapers in black and bold writings that 11th Parliament did pass this Bill as they do with other issues.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): For me to recognize the caucus, hon. Member for Ndhiwa, Aghostinho Neto, the Floor is yours.

Hon. Oyugi: Thank you, hon. Temporary Deputy Speaker. First, it underscores the strength of parliamentary caucuses like KEWOPA and human rights caucuses which

have done a very good job in terms of trying to see this go through. I thank them for being good Members of Parliament.

Let me thank the hon. Chair of the Justice and Legal Affairs Committee because he did give me a chance to second this particular Bill. The first few days the Bill was being discussed, it looked like it was going to go to turbulent waters. However, today, we can celebrate with Kenyans and thank the Members of Parliament who stayed all along to support it.

There are three things I would like to highlight about this particular Bill. First is the expansion of the word “violence” in Section III of the Bill which I think goes a long way in giving us a lot of latitude in terms of what domestic violence is going to be about. Secondly, Section IV expands the purview of who is in a domestic relationship. Of course, my hon. Chairperson was not really happy with this particular thing but I think that was critical.

Lastly, Section 35 of the Bill tended to give privacy to the people and victims of domestic violence. I really think this is a Bill which is good and even though we lost in the protection orders under Section VIII, it is something that we can do within the meaning of the regulations. I thank all the hon. Members for staying here because this Bill has a long history. Hon. Nyikal will tell you that it has taken 20 to 30 years to get this Bill through and what we have done today is a landmark. Let me use the words of the Chairperson of the Committee of the whole House and thank the Chairman of the Justice and Legal Affairs Committee for a good job well done. Thank you very much for steering us through this. This is historic and I thank you. God bless everyone.

Hon. G.W. Omondi: Thank you, hon. Temporary Deputy Speaker. I also stand to congratulate those who have worked tirelessly to bring this Bill to Parliament and all of us who have sat here to make sure that it goes through. The people who have benefited most in this Bill are our children as this Bill will bring harmony in the homes. Children are our future and our investment. I do not think that anybody, even if they are violent to their wives or husbands, would want their children to be brought up in a chaotic home. This Bill will go a long way to bring harmony to our youth who are our future in this country. The country will have a prosperous future when our children will grow in harmonious homes.

I support this Bill very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): That is a comment on the Third Reading. I have two or three more hon. Members who want to comment before I give the Chairperson of the Justice and Legal Affairs Committee and I can see his request.

Hon. James Nyikal, Member of Parliament for Seme Constituency.

Hon. (Prof.) Nyikal: Thank you, hon. Temporary Deputy Speaker. I am a very happy person today.

Actually, for over eight years, I have been involved in the field of the protection of the family and particularly children. That this House has passed this Bill is a great occasion today. The people who suffer most in domestic violence, unknown to many people, are children. They die, get maimed and are traumatized. With this Bill, they are going to be protected. I feel happy that I am part of this process.

It started with all the other Bills, like the Marriage Bill, the Matrimonial Property Bill, the Victim protection Bill and now this one. I also want to particularly congratulate the Departmental Committee on Justice and Legal Affairs, particularly the Chairman. I want to draw the Chairman's attention to the fact that this Bill had many parts that were borrowed from other laws that needed not---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I hope the Chairman of the Committee is listening to the good sentiments.

Hon. (Prof.) Nyikal: There were many parts of this Bill that needed not to be there because they were picked from other laws that are in existence. My concern is that the publication scrutiny process in our system did not work well. This came from the Attorney General's Office; it went through the Law Reform Commission and the Commission for the Implementation of the Constitution. How is it that the Bill went through all these bodies and the flaws were not noticed? Therefore, I would like to call upon the Committee and the Chairman in particular, to get that part strengthened by drawing the attention of the people concerned that this should not happen. This is because Members who are not lawyers will not understand that there are parts that are elsewhere.

With that I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, before the chairman makes his contribution because he did good work, let us have the Member for Limuru, hon. Eng. John K. Chege.

Hon. J. K. Chege: Thank you, hon. Temporary Deputy Speaker. I want to join my colleagues in congratulating the Departmental Committee on Justice and Legal Affairs and the wise leadership of hon. Kajwang' for taking us through the whole process.

I also want to thank hon. Members for making this historical event come to reality. Today, I am a very happy person, even as I go home; I feel that it was worth coming to this House. This bill is for all of us as men, women and children and for an orderly society. I really feel good that I am part of this history.

Therefore, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Rose Mitaru, Member for Embu County.

Hon. (Ms.) Mitaru: Thank you, hon. Temporary Deputy Speaker for giving this chance. I had to leave the House this afternoon briefly to go and support a 100-year old woman who had gone through this kind of system and had been imprisoned for a couple of weeks or months.

I want to congratulate the Departmental Committee on Justice and Legal Affairs Committee for coming up with this system.

Hon. Temporary Deputy Speaker, I support because every time there is fighting in the family, women and children suffer most. As a woman, I have realised that there is even no age category. Today we have just helped to remove a 100-year old woman from prison because of this kind of issue. They will be protected. I am very proud. I feel blessed and I pray that our people at the rural level will be taught so that everybody will understand the rights of every child, woman and man so that we can build a good nation. Any nation in the world depends on how we respect and care for each other and how much we take care of the laws that protect the needy, particularly the disabled and those who are voiceless and hopeless. I feel very proud.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let me give the chance to the Chairman of the Justice and Legal Affairs Committee, who did a very good job. You were here when we were doing the Committee of the whole House. For the three consecutive terms that he has been here, he has been doing very well. We congratulate you. For that matter, I give you the opportunity to contribute.

Take just one minute.

Hon. Chepkong'a: Thank you, hon. Temporary Deputy Speaker, for being present at such very momentous moment.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): By the way, Committee Chairman, you are not replying but making a comment, just like any other hon. Member.

Hon. Chepkong'a: Thank you, hon. Temporary Deputy Speaker, for being present at such a time when we are almost concluding debate in the House. I must thank all the hon. Members who contributed to this very important Bill. For the first time, certain outdated traditions and cultures, for instance, child marriages; have been criminalised.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chairman, I thought you requested for the Floor because something was out of order.

Hon. Chepkong'a: No, I am thanking hon. Members.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You know you are the one who moved the Bill. You may not be able to speak twice.

Hon. Chepkong'a: Yes, I am thanking hon. Members who have spoken to the fact that child marriages and issues like widow cleansing that hon. Members have talked about, are now outlawed. I must thank hon. Members for noting that fact.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Chairman, allow me to thank them for you. I saw you on intervention but since you are the one who moved, you may not be able to speak twice.

Hon. Chepkong'a: No, I am just thanking hon. Members from both sides of the political divide. I thank them for contributing very eloquently and being very supportive of this Bill. I thank the Speaker and the entire clerking team for supporting the Committee in this work. We have come a long way. This started way back in June 2014. I sincerely thank everybody who has contributed and supported this Bill. It will go a very long way in ensuring that we have very stable and secure families in this country.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. For the sake of the HANSARD and the procedures in the House, which we should not break, you may not speak twice. It came from your mouth that you were on intervention. So, let us not break the procedure of the House.

Hon. Members, for the convenience of the House, I will not be able to put the Question for obvious reasons.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, the time being 6.29 p.m., the House stands adjourned until Tuesday, 24th March, 2015 at 2.30 p.m.

The House rose at 6.29 p.m.