



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT - SECOND SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, AUGUST 27, 2014

1. The House assembled at thirty minutes past Nine O'clock.
2. The Proceedings were opened with Prayer.
3. **PRESIDING** – the Deputy Speaker
4. **THE TRAFFIC (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.32 OF 2014)**
(Hon. Joseph Lekuton)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

5. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 34 OF 2014)**
(Hon. Adan Keynan)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

6. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Chairperson of Committees in the Chair

The Victim Protection Bill (National Assembly Bill No.41 of 2013)

Clause 3 - agreed to.

Clause 4 - amendment proposed -

THAT, the Bill be amended by deleting clause 4 and inserting the following new clause-

"4. (1)A court, administrative authority, or a person performing any functions under this Act, shall respect and uphold the values and principles in the Constitution and, in particular, be guided by the provisions of Articles 10, 27(4), 47, 48, 49 of the Constitution."

(2) subject to subsection (1) a court, administrative authority or person performing functions under this Act shall ensure that—

- (a) the court, administrative body or person does not discriminate against any victim on the basis of race, colour, gender, age, language, creed, religion, nationality, political or other opinion, cultural belief or practices, property, birth or family status, ethnic or social origin, disability, or any other grounds;
 - (b) every victim is, as far as possible, be given an opportunity to be heard and to respond before any decision affecting him or her is taken;
 - (c) the victim's dignity is preserved at all stages of a case involving the victim, from the pre-trial to post-trial phase;
 - (d) every victim is addressed in a manner appropriate to his or her age and intellectual development and should be spoken to and be allowed to speak in his or her language of choice, or through an interpreter if necessary;
 - (e) every victim is treated in a manner which takes into account his or her cultural values and beliefs;
 - (f) every victim is protected from secondary victimization in all informal, administrative and judicial proceedings relating to the victim;
 - (g) every victim is accorded legal and social services of his or her own choice and if the victim is a vulnerable victim within the meaning of this Act, then he or she shall be entitled to legal and social services at the State's expense;
 - (h) a vulnerable victim is entitled to contact with his or her family or any primary care giver.
 - (i) the victim's dignity is upheld at all times;
 - (j) the victim's cultural values and beliefs are respected;
 - (k) the victim is not discriminated; and
 - (l) the victim is protected from victimization of any sort.
- (5) Where in the opinion of the court or a police officer there is sufficient reason to believe that a victim is likely to suffer intimidation or retaliation from the accused, offender or any agent of the accused or offender, the Board shall immediately refer the victim to the Witness and Victim Protection Agency established under the Witness Protection Act, 2006.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 4 - as amended agreed to

Clause 5 - amendment proposed -

THAT, clause 5 of the Bill be amended by inserting the following new sub-clause immediately after sub clause (2)-

“(3) No victim shall be denied the rights or welfare of a victim under this Act by reason only that similar protection measures are available under any other written law.”

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 5 - as amended agreed to

Clause 6 - agreed to

Clause 7 - amendment proposed -

THAT, Clause 7 of the Bill be amended by inserting the word “name” immediately before the word “age” appearing in paragraph (a).

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 7 - as amended agreed to

Clause 8 - amendment proposed -

THAT, the Bill be amended-

(a) by deleting clause 8 and inserting the following new clause-

Right to privacy and confidentiality. **8.**(1) A victim has a right to privacy—

(a) from the media, whether print, electronic or other types;

(b) from unreasonable intrusion from health professionals;

(c) of confidentiality of their communication with victim support

(d) service providers; or

(e) from any other person.

(2) Where a victim requests for confidentiality, the head of the law enforcement agency investigating the offence shall ensure that the residential address, telephone number, cell phone number, email, fax and place of employment of the victim and members of the victim's family are not disclosed by the agency except to the extent required—

(a) by law, or for the purpose of law enforcement or prosecution or other legal proceedings;

(b) to ensure the safety and security of any person.

(3) The right to privacy protected under subsection (1) shall be deemed to have been waived where the victim publicizes or consents to publication of matters relating to their case.

(b) by inserting the following new clause immediately after clause 8.

Right to protection **8A.**(1) A victim has a right to—

(a) be free from intimidation, harassment, fear, tampering, bribery, corruption and abuse;

(b) have their safety and that of their family considered in determining the conditions of bail and release of the offender;and

(c) have their property protected.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 8 - as amended agreed to

Clause 9 - amendment proposed -

THAT, the Bill be amended by—

(a) inserting the following new clause immediately before clause (9)-

9A. (1)A victim has a right to—

Rights
during
the trial
process

(a) be present at their trial either in person or through a representative of their choice;

(b) have the trial begin and conclude without unreasonable delay;

(c) give their views in any plea bargaining;

- (d) have any dispute that can be resolved by the application of law decided in a fair hearing before a competent authority or, where appropriate, another independent and impartial tribunal or body established by law;
- (e) be informed in advance of the evidence the prosecution and defence intends to rely on, and to have reasonable access to that evidence;
- (f) have the assistance of an interpreter provided by the State where the victim cannot understand the language used at the trial; and
- (g) be informed of the charge which the offender is facing in sufficient details.

(2) Where the personal interests of a victim have been affected, the Court shall—

- (a) permit the victim's views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court; and
- (b) ensure that the victim's views and concerns are presented in a manner which is not—
 - i. prejudicial to the rights of the accused; or
 - ii. inconsistent with a fair and impartial trial.

(3) The victim's views and concerns referred to in subsection (2) may be presented by the legal representative acting on their behalf.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 9 - as amended agreed to

Clause 10 - amendment proposed -

THAT, the Bill be amended in clause 10—

(a) by inserting the following new sub-clauses immediately after sub-clause 2—

(3) A victim has a right to present a victim impact statement in all cases where the court is to consider victim protection and welfare.

(4) The statement referred to under subsection (1) shall include information on the impact of the offence on the victim's life and any concerns the victim may have about their safety.

(5) Despite any other provision set out in this Act, the victim impact statement shall be prepared by the investigating officer in consultation with other agencies in the manner prescribed in this Act.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Amendment to sub clause 2(5) withdrawn;

Debate arising;

Question put and agreed to;

(b) by inserting the following new clauses immediately after clause 10-

- | | |
|--|---|
| Purpose of support and welfare services | <p>10A. (1) In addition to the enforcement of rights provided under section 8, the Board shall provide support services as may be appropriate.</p> <p>(2) The services to be accorded to the victims under this Act shall be accorded so as to assist victims-</p> <ul style="list-style-type: none"> (a) deal with physical injury and emotional trauma; (b) access and participate in the criminal justice process; (c) participate in restorative justice to obtain reparations; or (d) cope with problems associated with victimization |
| Right to choose whether or not to participate in restorative justice | <p>10B. (1) A victim has a right to restorative justice.</p> <p>(2) Where the victim elects to participate in any process towards restorative justice, the process shall proceed on condition that—</p> <ul style="list-style-type: none"> (a) the participation of the offender shall not prejudice any of the offender's rights under any law or be deemed as evidence of admission or proof of guilt in respect of the offence complained of; (b) any of the parties may withdraw their participation to the process at any time; (c) where a process for restorative justice fails, the criminal trial of the offender shall proceed to final determination, but without prejudice to the right of the victim to seek appropriate relief in civil proceedings; and (d) The process towards restorative justice does not violate the provisions of Article 159(3) of the Constitution. <p>(3) Any agreement for restoration or other redress agreed between the victim and the offender shall be recorded and enforced as an order of the Court and may be enforced as a decree of the Court.</p> |

(4) Any restorative justice process shall be for a period of six (6) months and may only be extended with the leave of the court.

Right to prompt release of victim's property held as exhibits.

10C. Where a law enforcement agency is in possession of any property of a victim, the head of the law enforcement agency shall, where the Agency is satisfied that the property is no longer needed as evidence for an investigation or prosecution, ensure that the property is returned to the victim promptly."

Rights of vulnerable victims.

10D.(1) A court or competent authority may, on its own motion or at the request of the prosecution or the victim officer declare a victim a vulnerable victim, where in the opinion of the court or competent authority, the victim is likely to be vulnerable on account of—

- (a) physical, intellectual, or psychological impairment;
- (b) age;
- (c) dependency on the accused;
- (d) trauma;
- (e) disability;
- (f) cultural differences;
- (g) religious differences;
- (h) gender;
- (i) language; race;
- (j) the nature of the offence committed against them; or
- (k) health status;

(2) Where the court or competent authority has doubts as to whether a victim should be declared a vulnerable victim in terms of this Act, the court may summon an expert to appear before it and advise it on the vulnerability of the victim.

(3) Upon the declaration that a victim is a vulnerable victim for the purposes of this Act, the court or competent authority shall direct that a representative be appointed in respect of such a victim.

(4) A representative so appointed under this section shall be summoned to appear before the court or competent authority on a specified date and time to act as a representative and shall upon failure to appear as directed, appear before the court or competent authority to advance reasons for such failure upon which the court or competent authority may act as it deems fit.

(5) A victim who is a person considered to be vulnerable as defined under this Act, shall be accorded all the rights conferred to them in the Constitution and shall—

- (a) receive special consideration from the criminal justice agencies and victim support service providers in matters related to victim protection and welfare services;
- (b) be provided by the Director with programs designed to ensure their enjoyment of the benefits provided for victims under this Act;and

(c) in the case of a child, ensure that the best interest of the child is of paramount consideration and all the rights accorded in the Children's Act are observed.

(6) Despite the above provisions, where a victim who is a person considered as a vulnerable victim is not able to act under this Act in person, the victim shall—

(a) appoint a representative to act on their behalf;

(b) request the victim officer to act on their behalf; or

(c) in the case of a child, have the parent, guardian or legal representative acting on their behalf.

Rights
of a
child
victim.

10E. (1) Where it appears to any police officer or the Director of Public Prosecutions or any public officer presiding in a case where there is a vulnerable child victim, and it appears that it would not be prudent to place the victim with the parents, guardians, or care-givers, the child victim shall be committed to a place of safety until the court makes a decision in relation to the matter.

(2) A child victim who is held in any institution shall be accorded treatment in accordance with the Children's Act.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 10 be amended in subclause (1) by -

(a) deleting the word "may" appearing immediately after the words "criminal offence" and substituting therefor the word "shall";

(b) deleting the words "unless the court orders otherwise" appearing immediately after the words " Criminal Procedure Code and".

(Hon. Irungu Kangata)

Question of the further amendment proposed;

Debate arising;

Proposed amendment (a) withdrawn;

Question put and agreed to;

Debate arising;

Further amendment proposed -

THAT, the following new clause be inserted immediately after clause 10—

Victim as a complainant. **10A.** Where the victim is a complainant in a criminal case, the victim shall, either in person or through an advocate, be entitled to—

- Cap. 80.
- (a) cross-examine defence witnesses;
 - (b) subject to provisions of the Evidence Act, adduce additional evidence that had been left out;
 - (c) give oral or written submissions; and
 - (d) be supplied with copies of defence witness statements and evidence before the commencement of the trial.

(Hon. Irungu Kangata)

Question of the amendment proposed;

Debate arising;

Proposed amendment to 10A (a) and (d) withdrawn and that the words "or withheld by the prosecution" in clause 10A (b) be deleted;

Debate arising;

Question put and agreed to;

Clause 10 - as amended agreed to

PART III – amendment proposed -

THAT the Bill be amended by deleting the words“-PROTECTION OF VICTIMS” appearing in the title to Part III and substituting therefor the words“-RIGHTS, RESPONSIBILITIES AND PROTECTION OF VICTIMS”

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 11 – amendment proposed –

That the Bill be amended by-

- (a) deleting clause 11 and substituting therefor the following new clause 11-

Right to
information

11 (1) A victim has the right to information under Article 35 of the Constitution, this Act or any other written law.

- (2) The information referred to in subsection (1) shall be such information as is necessary for the realization by the victim of their rights under this Act.
- (3) The right to obtain information under this Act shall not unreasonably delay or prejudice the investigation or prosecution or affect the safety or security of any person or in any way, interfere with the course of justice
- (4) The Board shall within six months of the commencement of this Act, in consultation with the Director of Public Prosecution, develop a victims' rights charter which shall include-
 - (a) the structure and operation of the justice system;
 - (b) the rights of victims in the justice system;
 - (c) the rights of the accused in the justice system;
 - (d) the role of lawyers and other officers of the court in the case;
 - (e) victim services;
 - (f) the status of the police investigations;
 - (g) the specific offences the accused is charged with as relates to the victim and the reasons therefor;
 - (h) the name or names of the accused;
 - (i) the dates and locations for hearings of the case;
 - (j) any interim or final decisions as relates to the case including decisions on bail or any final judgment;
 - (k) where the accused is in custody, information as to where he or she is detained;
 - (l) where the accused is due to be released from custody, the due dates of release and any conditions attached to the release pending hearing;
 - (m) the means for the victim to report any threat by the accused before, during or after the finalization of the case;
 - (n) the Board on the Power of Mercy and the means to contact the Committee for purposes of giving the perspective of the victim in accordance with Article 133 (4) of the Constitution; and
 - (o) where an offender is convicted to serve a non-custodial sentence, including community service orders under the Community Service Orders Act, or probation under the Probation of Offenders Act, the area where the offender is likely to serve the term and whether the offender will be in the vicinity of the victim.

Further amendment proposed -

(b) inserting the following new clause immediately after clause 11-

- Right to submit information
- Cap 94
- 11A.** (1) A victim has a right to submit any information for consideration to the—
- (a) police or prosecution on a decision whether or not to lay a charge, or to appeal or withdrawal;
 - (b) court during plea bargaining, bail hearing and sentencing;
 - (c) Advisory Committee on the Power of Mercy established under the Power of Mercy Act, 2011, on the release or pardon of a convict.
- (2) Where a victim gives any information to a law enforcement officer, the officer shall inform the victim that -
- (a) the information shall be ascertained for submission to the Court;
 - (b) the victim shall ensure that any information that the victim gives is true; and
 - (c) the information may be recorded and signed by the victim:
- (3) The collection of any views from a victim under this section shall not prejudice or delay any proceedings relating to the offence complained of.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 11 - as amended agreed to

Clause 12 - agreed to

Clause 13 - amendment proposed -

THAT, the Bill be amended by inserting the following new clauses immediately after clause 13.

- Right to compensation
- 13A.** (1) A victim has a right to restitution or compensation from the offender and the enforcement thereof in accordance with this Act.

- (2) Subject to any limitations and conditions set out in this Act, the victim has a right to compensation by the offender for—
 - (a) economic loss occasioned by the offence;
 - (b) loss of or damage to property;
 - (c) loss of user over the property;
 - (d) personal injury;
 - (e) costs of any medical or psychological treatment; and
 - (f) costs of necessary transportation and accommodation suffered or incurred as a result of an offence.
- (3) A victim has the right to restitution of any property or right to property of which the victim is deprived as a result of an offence in respect of which the victim is entitled to the rights and remedies specified in this Act.
- (4) A compensation order made against a convicted offender may be enforced as a judgment in civil proceedings.

Award of compensation by Court.

13 B. The court may award compensation under this Act and such compensation may include financial compensation for expenses incurred as a result of the loss or injury resulting from the offence complained of which shall be charged from the Fund.

Compensation or restitution orders not part of a sentence

13 C. A compensation or restitution order made by a court against a convicted offender—

- (a) is in addition to any other sentence or order the court may make against a person;
- (b) is not, for any purpose, to be taken to be part of a sentence passed against the person and;
- (c) is not a bar to civil proceedings.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 13 - as amended agreed to

Clause 14 - amendment proposed -

THAT, the Bill be amended by deleting clause 14 and inserting the following new clause-

Victim restitution.

14 (1) *Where a person is convicted of an offence under any written law, the court may, in addition to any other penalty prescribed under that law, order the person to make restitution or compensate the victim for—*

- (a) the cost of any damage to the property of the victim;

(b)the costs of any medical or psychological treatment incurred the victim;

(c) the costs of necessary transportation, accommodation and other living expenses relating to the court proceedings leading to the conviction; or

(d) any other relief that the court may consider necessary.

(2) Where the Court orders payment of both a fine and compensation, the enforcement of the compensation order shall take precedence.

(3) In every case, the enforcement of an order for compensation, restitution or restoration shall be governed by the Civil Procedure Rules.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 14 - as amended agreed to

Clause 15 - agreed to

Clause 16 - amendment proposed -

THAT, clause 16 of the Bill be amended in clause 16, sub-clause (1) by inserting the words "appropriated by the National Assembly," immediately after the word "monies" appearing in paragraph (a).

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 16 - as amended agreed to

Clause 17 - amendment proposed -

THAT, the Bill be amended in clause 17 by deleting the word "finance" and substituting therefor the word "justice."

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 17 - as amended agreed to

Clause 18 - agreed to

Clause 19 - amendment proposed -

THAT, the Bill be amended in clause 19 by deleting sub-clause (2) and inserting the following new sub-clause-

“(2) The Board shall consist of-

- (a) a chairperson appointed by the Cabinet Secretary from among the members;
- (b) the Director of the Witness Protection Agency who shall be the Secretary;
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to justice;
- (d) the Principal Secretary of the Ministry for the time being responsible for correctional services;
- (e) the Principal Secretary of the Ministry for the time being responsible for matters relating to children affairs;
- (f) the Director of Public Prosecutions;
- (g) the Inspector-General of Police or his or her representative;
- (h) one person nominated by the National Gender and Equality Commission; and
- (i) two representatives from civil society dealing with issues relating to child and women victims protection;”

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Further amendment proposed -

THAT, subclause (2)(i) be amended by deleting the word “one” and substituting therefor the word “Two”;

Question put and agreed to.

Clause 19 - as amended agreed to

Clause 20 - agreed to

Clause 21 - agreed to

Clause 22 - amendment proposed

Regulations

22. (1) *The Cabinet Secretary may make regulations regarding procedures to be put in place to monitor and assess the proper application of and compliance with this Act.*

(2) The regulations contemplated in subsection (1) may—

- (a) provide that the implementation of this Act be monitored annually or at such other interval as may be prescribed, with the object of assessing the implications, effectiveness and proper

application of and compliance with this Act;

- (b) be made after consultation with the Cabinet Secretary for the time being responsible for matters relating to women and children.
- (c) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfilment of the objectives of this Act; and
- (d) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013

Cap. 2
No. 23 of
2013

Clause 22 - as amended agreed to

PART VII

THAT, the Bill be amended by deleting PART VII and inserting the following new PART.

PART VII - PROVISIONS ON DELEGATED POWERS

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 23 - amendment proposed -

THAT, the Bill be amended by deleting clause 23

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 23 - deleted

Clause 24 - amendment proposed -

THAT, the Bill be amended by deleting clause 24

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and negatived

Clause 24 - agreed to

Clause 25 - amendment proposed -

THAT, the Bill be amended by deleting clause 25 and inserting the following new clause-

General	25. A person who contravenes any provision of this Act for which no penalty is specified shall be liable, upon conviction to a fine not exceeding one million or to imprisonment for a term not exceeding ten years.
Penalties	

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 25 - as amended agreed to

Clause 2 - amendment proposed -

THAT, clause 2 of the Bill be amended in sub-clause (1) -

(a) deleting the following definitions-

- "parent"
- "spouse"
- "victim"
- "victim service"

(b) inserting following new definition in their proper alphabetical sequence-

"agency" means the Witness Protection Agency established under Section 3A of the Witness Protection Act;

"child" has the meaning assigned to it under the Children's Act and includes a child of a victim born after the death of the victim".

"compensation" means an award granted by a court to a victim who has suffered economic or emotional loss, damage of property, or physical injury or harm as a result of an offence after the victim is found to qualify for the same in accordance with the criteria prescribed under this Act;

"crisis intervention" means the provision of emergency psychosocial, legal and other services to traumatized victims so as to help them return to an adaptive level of functioning and to prevent or mitigate the negative impact of psychological and emotional trauma;

"Community service" means an instance where the offender performs some community service under the Community Service Orders Act, 1998.

"dependant" has the meaning assigned to it under the Law of Succession Act, 1981;

"financial restitution" means payment of money by the offender to the actual victim of the offence;

"financial community restitution" means payment of money by the offender to community programs;

"health professional" means a nurse registered under section 12(1) of the Nurses Act ,a clinical officer registered under section 7 of the Clinical Officers Act or a medical practitioner registered in accordance with section 6 of the Medical Practitioners and Dentist Act and includes a registered counselling psychologists and recognized physical therapist;

"individual service restitution" means where the offender with the victims consent, performs a service to the actual victim which may include the repair of damage to the victim's property;

"immediate family" includes the victim's spouse, children, parent, grandparent, stepchild, stepsister, stepbrother, or stepparent and where the victim is a child, the guardian;

"injury" means actual bodily harm, emotional distress, trauma, pregnancy resulting from sexual assault, mental or nervous shock, actual economic loss or loss of property.

"law enforcement officer" means an officer from a law enforcement agency and includes a probation and prison officer;

"law enforcement agency" includes—

- (a) the National Police Service;
- (b) the office of the Director of Public Prosecution; and
- (c) any other department, office or agency of the state or statutory body that is responsible for investigating or taking any action in relation to an offence punishable under any written law;

"parent" means a biological or adoptive parent and includes a guardian.

"place of safety" means any institution, hospital, children's institution or other suitable place the occupier of which is willing to accept the temporary care of 'vulnerable victim'

"rehabilitation" includes psychosocial interventions, medical treatment, legal aid and social services designed to assist victims recover from loss, injury or damage suffered as a consequence of the offence;

"restitution" means the act of restoring the victim, to the extent possible, to the status prior to the offence resulting in loss or injury;

"restorative justice" includes –

- (a) the promotion of reconciliation , restitution and responsibility through the involvement of the offender ,the victim, their parents, if the victim and offender are children, and their communities; or
- (b) a systematic legal response to victims or immediate community that emphasises healing the injuries resulting from the offence;

"rights of victims" means any rights to which a victim is entitled under the Constitution, this Act or any other written law;

"spouse" means a husband or wife;

"surcharge" means a sum additional to the fine payable by the offender as provided for under this Act;

"support person", means an immediate family member, a social worker, a counsellor or victim of offences officer, or law enforcement officer or a person designated as such in this Act;

"trauma" includes physical injury, psychological or emotional distress;

"trial" includes a proceeding in which a person is sentenced;

"victim" means any natural person who suffers injury, loss or damage as a consequence of an offence;

"victim impact statement" means a statement by the victim, or where incapacitated, the victim's representative, on the psychological, emotional, physical, economic or social impact of the offence committed against the victim and includes any recording, summary, transcript or copy thereof;

"victim officer" means a person who assists a victim through the various stages of a case;

"victim's representative" means an individual designated by a victim or appointed by the Court to act in the best interests of the victim;

"victim support services" means all the services offered to the victim of offence to secure restoration of their emotional, mental, physical, legal or economic status from any harm occasioned by the offence committed;

"victimization" means any act or omission that renders a person or community a victim within the meaning of this Act;

"Welfare services" means all the victim support services aimed at assisting the victim.

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 2 - as amended agreed to

Schedule - agreed to.

Clause 1 - agreed to.

Title - agreed to.

Bill to be reported with amendments;

7. **HOUSE RESUMED** – the First Chairperson in the Chair

Bill reported with amendments;

Motion made and Question proposed:-

THAT, the House do agree with the Committee of the Whole House in the said report

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question put and agreed to.

Motion made and Question proposed –

THAT, the Victim Protection Bill (National Assembly Bill No.41 of 2013) be now read a Third Time

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question put and agreed to;

Bill read a Third Time and **passed**.

8. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(b)**

The Chairman of the Departmental Committee on Transport, Public Works and Housing tabled a response to a statement as requested by the Member for

9. **MOTION – REGISTRATION OF ALL KENYANS WITHOUT NATIONAL IDENTITY CARDS**

Motion made and Question proposed –

THAT, aware every Kenyan having attained the age of 18 years is entitled to be issued with national identity card (ID) upon registration; further aware that a national identity card represents 'proof' of citizenship without which an individual may not have access to basic services, including exercising the right to vote; cognizant that this number is now estimated at 12,000 in Wajir, Garissa and Mandera counties, this House urges the Government to extend amnesty to Kenyans living in the region who have wrongly registered and issued with national identity cards.

(Hon. Mohamed Diriye – 06.08.14)

Debate interrupted on Wednesday, August 06, 2014 resumed;

Amendment proposed –

THAT, the Motion be amended by deleting all the words immediately after the word "House" appearing in the last three lines and substituting therefor the following:-

"resolves that the Government puts in place measures that all eligible Kenyans are duly registered including setting up a taskforce by the Cabinet Secretary for Interior and Co-ordination of National Government in order to identify those Kenyans who were wrongly registered as refugees and fast-track their acquisition of national identity cards."

(Hon. Ibrahim Saney)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Debate on the original Motion resumed;

And the time being ten minutes past One O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

10. HOUSE ROSE - at ten minutes past One O'clock.

MEMORANDUM

The Speaker will take the Chair today,
Wednesday, August 27, 2014 at 2.30 p.m.

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