

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th August, 2016

The House met at 9.30 a.m.

[The Deputy Speaker (Hon. (Dr.) Laboso) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: Can we have the Quorum Bell rung?

(The Quorum Bell was rung)

Hon. Members, let us settle down. We need to begin transacting business. Leader of the Majority Party, please, stop your small *kamukunji*. We are now ready to begin business.

PETITIONS

STATUS REPORT ON PETITIONS BEFORE THE COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

Hon. Shidiye: Hon. Deputy Speaker, on behalf of the Departmental Committee on Administration and National Security, I beg to give a status report on Petitions before the Committee.

The Committee has tabled three Reports on Petitions in the Fourth Session as follows:-

- (i) Report on consideration of a Petition by Titus Nyamai, on behalf of Kasikeu Ward village elders regarding recognition of village managers;
- (ii) Report on consideration of a Petition by three Naivasha Maximum Prison inmates regarding alleged radicalisation of inmates, repeal of the Penal Code, amnesty of inmates and relocation of the motor vehicle number plate industry; and,
- (iii) Report on consideration of a Petition by Hon. Muthomi Njuki, Member for Chuka/Igambang'ombe, on delayed creation of administrative units in Karingani Location, Meru South Sub-County.

Ten Petitions are pending before the Committee.

In the first Petition, the petitioner prayed that Parliament, through the Departmental Committee on Administration and National Security, establishes a mechanism to recognise, facilitate and compensate village managers as a token of appreciation for the service rendered by them. The Committee received submissions from the petitioners and the Cabinet Secretary in the Ministry of Interior and Coordination of National Government. We made the following observations from the evidence adduced in the meetings:-

(i) Village elders play a crucial role in dispute resolution, community mobilisation, promoting development initiatives and handling security-related issues in villages; and,

(ii) Ward administrators employed by the county governments are well remunerated and if the same is not availed to national administrators, including village elders, the national Government risks losing this vital link in provision of national Government services to the public.

The Committee recommends that the Ministry of Interior and Coordination of National Government should provide facilitation stipends to village managers. This should be provided as a Budget item starting from the 2016/2017 Financial Year.

(Some Members withdrew from the Chamber)

Hon. Deputy Speaker: Hon. Members, I need your presence here to allow us to put some Questions. Please, allow the Member on the Floor to finish. Remember, this is a process that we agreed on. We have been tabling petition status reports without discussing them. The idea is that the Chair gives us just a brief of the findings for this House to be informed. So, allow the Member to finish. Please, do not go into too much detail, Hon. Shidiye. We just need to know the recommendations of the Committee and then we can move to the next one. The other Members, please, I wish you to be present in the House.

Hon. Shidiye: Hon. Deputy Speaker, our second recommendation on this Petition is that the Ministry of Interior and Coordination of National Government should standardise the size of the area under jurisdiction of village elders and the number of village elders in sublocations to a minimum of three elders and a maximum of five, taking into consideration gender equity, urban and rural settings.

The second Petition is on alleged radicalisation of inmates, repeal of the Penal Code, amnesty for inmates and relocation of the motor vehicle number plates industry. The petitioners were three inmates, namely, Owino Okoth, Nicholas Auma Obonyo and Richard Ngenyo from the Naivasha Maximum Prison. They had several prayers, but I will read two.

The first one was for this House to consider providing for the establishment of special units for terrorism and pirates to curb the alarming rate of radicalisation in prison. The second one is for this House to review the Penal Code to align it with the Constitution. The Committee received submissions from the petitioners and the Principal Secretary of State Department of Correctional and Rehabilitation Services.

Hon. Deputy Speaker: Hon. Shidiye, you are making me to lose the Members, please. Try to summarise. We wanted the recommendations of the Committee.

Hon. Shidiye: Let me report the recommendations only. The Committee undertook a field visit to Naivasha Maximum Prison. During the visit, the Committee held meetings with the petitioners and other inmates in Naivasha Maximum Prison. I should not report the observations.

Hon. Deputy Speaker: Report what was recommended.

Hon. Shidiye: The third one is the relocation of the motor vehicle number plate industry from Kamiti Maximum Prison to the National Youth Service (NYS). The Committee did not establish sufficient grounds for this recommendation because the two institutions are departments of the Government. So, there is no need to do that.

Finally, we have Petitions which are pending and their 60 days period has lapsed. We have Petitions by Hon. Rasso, Hon. Matthew, Hon. Kajuju, Hon. Mbalu and Hon. Kimani Ichung'wah. The time to discuss the petitions has lapsed and should be renewed.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next Order! There are Petition reports by Hon. Pukose.

STATUS REPORT ON PETITIONS BEFORE
THE COMMITTEE ON HEALTH

Hon. (Dr.) Pukose: Thank you, Hon. Deputy Speaker. On behalf of the Departmental Committee on Health, I want to respond to two Petitions. The first one is a Petition on alleged mismanagement and misappropriation of funds at the Kenya Medical Research Institute (KEMRI), which was presented to the House by Hon. (Dr.) Eseli Simiyu, on behalf of Mr. Peter Oroye Nyambok. It was presented on 8th July, 2015 for consideration by the Committee.

The Committee recommends an immediate probe into the affairs of KEMRI, in particular the management structure, human resource management policy and practices and financial mismanagement. Secondly, we recommend that this House should ensure that the petitioners' plights are addressed. Thirdly, the Committee recommends the making of any other recommendation or direction. After considering the Petition, the Committee made the following observations:-

- (i) There was need to properly fund KEMRI through Government budgeting to ensure that research was driven by the needs of Kenyans as overreliance on donor support for research makes donors to prioritise their interests.
- (ii) There was need to review the KEMRI Act and enact a law to guide research institution as the current legal framework seems to be inadequate.
- (iii) The problems of procurement and finances at KEMRI have led to donors like the Centre for Disease Control and Prevention (CDC) to work with systems or organisations outside KEMRI. It was notable that formation of the Research Care and Training Program (RCTP) Faces, an NGO within KEMRI, was an attempt to circumvent the inefficient procurement and financial systems at KEMRI.
- (iv) Provision of funds under the CDC-KEMRI collaboration led to financial impropriety due to conflict of interest among KEMRI employees. This has led to loss of jobs for many employees.
- (v) There was evidence of cases of hiring of staff without giving due regard to the advertised qualifications, even when qualified applicants existed.
- (vi) There was evidence of conflict of interest among employees of KEMRI who doubled up as employees of RTCP Faces. The employees with vested interests had drafted a defective memorandum of understanding that contemplated to transfer KEMRI assets to the NGO. This was tantamount to defrauding the Government of public resources.
- (vii) It was evident that KEMRI operated without an up to date finance manual, human resource policy and manual guidelines for performance contracting and a scheme of service for its employees. This may have led to human resource malpractices at the institution.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! I requested Members to remain in the Chamber for another five minutes. I know all of you have a lot of commitments in Committees, but allow

us to transact business. As you leave, you are making it difficult for us to concentrate. I believe Hon. Pukose is concluding.

Hon. (Dr.) Pukose: Hon. Deputy Speaker, this is a very important matter. It will be good for us to take it seriously because it involves a very important institution within this country.

The KEMRI Board of Management has not taken action on issues of clear conflict of interest among employees, human resource malpractices, and financial mismanagement and misappropriation. There was a clear loss of confidence in KEMRI by donors. Some have appointed their own agents to manage the funds they are contributing to the nation. Further, such lack of confidence may have resulted in the formation of the RCTP Faces. There is no policy on management of clients at the KEMRI.

The Committee made the following recommendations:-

- (i) That the Ethics and Anti-Corruption Commission (EACC) and other relevant State agencies conduct investigations into alleged misappropriation of funds under the KEMRI-CDC programme, the Institute of Tropical Medicine and Infectious Diseases (ITROMID) programme and the mortgage scheme, which was being run by KEMRI through Family Bank, and take action against those found culpable of mismanagement and misappropriation of funds.
- (ii) The Ministry of Public Health and Sanitation should put in place a policy on management of clients at KEMRI by December 2016.
- (iii) The Ministry of Public Health and Sanitation should make Budget proposals with respect to research funding at KEMRI. The National Assembly, in collaboration with the Ministry of Public Health and Sanitation, should review and enact a legal framework to guide KEMRI research.

We also requested the EACC to review cases of conflict of interest with respect to some members of staff in relation to the RCTP Faces, NGO, and institute, where these members were opening personal bank accounts. The particular members of staff are Prof. Elizabeth Ann Bukusi, Dr. Betty Wanjiru Mburu Njoroge and Dr. Patrick Oyaro, who is a former member of staff.

- (iv) The KEMRI Board of Management should initiate negotiations with RCTP Faces, NGO, with a view to having it drop the use of the name of one of its programmes. If such negotiation fails, the board should consider instituting a legal process to challenge the same.
- (v) The Ministry of Health should report to the National Assembly on the implementation of the above recommendations within 90 days from the date of tabling this Report.

On the second Petition by Mr. Elijah King'ori Githima regarding the deplorable state of the mental health care facilities in Kenya, the Committee visited Mathare Mental Hospital and made the following observations:-

- (i) That Mathare National Teaching and Referral Hospital, which is the only psychiatrist facility, had faced many challenges and was in a dilapidated state due to many years of neglect. The mental health facility was not properly funded, leading to it being in a deplorable state.
- (ii) Coupled with financial challenges, the Mathare National Teaching and Referral Hospital was facing an acute shortage of staff, with one nursing officer taking care of 147 patients in the maximum security unit. This is way below the required international standards, notwithstanding the security threat that the nursing officer was exposed to. Out of this, the Committee made the following recommendations:-

- a) That the Ministry of Health should initiate and fast-track the process of giving Mathare National Teaching and Referral Hospital autonomy by anchoring it on gazette status and making an enactment of the necessary law.
- b) The Ministry of Health should fund the Mathare National Teaching and Referral Hospital directly as is the case with Moi Teaching and Referral Hospital and Kenyatta National Hospital.
- c) The Ministry of Health should prioritise infrastructure development at the facility in the 2016/2017 Financial Year.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next Order!

MOTIONS

APPROVAL OF THE MEDIATED VERSION OF THE WATER BILL, 2015

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order No.150, this House adopts the Report of the Mediation Committee on the Water Bill (National Assembly Bill No.8 of 2014), laid on the Table of the House on Thursday, 28th July 2016, and approves the Mediated Version of the Water Bill (National Assembly Bill No.8 of 2014).

(Hon. (Ms.) Abdalla on 9.8.2016)

(Debate concluded on 9.8.2016)

Hon. Deputy Speaker: Can the Members at the door please settle. Hon. Members, the following Order Nos.8, 9 and 10 have already been debated and completed and we are just left with putting the Questions. I therefore, proceed to put the Question for the Motion on Order No.8.

(Question put and agreed to)

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL

THAT, the House do agree with the Report of the Committee of the whole House on the consideration of the Senate amendments to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015).

Hon. Deputy Speaker: I will allow the Members who are at the door to settle down.
Hon. Kaluma!

(Question put and agreed to)

BILLS*Second Reading*THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING
(AMENDMENT) BILL*(Hon. A.B. Duale on 9.8.2016)**(Debate concluded on 9.8.2016)**(Question put and agreed to)**(The Bill was read a Second Time and committed
to a Committee of the whole House tomorrow)**First Reading*

THE SEXUAL OFFENCES (AMENDMENT) BILL

*(Order for First Reading read – Read the First Time and
ordered to be referred to the relevant Departmental Committee)**Second Reading*

THE PUBLIC BENEFITS ORGANISATIONS (AMENDMENT) BILL

(Loud consultations)

Hon. Deputy Speaker: Yes, Hon. Aghostino Neto. Hon. Members, the consultations are too high.

Hon. Oyugi: Thank you, Hon. Deputy Speaker. I beg to move that the Public Benefits Organisations (Amendment) Bill be now read a Second Time.

The amendments we seek to make are going to give effect to the Public Benefits Organisations (PBOs) Act which was enacted in 2013. I would like to thank the Members of the House Business Committee (HBC) for giving it priority. It has been lying out there for a long time having been passed in the previous Parliament. It is forward looking and very robust in content. The Bill was supposed to have come into operation upon a Gazette Notice by the Cabinet Secretary (CS).

Hon. Deputy Speaker: Hon. Neto, allow me to stop you for a few minutes, so that I can recognise the guests that we have in the Public Gallery. They are pupils from the Fountain Gate Preparatory School, Kanduyi Constituency, Bungoma County; St. Joseph's Primary School, Kitale, Kanduyi Constituency, Bungoma County; Galona Primary School, Vihiga Constituency, Vihiga County; Sirisia Township Primary School, Sirisia Constituency, Bungoma County; Machakha Primary School, Sirisia Constituency, Bungoma County.

You are all welcome to the National Assembly.

Hon. Oyugi: Thank you, Hon. Deputy Speaker. Indeed, I do welcome all the pupils in the Public Gallery and hope they can follow this particular important debate.

The PBOs Act, which was enacted in 2013, is important because it seeks to regulate the sector that is being worked on by various Non-Governmental Organisations (NGOs). This Bill is also important for several reasons. First, it creates a federation of various PBOs that will allow any public authority, which has been registered in this country, with the effect of the Bill coming into operation a chance to form a federation of its own liking. It will join a federation of like minded PBOs which think within that sector and agree on terms of what they are supposed to do.

Second, the Act created an Authority which is supposed to replace the NGOs operations board, when it comes into operation. The Authority is supposed to have powers to register various PBOs and the term set for that Authority is a period of two months. You will notice that the NGOs Act presently has been having various organisations registered within a period of six months. But, this particular Act makes the Authority to have only two months within which to register various organisations.

Thirdly, the Act creates a tribunal, which is supposed to listen to disputes amongst the various PBOs and also issues that arise from the members of the public with various PBOs. The tribunal will have a chance to make decisions of its own accord but there will be a chance to have review with the High Courts. Several things will happen once this Act comes into operation, with the particular amendments we have put in place. I would like to request members of the PBOs and the public to take into consideration Section 70 of the Act, which is going to repeal what is in the current NGOs Board Act and Section 71 which creates transitional clauses. It gives all the NGOs which are currently operating under the NGOs Board a chance of one year to register a fresh within amending of the new Act. It is also going to give various organisations a chance within which to apply. For those who have international connections and want to be registered in Kenya they are also going to register a fresh. The PBOs Act 2013 creates several obligations in the parts of PBOs.

The first one is that currently, PBOs are supposed to harmonise the work they do. The sectors in which they are going to choose to work in are clearly enumerated in the Schedule of this Act. They will choose whether to work in the sector of health, education or culture, so that a PBO is not going to operate in an omnibus manner by working across sectors.

The second thing is that this Bill is going to make sure that the functions of various PBOs are subject to members of the public. There is already a clear provision in this Bill that requires PBOs to make sure that members of the public have access to information on what they do. Presently, many PBOs operate in a very opaque manner. Organisations come into your village, but you do not even know what they are planning to undertake or their budgets. This Bill requires PBOs to tell the members of the public what they do. Members of the public can go to the Authority and make requests to know what various PBOs do in their areas.

This Bill also ensures that the Government and PBOs work in harmony. We appreciate the realisation of various rights, be they political, economic or socio-cultural rights, is not possible only with the Government. Within the meaning of this Bill, PBOs are supposed to work together with the Government in terms of ensuring that various rights are realised, be it the right to education or the right to health. The Government is also going to be under obligation to ensure that, that happens.

(Technical Hitch)

Hon. Temporary Deputy Speaker, I was wondering if 20 minutes is that short. This Bill creates sufficient ground for the Government to work in consultation with PBOs to ensure that various rights are realised. Most importantly, the Act is supposed to ensure that no foreigners work in Kenya if at all the services they want to offer can be offered by Kenyans. They must convince the Authority that the services for which they request expatriates to come are services that are not available to Kenyans, which is a good provision. They will give justification as to whether they think the skills the expatriates bring are skills that are not available in Kenya and for how long. They are also going to make sure that they train Kenyans to gain the skills. That is an important safeguard because we have had various people coming in to do work which ordinarily would be done by Kenyans. Their simple justification has always been because the funds have come from their Governments.

One of the other things that are important is that the tribunal that is herein established is going to resolve issues that were erstwhile subject to court processes and have been very opaque. This Bill, if enacted, will make sure that a very important Act comes into force. PBOs in this country have been very important. There are sectors in this country that before devolution were benefitting only from the services of PBOs. So, we should do anything we can right now to ensure that PBOs work in a manner that is properly regulated, clear and that respects the law.

This Bill has been in abeyance for four years since the Act was passed in 2013 and what is left is only to bring it into operation, I hope we can fast-track it. It is simply a one-line amendment to a very important Act. I would request my colleagues to support it because we appreciate however much there have been issues with a couple of PBOs, this Bill is going to sort them out in the manner I have said. The Federation is going to provide for self-regulation of the various PBOs. The Authority is going to cascade its work to the counties, so that the works of the PBOs is no longer opaque.

With those many remarks, I request the Member for Wajir South, Hon. Abdullahi Diriye, to second this Bill.

Hon. Deputy Speaker: Hon. Diriye.

Hon. Mohamed Diriye: Thank you, Hon. Temporary Deputy Speaker. I rise to second this Bill to amend the Public Benefits Organisations Act. I first wish to thank my colleague, Hon. Neto, for bringing this very important amendment because it is going to operationalise the PBO Act that has been in limbo for the last three to four years. This is a very good piece of legislation. Unfortunately, it has not been operationalised because of reasons we do not understand. We believe that once this amendment goes through, the Act is going to come into operation.

As a country, we need the PBO Act to come into operation, so that PBOs are well regulated as enshrined in the objectives and purposes of the Act. It will encourage and support PBOs in their contributions to meet the diverse needs of the people of Kenya by creating a conducive environment for the growth of the PBO sector and for the operation of registered PBOs.

We all know what PBOs do in this country. There are some regions in this country where before devolution, the only services available were being provided by the civil society and the PBO sector. Therefore, it is very important for us to streamline them to make sure they are coordinated so that they can help our people, communities, the Government and the country in general to make sure that services are delivered to our people.

One thing that is very important is that the Government has an obligation and duty to respect the freedoms and associations of citizens. PBOs do not just help to deliver services, but

they also provide employment and grow the economy. By this law coming into force, it will help in establishing an administrative and regulatory framework within which PBOs can conduct their affairs. It will also help in encouraging PBOs to maintain high standards of governance, transparency and accountability and to improve those standards. The coming into force of this very important Act, which has been in limbo for the last four years, will help in the creation of an environment within which the public may have access to information concerning registered PBOs. It will also help in promoting the spirit of cooperation and shared responsibility within the Government and among donors and other interested persons in their dealings with PBOs. The PBO Act will also give meaningful protection to the internationally-recognised freedoms of expression, association and peaceful assembly. It will also help to promote the development of self-regulation among PBOs.

This Act should be operationalised as soon as possible because it will help promote compliance by PBOs with their legal obligation in order to exercise effective control and management of the administration of their activities and funding. It will help the Government to manage this sector better. Right now, we are using an outdated law which is not compliant with our new Constitution. It is very important that this law is brought into force, so that the operations of the NGO sector or the PBO sector as they would be called under this sector, are streamlined and are in compliance with the new Constitution. This Act will also help facilitate a constructive and principled collaboration between PBOs, the Government, businessmen, donors and other sectors in order to advance public interests. Coming from a community in northern Kenya which is characterised by remoteness, difficult to reach even by the Government, at times a challenging security environment, where services from the Government are rarely available or accessible, these NGOs have been penetrating even remote areas to provide very important lifesaving services like health, education and water. Therefore, it is very important to operationalise the Act and do justice to our people and the country at large. Otherwise, we will be doing a disservice to our people by continuing not to operationalise the Act.

I also wish to say that the Government and the PBOs will comply with the principles of effective collaboration as set out in the First Schedule of this Act once it is enforced. One very important thing is that this Act will place the current NGOs Coordination Board under a PBO regulatory Authority that will have a proper structure of a board that will set qualifications and requirements, both academic and experience. This board is going to do a good job in collaboration with the Government and PBOs, so that this sector is properly structured and well-coordinated with the Government, so that the current uncertainty ends.

Right now, NGOs and the civil society groups are operating in an environment of uncertainty which is not conducive for their operations and which is not going to help the country. For us to do justice to our people and benefit our community, it is very important that this Act is brought into law. This very important amendment by my friend, Hon. Neto, will do exactly that. Remember the PBOs are currently attracting funding from donors and other sectors and if we do not operationalise and streamline this sector, we will be losing those donor funds. This is a multi-billion industry that our country cannot lose. Many of our people rely on the NGO sector for employment and business. Therefore, trying to make this sector operate in uncertainty with an outdated law, that is not compliant with our Constitution, is going to weaken our economy.

Hon. Deputy Speaker: I hope you are seeing the red light which has come on. I just want you to second.

Hon. Mohamed Diriye: Thank you, Hon. Deputy Speaker. With those few remarks, I wish to stop there and strongly second this amendment and request my colleagues to do the same. I hope that immediately it is passed in Parliament, it will be assented to by the President and it will become law within 14 days.

(Question proposed)

Hon. Deputy Speaker: Daniel Maanzo is the first on my list.

Hon. Maanzo: Thank you, Hon. Deputy Speaker. I would like to support this very important amendment. It deals with what we currently call NGOs. This Act calls them PBOs, which was done in 2013. It is three years ago, but it has now come into force simply because the Act says “And shall come into operation on such date as Cabinet Secretary (CS) may, by notice in Gazette, appoint”. This means that once you leave it to the discretion of the CS, if he never gives such a notice for eternity, then this Act will never become law. By being deleted, then automatically the normal practice as with many other Acts of Parliament, it will become law once it is assented to by the President. It becomes law within 14 days and hence becomes operational. Kenyans can begin to benefit from it.

Hon. Deputy Speaker, it is also noted that this Bill does not affect the functions of county governments because there is a new Constitution. It does not also add expenditure to the Government and, therefore, there will be no need for it to be taken to the Senate because the NGOs and PBOs are based and controlled at the national level. Therefore, there is no need for the same to go to the Senate. It is a very good amendment and once it is approved by the President, it will become law. Kenyans will now start reaping from the benefits of NGOs and PBOs. There is need to have a law regulating these organisations. We are living in an era of terrorism, where we need to control finances coming and leaving the country and to know who is in charge. If that does not happen, insecurity becomes an issue. This is a multi-billion industry and a lot of donors and foundations are involved in it. Therefore, there is need for it to be regulated. There was no need to make a law which was not going to be effective. Parliament then is deemed to have wasted its time. This amendment is, therefore, timely and important. Kenyans can now start to reap the benefits of the PBOs Act of 2013.

Hon. Deputy Speaker, for that reason, I would like to support it and I urge Members to also do the same. This is very important. We have all seen it. We have even been affected by it when demonstrations are being held in town. They are sponsored by organisations like these for good reasons. A proper law is important, so that we can have the country moving forward with proper development and partnership. There should be NGOs or PBOs partnership with the Government so that the development agenda is taken to the grassroots and those who have not received it are known. The operators, donors and the source of their money should also be known.

I therefore, beg to support.

Hon. Deputy Speaker: Yusuf Chanzu.

Hon. Chanzu: Thank you, Hon. Deputy Speaker for the opportunity to support this important amendment.

The Bill was passed in 2013 and we are in 2016, which is a long time and the Bill should have been operationalised by now. A number of sectors in this country have developed since Independence to where we are now through many collaborative efforts both locally and externally, but the problem has been the local effort through which we have developed our

schools. In the *harambee* spirit, there was no legal mechanism through which this could be monitored.

A law was passed in this House in the 8th Parliament to do away with *harambees* and that is the time NGOs were coming in. There was a lot of corruption because NGOs could bring in items for relief, which ended up being sold in the local market. That is still happening. Some of the rations that come from Government stores or parastatals are sold. This law is going to allow for transparency. It is going to either minimize or remove the aspect of exploitation by those who are involved in the public benefits aspects. It is a very useful amendment. The way the Mover and those who have supported it said, it should be fast-tracked, so that it becomes law and it is going to help Kenyans.

The Constitution provides the right to access information by all Kenyans. This is going to make available information on the activities of NGOs. There must be adequate penalties to stop or minimise abuse of freedom of performing these duties by NGOs.

The other aspect is the issue of registration. Some of those PBOs who operated before were not registered and that is why there was no transparency. Some were just operating like briefcase companies. Once the law is in place, it is going to streamline registration. Now that we are operating in a digital era, it is going to be easy to monitor these activities once the PBOs are registered. It is going to be easy for anybody who wants to access information. This is going to minimise corruption which has been a big problem in this country. It is one of the things that we need to fight.

With those few remarks, I support the amendment.

Hon. Ganya: Thank you, Hon. Deputy Speaker. From the outset, I strongly support this Bill. This is clear evidence that sometimes, as lawmakers, we pass laws in vain. This Act came into being in January 2013. Three years down the road, nothing has been done simply because the whole aspect of operationalising this law has been given to the Cabinet Secretary and he will only do it when he wants. Just because of the word “may” within the statement required his action, it is now three years down and nothing has happened to this law.

It is a very good piece of law for this nation. The NGOs play a crucial role in developing our nation. For centuries, they have done such great work to the level where in some parts of this world, they are seen as the Government. This law will make this sector accountable. It will make the sector flexible in its operations and have very good governance in its operations. More than that, it will make NGOs accountable to the citizens, the beneficiaries as well as the State that regulates it. Because the CS is not willing to operationalise this law three years down the road, nothing is happening with this great law that we passed in 2013. It was passed just at the beginning of the life of this Parliament.

There is a State corporation known as the NGO Coordinating Board, whose responsibility is to ensure that this law is effected, operationalised and sees to it that whatever we deem necessary by passing this law is realised. This Board seems not to be doing much because if they had pushed the CS to ensure that this law is operationalised by now, for sure, we would have seen great changes in how the NGO sector is managed and governed in our Republic.

I strongly urge my fellow colleagues in the National Assembly to pass this law to show the CS and the Government of the day that, as lawmakers, we do not pass laws in vain. When we pass laws, we want those laws to be operationalised. We want the State to act because we want the benefits and the gains that are to result from that law to be realised by Kenyans.

With those few remarks, I strongly support this law. I hope this amendment will be passed in the shortest time possible. I hope the CS, who is sleeping on his job, will do his bit very soon because, as Parliament, we will have pronounced ourselves.

I hope the President will assent to it, unless there is a reason the Government of the day is not willing to operationalise this good law.

Hon. Chanzu: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Are you on a point of order, Hon. Chanzu?

Hon. Chanzu: Hon. Deputy Speaker, I am very sorry. I just wanted to welcome the pupils who are here to see what is happening in Parliament, particularly the ones from Vihiga.

(Hon. Tonui's phone rung)

Hon. Deputy Speaker: Hon. Tonui, can you leave the Chamber?

(Hon. Tonui withdrew from the Chamber)

Hon. Members, let us be aware of how to control the gadgets that we bring into the Chamber. You know that we are not allowed to have phones ringing in the Chamber. Hon. Chachu.

Hon. Ganya: Hon. Deputy Speaker, the fact that our President assented to this law in January 2013, without any memorandum or any reservations is clear evidence that the Government supports the enactment of this law. This law has not been operationalised simply because the CS is sleeping on the job.

As Parliament, we will pronounce ourselves by passing this amendment and I hope within two weeks, the law will be operationalised.

Hon. Deputy Speaker, I even know of your law which we passed in the last Parliament. Very few Private Members had a chance to pass laws because of many constitutional laws that had very strict deadlines. I know how much you pushed to have the law on social benefits to the elderly, poor and the needy passed. I am yet to see that law being operationalised. I hope you will push for that to be realised, so that Kenyans can benefit from it.

I beg to support.

Hon. (Ms.) Chae: Thank you, Hon. Deputy Speaker, for giving me the opportunity to support the Public Benefits Organisations (Amendment) Bill that has been brought by Hon. Neto. This Bill is going to do a lot bearing in mind that we all realise what the sector does for Kenyans. It is a sector that has actually promoted social welfare of the people of Kenya and has improved the conditions and the quality of lives of Kenyans.

The sector has employed very many people and handles a lot of money. This means that it has to be regulated and streamlined. It is a sector that needs to be clear to every Kenyan so that we can all engage in all these activities to grow socially, be socially active and be felt.

If all of us support this amendment Bill, we will see transparency and accountability. There will be no NGO operating without the public knowing what it does. This is bearing in mind that we have very many handbag NGOs that people do not know what they do in our country. If this Bill gets operationalized, it will be easy to know what each NGO, Community Based Organisations (CBOs) and other sectors do so that we can create harmony. Instead of duplicating roles, we will appreciate and complement each other so that we grow together as a sector and as a country.

This Bill was passed in 2013 and up to now it is not in operation. Very many things are at stake because people are not sure of what they are supposed to do. This will enhance the formation, operation and the growth of the Public Benefits Organisations (PBOs). These institutions have the framework within which they are supposed to perform or conduct their affairs so that we know what they are doing.

The legal regulatory systems will ensure that they have strengthened the civil society which will promote the social welfare and improve the standards of living of the people within which these organisations work. To delay this Bill is to delay maintaining the high standards that are needed for effective self-regulation of this sector. If we need them to be compliant, we need to ensure that all the legal obligations are in place and are working. Imagine the only thing that is required of the Cabinet Secretary is just gazette; to gazette and ensure all things are in place. It has to be operational within 14 days and we will be happy with the knowledge of what the NGOs are doing. This will promote the spirit of co-operation and shared responsibility within the Government, the donor community and other interested persons in their dealings with the PBOs.

Hon. Deputy Speaker, it is high time we all ensured that this works because it has come a long way from 2013. Remember that there are other Acts of Parliament that have been passed and are lying on the shelves. This should be a wakeup call to all Cabinet Secretaries (CSs) who have been given the mandate to ensure that what has been passed by Parliament should be implemented immediately. The way forward should be for the Committee on Implementation, through a framework, to ensure that we make a follow up of all the Acts to make them operational in order to assist our people.

Hon. Deputy Speaker: Hon. Philip Rotino, you have the Floor.

Hon. Rotino: Thank you, Hon. Speaker, for giving me the opportunity to join my colleagues in supporting this very important Bill. From the outset, I support the Bill. What this amendment Bill intends to do is to remove the authority the CS has in ensuring that this Bill is operational. As my colleagues have said, it is three years since this Bill was passed by this House. The CS has slept on his job because he has not been able to gazette it. Maybe he has a hidden agenda. We do not know. I do not think it is important for the CS to have the authority. So, let us pass the amendment.

Those of us who benefit a lot from this sector know its benefits and the importance of this Bill being passed. There are many of these organisations roaming this country doing various things. Some of us who come from areas prone to insecurity, these organisations go and raise funds but ensure problems like cattle rustling do not stop. If they stop, they will not raise funds to keep themselves employed. So, it is important that this amendment Bill is passed so that the authority of the CS is removed. It is also important that the President assents to this Bill as soon as possible so that we allow these organisations to work freely and to do what they need to.

As my colleagues have said, many of these organisations get a lot of funds from different sources and work in the rural areas where there are no Government services. Government officers do not reach those places to monitor the usage of those funds. If this amendment Bill is passed as soon as possible, the President assents to it and it is put into operation, it will ensure that these things are streamlined.

There are many NGOs which want to bring things from outside the country such as furniture and equipment for hospitals in the rural area. They cannot bring them now because this law is not operational. So, it is important that we ensure that this amendment Bill is passed, the President assents to it and we operationalize it so that the rural folks can benefit from it.

With those few remarks, I urge my colleagues to support it. So, let us pass it as soon as possible for the benefit of our people.

Hon. Ogolla: Thank you, Hon. Deputy Speaker. Outrightly, if - like the situation we are in - Parliament passes a Bill, the President goes ahead to assent to it but a CS fails to give notice to let the law work, first of all, it is an act of insubordination. When a CS fails to act when it has already been indicated that this is something that has to work, something has to happen. If we do this a number of times, we will create a precedent that is not very useful to this country.

If we pass legislation and nothing happens, and then we bring another Motion then something is not right. We have to, as a House, relook into how we operate and how our resolutions are supposed to be implemented. In my view, it is not very good if we continue like this; this is not a good image for this country.

There was a lot of acrimony in the country when this Bill was being debated. In our wee days - the wee days of the 11th Parliament - one of the legislations that brought a lot of noise, acrimony and excitement was this Bill. It is a big surprise that after all that nothing happens three years later. This is the case and yet we were very clear that there was Government hand in it. This is because the Government really wanted this law to do a number of things.

The PBOs, which are the civil society and non-State actors play a critical role in this society. These agencies fill the gaps that are left by the Government through tangible or non-tangible actions.

It is important that this legislation recognises that there is need for some harmony between these organisations and the Government. There is also need for regulation on how these organisations operate and regulate themselves. It is a pity that this is happening. We remind the Government at this time that this Act is not yet in place. World over, governments have very difficult times because they hardly know how to organise people. There can be no development unless people are organised. Agencies that are best-placed to organise people world over are the non-State agencies. Governments can hardly organise people but they enforce and deliver services. Civil society agencies or non-State actors are better-placed to organise people to understand and appreciate how things are done all over.

It is important that this legislation is operationalised and we are in a situation where even those organisations are able to plan. It is difficult to believe that this legislation was passed three years ago. The PBOs were looking forward to how they were supposed to operate. They reorganised and readjusted in terms of geography, placements and structures. All of a sudden, three years pass and they do not know what to do. We have been very unfair to those organisations as Parliament and as a Government. This Act is taking too long before it is operationalised.

With that, I thank you.

Hon. Deputy Speaker: Let us have Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Deputy Speaker for giving me this chance to support this important Amendment Bill. I want to start by appreciating Hon. Neto for moving this important Amendment Bill.

The import of this Amendment Bill is to make sure that the law which was passed by this House and assented to by the President in 2013 becomes operational. It is unfortunate that this House took time, debated the Bill, passed it, handed it over to the President for assent, it was assented to and yet three years down the line this law has not become operational. I do not know whether we are confirming, as a House, that we legislate in vain. This law is quite important to this country.

During the debate, Hon. Members mentioned important issues, activities and aspects of this law. It is on that basis that the House passed this law. Three years down the line, a CS, who as per our Constitution has no mandate to make law, is sitting on this important law just because the law makes a provision for the CS to determine the date and time when this law should come into force. Now that three years have passed, time has come for us to do away with this clause that requires that the CS must determine the date and time for enactment of the Bill. That is why this Amendment Bill is very important. By passing it, we will be signalling that once this Bill is assented to by the President, it becomes law within 48 days. That is going to help this country.

As Kenyans, we all know the role the civil society and non-State actors in this country have played in ensuring that this country is where it is today. These important organizations, like the non-State actors have made tremendous contributions, more so in the dry areas of this country. I had an opportunity to work with some of these organisations. I recall the kind of work that was done in northern Kenya, areas of Turkana and Tana River. I can say without any fear of contradiction that some of these areas have just begun appreciating the central Government. In the olden days, the only Governments they knew were the NGOs. To them, that was their government.

With this delay occurring as a result of the CS not operationalising this Act, we are being unfair to Kenyans. We are also being unfair to this House which passed the law. We need to fast-track the passing of this Amendment Bill so that we prove to Kenyans that the only institution with authority and constitutional mandate to make laws is this House of Parliament.

With those remarks, I support the Amendment Bill.

Hon. Deputy Speaker: Let us have Hon. Kipruto Barchilei.

Hon. Barchilei: Thank you, Hon. Deputy Speaker for this opportunity to add my voice to this Amendment Bill.

The Public Benefits Organisation Act, No.18 of 2013 is very important. Its problem and greatest disaster is its in-operation or dormancy. The Public Benefits Organisations (Amendment) Bill is a very good Bill whose intention is to operationalise this particular Act. When Members of Parliament pass a Bill and it remains in-operational it undermines the supreme authority that was given to Parliament to make laws. If Parliament can pass a law and a CS, who does not represent the interests of the people as Members do refuses to enforce it, he curtails the principles of representation. Therefore, I support this Bill to bring into operation the Public Benefits Organisation Act in order to allow NGOs or public benefit organisations to operate within the confines of the law.

NGOs of various kinds play a major role in helping the needy in the society. If this law comes into operation, it will play a major role in this. I support this Bill and thank my colleague Hon. Neto for coming up with this noble idea to amend this Bill to operationalise the Act.

I support the Bill.

Hon. Deputy Speaker: Let us have Hon. Wilber Ottichilo.

Hon. (Dr.) Ottichilo: Hon. Deputy Speaker, I rise to support this Bill. I want to thank my good friend Hon. Aghostinho Neto for tabling this Bill.

Hon. Deputy Speaker, the President realised the importance of this Bill and assented to it. It became law but unfortunately, the CS given the mandate to gazette it to be operational has been sleeping on the job for three years. This is very sad and the CS deserves to be reprimanded by the President. This Act is of great importance to this country. NGOs and civil societies have played major roles in the development of this country particularly in the rural areas. This is in the sectors of health and sanitation, water and agriculture. They contribute a lot of money. NGOs

bring money in excess of Kshs100 billion to this country which is pumped into rural areas where Government programmes have never been implemented. This Act should have been implemented immediately.

This Act is extremely innovative unlike the NGO Act it is replacing. The NGO Act has very many controversies and contradictions. That is why this Bill was enacted into law but unfortunately it has not been operationalised.

Among innovative parts of this Bill is on access to information. Article 35 of the Constitution states that the public must have access to information. Since NGOs which we are now changing to PBOs play a major role in the development of our rural areas, it is important for the beneficiaries to know about programmes that are being implemented on their behalf for their welfare.

Unfortunately, a number of NGOs implement programmes in rural areas but the local people do not understand because they are not informed about them. That is why these programmes have never been taken over by local communities after they have been implemented. Once the sponsor moves out, the projects collapse. This Act makes it mandatory for NGOs to involve people in their programmes.

*[The Deputy Speaker
(Hon. (Dr.) Laboso) left the Chair]*

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

Another important aspect of this Bill is on self-regulation. The current NGO law has no aspect of self-regulation. The law enacted in 2013 sets out a very elaborate process of self-regulation by PBOs and civil societies. This is very important so that they can regulate and control themselves to ensure that whatever they are doing has an impact to the community. This aspect will enhance performance.

Hon. Temporary Deputy Speaker, we already have the NGO Coordination Board which has been trying to discourage NGOs from operating by putting very many caveats and trying to deregister some of them that are doing a very good job simply because this law has not been operationalised. If this law had been operationalised, the NGO Coordination Board would not be making those unilateral decisions because it is making them from the NGO Act, which is already out of date.

Another important aspect of this law is the synergy between the Government and the NGOs. There has always been suspicion by the Government on activities of the NGOs. This law spells out how the Government and the PBOs can work and synchronise their activities to ensure that beneficiaries of the programmes, who are the rural folks benefit optimally from them. Enactment of this Bill will remove suspicion between NGOs and the Government because there have been allegations that some NGOs are doing jobs that are antagonistic or those that undermine activities of the Government. This Bill allows the Government and the NGOs to sit together and ensure that programmes undertaken by the NGOs on behalf of the Government are of benefit.

This Bill is clear about staff of various PBOs. Many at times, these NGOs come from overseas with their own staff. These organisations are run by people from outside who do jobs that would have otherwise been done by Kenyans. This Bill states that the PBOs established in

this country should ensure that jobs that can be done by Kenyans are not done by expatriates. We have many NGOs that are doing jobs that Kenyans can do simply because there is no law to speak to that.

I support this amendment that will force the Government to implement it as soon as possible. I still insist that the CS in charge of the operationalisation of this law should be reprimanded.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Kesses.

Hon. J.K. Bett: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to add my voice to this important Bill. At the outset, I would like to thank Hon. Aghostinho Neto for bringing this Bill. The Public Benefits Organisations (Amendment) Bill captures the aspirations and expectations of Kenyans regarding operations of NGOs in Kenya. It will set the general legal framework where NGOs and most of the PBOs operate.

Hon. Temporary Deputy Speaker, the setting out of the framework will also enable authorities to enforce compliance to the requirements. That will ensure that these NGOs operate within a specified legal framework whose compliance will be enforced.

I want to pick on some of the benefits which NGOs or these PBOs have done in most parts of our rural areas where the Government may have not reached because of the terrain or remoteness. This is, for example, health and sanitation. We have seen many NGOs set up dispensaries and hospitals to meet health requirements of residents in such areas.

In the area of education, we have seen many NGOs provide education to those areas. They have even improved infrastructure to reach those areas, not to mention employment opportunities that are offered by these NGOs.

As it is, this law will enable members of the public to access information regarding what these organisations do. It will also enable the PBOs to be audited. This will make them to publish their financial statements at the end of every financial year so that we know what they deal in and what their balance sheets are. That is so, so that we can approve them.

This House passed this Bill in 2013 and was assented to by the President. The only disappointing thing is that it was not operationalised. I join my colleagues in saying that the CS in charge of this needs to be reprimanded. We cannot perform our mandate and then the implementation part of it fails.

As mentioned, the Public Benefits Organisations (Amendment) Bill will synchronise the operations between the Government and the NGOs so that here is no suspicion from the Government's end regarding the operations of NGOs. When that happens, synergy will be built. This will help improve the socio-economic welfare of Kenyans.

With those few remarks, I support this Bill. I once again thank *Mhe*.Neto for bringing it to the House.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member.

Let us have the Member for Kwanza Constituency, Hon. Wanyonyi.

Hon. F.K. Wanyonyi: Thank you for this opportunity, Hon. Temporary Deputy Speaker.

I also take this opportunity to thank my brother *Mhe*. Neto for moving this Bill. In fact, it is a wakeup call. I did not know this Bill had not been operationalised. I am surprised it has not and yet we passed it. I remember contributing to this Bill when it came sometime towards the end of 2013 but I do not understand why it has not been put into effect. As most Members have said, this shows how arrogant some of the CSs are.

I am a Member of the Committee on Implementation and I can see my Chairlady is not here. As a Member of the Committee on Implementation, we want to fast-track this and come up with a Report on why the Public Benefit Organisations Act has not been operationalised almost three years down the line. It is one of the weaknesses we have in this country.

We have an Executive picking on people who do not know the effect and the pains of sitting here to debate some things. This Bill was taken very seriously when we passed it almost three years ago. Therefore, it means the debate we had here was in vain.

On a light touch, but on a serious note too, the next Government should consider having CSs appointed among politicians.

(Applause)

The CSs should be appointed among politicians. Picking these people from the streets is a burden to this country. If you look at the list of CSs who have been politicians, you will find that they are performing very well. Some of these people who were picked from the banks, NGOs and elsewhere are not performing.

As I support this Motion, I ask the next Government which we are looking forward to form as CORD to get people who are politicians into the Cabinet. They may be from this House because they will take some of these things seriously.

As said earlier on, the Bill is very clear. It gives room for each side; the Government and the NGOs to get information freely. That has been the problem in the past. If we pass this Bill, we will be able to access information that some of the NGOs have so that it is easier for us to understand some of them. Of course, some of them are briefcase NGOs.

As mentioned by my good brother, Wilber Ottichilo, some of these NGOs come to this country with their staff. They may be technical staff but the amount of salaries that are paid to some of them is alarming. You will find that a person who comes from overseas is paid three times what a Kenyan counterpart who is equally qualified is be paid. That is what made us pass this Bill. It was to enable us get some information from wherever freely and regulate the oppression of some NGOs.

I promise this House that, as a member of the Committee on Implementation, whose mandate is to fast-track some of the resolutions passed by this House and/or forwarded by the Executive, we will look at this within the shortest time possible to find out why this Act has not been implemented. If we find that the CS was sitting on the job, we will sanction him or her.

With those few remarks, I support this Bill.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member.

(Loud consultations)

Hon. Members, let us have some order.

I want to recognise the following schools that are in the Public Gallery: Kapng'etik Primary School from Elgeyo Marakwet County, Toror Primary School from Uasin Gishu County, Arap Moi Primary School from Tana River County, Olanti Primary School from Kajiado County, Ndothua Primary School from Nyandarua County, Kinangop Constituency, and Rutune Primary School, Ndiani Primary School, Kihutu Primary School and Kaini Primary School from all from Mukurweini Constituency of Nyeri County.

(Applause)

You are welcome to the National Assembly.

I now give the Floor to the Nominated Member, Hon. Sunjeev Birdi.

Hon. (Ms.) Sunjeev: Thank you for giving me this opportunity, Hon. Temporary Deputy Speaker.

At the outset, I would like to thank Hon. Neto for bringing this Bill. Let me say that prior to my joining the field of politics, I was very much present and vibrant in philanthropy. One of the questions that came into my mind many times was, why is poverty a “hole”?

In my opinion, the term “poverty” is where people or organisations will keep on putting money. So, it was very beautiful to see that whenever one kept on giving to the society, things used to get lost. In some cases, some people actually become used to being given and they take it for granted. They take it as their right to be given. So, giving and receiving were being abused. It was very painful for me to recognise that at that point in time. So, I applaud Hon. Neto for bringing this amendment. It is a pity that we have had to wait for too long but they say better late than never. As it stands today, Parliament is correcting the requirements that are needed very desperately in our economy today.

We have to recognise that PBOs, like NGOs, play a very important role in supporting the economy and legislation is important. It is important to note the depth within which these NGOs conduct their business because some of them run programmes abroad. They send misbehaving children from abroad to countries like Kenya. They come here and learn the lifestyles of poor people so that they can give back to society. They learn something and go back. There is a vital role that NGOs play and this Bill is for their benefit. I applaud it once again.

The role that the NGOs play is actually a shared responsibility between the Government and other people as a whole. Philanthropists like Dr. Manu Chandaria, who is very well known, will be very happy today to see the passage of this Bill being fast-tracked. He would also like it to be streamlined so that business can go on as usual. If the input of NGOs is in excess of Kshs100 billion, it is very important for such a sector to be regulated because we know one person’s gain can be another person’s disadvantage. We do not want people to be disadvantaged because we stand for the benefit of the people.

With those many remarks, I support the Public Benefits Organisations (Amendment) Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): There is intervention from the Vice-Chair of the Departmental Committee on Labour and Social Welfare.

Hon. (Ms.) T.G. Ali: Thank you, Hon. Temporary Deputy Speaker. I have just been informed that the reason why the Act was not operationalised was because the substantive and comprehensive amendment that is pending before our Committee has not been disposed of. There was the issue of diplomats, NGOs, communities and other interested parties who said they have not been consulted on this Bill. There are a number of issues that need to be amended. So, that is pending before our Committee. I urge, if it is possible that we fast-track it and ensure that we bring it so that before it is operationalised, we address the interests of all the people who are concerned in this matter.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Vice-Chair, I have heard you say that you have looked at this Bill as a Committee, and that you have substantive amendments. Will those amendments not come at the right time – during the Committee of the whole House? I do not think that should stop debate on the Bill. You still have the opportunity to

bring those amendments. The only stage at which you can bring the amendments is during the Committee of the whole House. So, I do not see any reason for us not to continue with debate on this Bill.

Hon. (Ms.) T.G. Ali: Thank you, Hon. Temporary Deputy Speaker. I am only informing the House that we have substantive amendments that are coming. At whatever point they come in, it is important that this House knows that we have those amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): That does not stop the debate but thank you for the information. I now give the Floor to the Member for Mukurweini, Hon. Kabando wa Kabando.

Hon. Kabando wa Kabando: Thank you, Hon. Temporary Deputy Speaker. I thank our good friend, Hon. Neto, the Member for Ndhiwa, for this very timely thinking to bring this amendment in order to achieve improvement in the governance of PBOs.

I dedicate this contribution to the very beautiful girls and handsome young men from Mukurweini, who are privileged to be in the House in the Public Gallery to watch and witness these proceedings. They are accompanied by their teachers. It may appear very simple when schools are recognised by the Chair. These children who have the opportunity to come to Parliament may not easily understand that some of the people in the Chamber, who are their representatives, came to Nairobi through secondary school education. Some came to Nairobi when they were going to colleges. So, I am very happy to have Ndiaini, Rutune, Kihuti and Kaini Primary Schools with us.

The benefits that have accrued over the years from the NGOs and the civil society are enormous. We have had very significant improvements in the management of public affairs. We have a new constitutional dispensation, competitive leadership, devolution and structured improvements that have allowed affirmative action, the rights of children and the expansion of education. Many may not appreciate that the serious benefits that have come to developing countries through the efforts of PBOs largely depend on donations from individuals and institutions that are overseas, and people who dedicate their taxes from Europe, Asia and America to strengthening governance and giving social benefits to communities with whom they are not directly linked. This is as a consequence of their compassion and interest in helping other people beyond their countries' borders.

The amendments that have been brought by Hon. Neto seek to connect better the beneficiaries of such effort. We have seen in the past communities which do not understand the kind of work that is being done, be it in schools, water, sanitation, health and social services, to uplift the welfare of the underprivileged or those people who have been disadvantaged historically. To allow information flow and access to communities is very important because the beneficiaries will easily identify with the projects. The projects are being brought by elites from outside – elites who are detached – and the communities just celebrate without knowing the amount of money that has been committed to their area. They cannot question.

In the new dispensation in this country, questioning on public utilisation of resources, particularly financial resources, is critical. This is connecting what is happening in the public sector to the non-governmental sector, which is also being driven now. Currently, in the private sector, particularly for those companies that are quoted in the stock exchange, is a question of allowing governance improvement.

Secondly, financial probity brings accountability to donors. The people who give money, technology and intellectual input can get reports. Therefore, the accountability process is transparent. I have witnesses in my constituency who are beneficiaries of international funds for

agricultural development. Some of the schools visiting today have benefitted directly and indirectly. Some farmers have also benefitted.

Lately, we have very good impact from techno serve that has supported the dairy sector in my constituency. There is also training for tissue culture banana initiative being implemented in institutions. Many times, you find that once the PBOs exit from the place, the individuals left behind lack the capacity to sustain that project. The situation is complicated by the absence of financial prediction to understand that the budget for the project comes to end in a certain year and that thereafter, the beneficiaries of the project are supposed to rely on themselves. Many serious investments collapse because there is no technology transfer and continuity. Therefore, this amendment will allow sustainability of donor funded projects.

Finally, there is the introduction of a tribunal and an authority in the Bill to solve conflicts. In the remotest part of this country, we have had very serious focus by PBOs. There is conflict in communities because either there is individual interest that is not in agreement with the community interest or the individual expatriates who have been sent to help are not well cultured in the ways of the community so that they become part of the spirit of the community. Such conflicts have led to collapse of very many projects. Therefore, to have a mechanism for conflict resolution would mean that we avoid very expensive routes like the former Chief Justice, my friend, Dr. Willy Mutunga would say, “going to court to resolve disputes that can easily be settled locally.” The tribunal is a pathway for amicable and peaceful method to settle small issues to ensure that projects do not stop, so that communities can be advantaged by an institutional framework which is predictable, sustainable and agreeable to the community.

I am happy and proud to rise and support this Bill. I thank my colleague for his insights and his connection to where he has served. He is an alumnus whom we need to anchor in our service to this Parliament.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor to the Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. I rise to support the Bill and appreciate the work that Hon. Neto has done.

We are dealing with a Private Member’s Bill which was intended to replace the NGO Act, which resulted from a Government sponsored Bill and is in operation. Once this Bill is passed, it is necessary that somebody follows up to ensure that it is operationalised because there is already a functioning law which would be easy for people to continue with.

This law needed to have worked because it was bringing self-regulation. The NGOs that do a commendable job would be involved in determining how they should be regulated. The regulation is extremely important because you need stakeholders’ involvement. You need to give information to the stakeholders and have coordination because the NGOs are very many, and could all be working in the same area. Without coordination, proper sharing of information and involvement of stakeholders, you could have a chaotic situation. So, it was extremely important.

The Bill establishes a tribunal. This is because if you have very many people working together within Government systems which are running some projects, there will always be need to have some kind of mediation – a process of settling disputes. The Bill which was not implemented provided for a transitional clause. Had it been implemented, the NGO Act would be replaced within one year through the transitional clause. A good Bill that should have been implemented – but which was not – was a Private Member’s Bill. The Executive should take

Private Members' Bills seriously. I am aware of some issues which lead to Private Members' Bills not being implemented quickly. The House needs to address those issues.

It is extremely important for the Mover to work with the Ministry which will be implementing this Bill and involve them thoroughly during the Committee of the whole House. If there are any misgivings or contribution that should be made to the Bill, the Ministry should address those issues at that point. If the Ministry raises issues about the Bill at that point, we will extend the time for its determination. That is what happens. If the Ministry is involved during the Committee of the whole House, it will bring those issues. We have had situations where Private Members' Bills have been merged with Government Bills. The best example was the Tobacco Bill. There were two Bills – one from the Ministry and another from a private Member. It was possible to merge them into one Bill. The Committee of the whole House is the most important stage where Movers of Private Members' Bill should involve the Ministry that is intended to implement it.

Sometimes we have problems with Private Members' Bills because the mandate may not be clear. A Bill can say that a certain CS is responsible for its implementation. We should look at the Bill very carefully to see whether it involves more than one Ministry. Where the mandate over the Bill is in more than one Ministry, we have the problem of passing the buck by those Ministries.

There is an Act which has not been implemented up to now. It was dealing with precursors of drug addiction. The Bill was supposed to be implemented through the Ministry of Interior and Coordination of National Government. However, the same drugs whose usages are to be controlled are used for normal healthcare purposes. Therefore, the drugs are controlled by the Ministry of Public Health and Sanitation. The Bill was not implemented because the mandates were conflicting. If there was no adequate stakeholder involvement from the beginning, the stakeholders engage the Ministry to block implementation of the Act.

These are extremely important issues. As we address this case, I am sure that there are other Acts of Parliament which have not been implemented. It is important that we involve the Committee on Implementation, so that those Acts can be brought out for scrutiny. Why are they not being implemented? If there are issues, they should be addressed. It takes a lot of time, effort and resources to come up with a Bill which eventually becomes an Act of Parliament for purposes of serving the public good. Therefore, any pending Act of Parliament should be implemented. The link we have is our Committee on Implementation to look at all these issues and address them.

With those few remarks, I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor to the Member for Bomet Central, Hon. Tonui.

Hon. Tonui: Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to support this Bill. I was nearly losing hope having been here since morning.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, please make it clear that you walked out. I was going to give you an opportunity but I found you were not present. I am being kind by giving you another opportunity.

Hon. Tonui: Thank you very much. This Bill is important because it will ensure that PBOs start operationalisation. It is unfortunate that, as a House, we have been giving the Executive a lot of power to decide on when to bring into effect the legislations we make. We should never, again, give a blank cheque to the Executive to decide on when laws should be

operationalised. I believe, as a House, we need to be very firm on such decisions and a free hand being given to another body is the wrong way to go.

This Bill is important because we want our people to benefit from NGOs especially in terms of employment. The role played by NGOs in this country is very critical. Any law which can assist in the operations of NGOs and the civil society is welcome and should be encouraged. NGOs also play very important roles especially in the marginalised areas of this country where their presence is felt more than even the Government. NGOs are found in marginalised areas especially those with religious backgrounds.

However, as we put this law into effect we need to know that not all NGOs are angels, some of them are also not that good and we need to tackle them. We need to ensure that there is transparency and accountability in the world of NGOs and the civil society and take care of that through such a law. We need to legislate and audit the NGOs and the civil society. This should not be through auditors whom they identify themselves with because they are serving the public. This is because the people who run these organisations may not be running them very well. They could be good in bookkeeping especially for their interests but in terms of transparency that cannot be ascertained.

I normally see some NGOs dealing with issues of Mau forest and Mara River in my place. These people are not felt on the ground because you cannot get a local saying they have enjoyed their services. To ensure that they serve our people and they benefit, we need to make them more transparent and accountable. In the NGOs and civil society, the people who consume the money are individuals who run the show. This is because it is not from their pockets but from donors whom we need to build a good relationship with. We need to make a law for all NGOs to be audited by the Auditor-General and the reports tabled in this House and a copy provided to donors so that we can continue to tap the international funds.

The Vice-Chair of the relevant Committee said that they are still consulting. I wonder how they spearheaded the law even though it was a Private Member's Bill. They must have sat as a Committee and informed all the relevant stakeholders concerned with this Bill. Why are they saying they are still consulting? I believe this law should not be linked to any other consultations which are happening outside the Floor of this House. Therefore, this law needs to be approved on its own merit so that it can be effective and useful to this country.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Kiambu, Hon. Nyokabi.

Hon. (Ms.) Gatheca: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Public Benefits Organisations (Amendment) Bill. We are fully aware of the good work that is being done by NGOs especially in areas where Ministries are not able to channel development to the local community.

We have seen many projects such as schools and in the area of water being done by NGOs. These projects have significantly benefited the local communities. This Bill, as presented will limit many direct benefits to local communities through a proposal that the Ministry should handle the implementation. We are aware that there are some areas which are inaccessible. The work that is done by the NGOs significantly benefit the local communities and their priorities may not necessarily be those identified.

In the interest of ensuring that benefits continue to accrue to communities, I will introduce some amendments at the Committee stage. This will ensure that at whatever level, we understand the impact and the role that was played by some NGOs in the last elections by

showing their support to certain political parties. It is important that at the end of the day, we are able to recognise the importance of ensuring that the people in areas that are not accessible and are of special interest are also funded by NGOs. It may be important to adjust certain areas to ensure that the benefits worked out are only in the interest of the public and not political.

I support, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Gichugu, Hon. Barua.

Hon. Barua: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to make comments and support the Public Benefits Organisations (Amendment) Bill, 2016. The amendment in this Bill is very simple and yet of major impact in the running of civil society and NGOs in this country, which are referred as PBOs.

The PBOs Act, 2013 was discussed in this House about two-and-a-half years ago. I think the concern of the Mover is that once we passed the Bill in this House and it was assented to by the President and became an Act, it has not been operationalised.

Public Benefit Organisations (PBOs), in simple terms, are those institutions that work from outside the formal Government structures. The same organisations offer services to the same Kenyans who the Government serves. So, I do not see anything we should fear in having this Act operationalised.

Over time, PBOs have been very important partners in the development of this nation. We are also cognisant of the fact that some PBOs - and I repeat some PBOs - have been involved in some activities which are not necessarily positive to the development of the country. Those are some of the mischief this Act was supposed to fix. This Act was intended to improve the governance structures within PBOs so that they can be more accountable to the people and be able to offer development that communities have identified and which they desire for them to move forward.

For the PBOs to be effective, they should try to reach out and fill the gap which the Government is not able to fill. If they do that, then they will play a very important role in this country. I remember during the debate in this House, there was unanimity that if those organisations work on the gaps identified by the constituency, county and national development plans, we can get far. That is why I am worried that this Act has not been operationalised. Those good benefits have eluded the communities in general.

PBOs get donations from people who sacrifice their money and comfort so that they can alleviate the suffering of poor people. It is for this reason that if this Bill is operationalised, the sector can be put to order. We have in particular the NGO Coordination Board which is supposed to report and coordinate, from a Government platform, the work and operations of PBOs. Giving the Cabinet Secretary (CS) the overall goodwill to determine when this Act would be operationalised leaves the whole country in a situation of uncertainty. I think that is too much power given to one person. In fact, there is no reference to any institution which is supposed to advise the CS on when to do it. Right now, this is like an open cheque. The CS can do whatever he or she wants to do with it. It is important for us to pass this Bill so that the Act can be operationalised. In future, we can set timelines when Acts should be operationalised. The Act also provides for conflict resolution mechanisms. As long as the Act is not operationalised, the institutions that are supposed to do that cannot be put into place.

Both the civil society and the Government serve the same people. We should be able to get what is good from both sides so that we can move forward. The Government should not be afraid of extended freedoms of its people. If this Act is operationalised, we shall be able to get

more resources from donors and have much more development taking place in our counties and the country in general.

With those few remarks, I would like to thank the Mover of this Bill, Hon. Neto. I fully support it. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I want to recognise Ndothua Primary School in Kinangop Constituency, Nyandarua County; Mugango Secondary School in Bomet Central Constituency, Bomet County; Iveche Primary School in Manyatta Constituency, Embu County; Kagaru Academy in Igembe North Constituency, Meru County; Mukuyuni Primary School in Yatta Constituency, Machakos County; St. Enos Primary School in Yatta Constituency, Machakos County; and Shizoin Academy in Bomet Central Constituency, Bomet County.

You are welcome to the National Assembly.

(Applause)

I now give the Floor to the Member for North Imenti. Is he in the House? I now give the Floor to Hon. Grace Kiptui of Baringo.

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker. I rise to also support this Bill. It is important that we value and recognise the efforts of non-State actors. Normally, for the success of a country, there is room for the Government and the civil society or non-State actors. When this Bill is signed into law, it will help in regulating the relationship between the Government and non-State actors. We recognise the immense contribution that non-State actors make in the development of our nation.

Indeed, both the Government and non-State actors serve the citizens of this country. However, there is need for close scrutiny of who the Government allows to go into the societies and do whatever activities they want to do. We have seen in the recent past non-State actors related to religious institutions or bodies sometimes going out of their way and engaging in activities that are injurious to the country. My call is that we need to license and monitor people we allow to go to the countryside and engage with the people, considering the fact that most of the rural folk may not be aware. They may not be on the lookout. They may consume wholesomely whatever information that those bodies bring, especially where money is involved. They may be lured to accept everything and such activities may not be conducive or progressive to the nation.

One time I went to Morocco with the Departmental Committee on Administration and National Security and we realised that in that country, the King is in charge of all the faithful. He has been given the mandate to scrutinise the literature of religious bodies in that country. He is the one who knows the religious leaders that are released into the community and they occasionally meet to ensure that, especially in this time and age of radicalisation, not everybody just goes into the community and tries to pass some information that may be injurious to the nation. So, we also need to be very careful. We need to scrutinise their activities in a way that we do not limit their freedom to contribute to the wellbeing of the nation. At the same time, we need to be very cautious on issues of security.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I now give the Floor to the Hon. Member for Mathare, Hon. Kariuki.

Hon. Stephen Kariuki: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

I rise to support the Public Benefits Organisations (Amendment) (PBOs) Bill. I commend my friend, Hon. Aghostinho Neto, Member for Ndhiwa, for bringing this Bill.

Hon. Temporary Deputy Speaker, we realise that those organisations are very key to complementing Government functions that we have even in my own constituency. They concentrate on development in areas that are challenged and that do not have facilities that we are supposed to create for them. They give us an opportunity to raise our people even with attracting donor funding, managing the same donor funds and assisting us get those funds to reach our constituents. In terms of infrastructure, we have seen the Non-Governmental Organisations (NGOs) participate greatly in infrastructure development across the country, in various areas, regions and categories.

With those few remarks, I support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Member for Turkana, Hon. Joyce Akai.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill and to thank Hon. Neto for actually thinking of a way to operationalise the Bill that we passed three years ago. It was an emotive Bill and many people were waiting to see it in force.

Hon. Temporary Deputy Speaker, operationalisation of this Bill is very important and if we were just waiting for the whims of the Cabinet Secretary (CS), then we are doing a disservice to the people of Kenya knowing very well how much work the BPOs have done.

When I grew up as a small girl in Turkana, we knew NGOs as our Government; actually NGOs and the church because of the work that they were doing. It is only later on that I learnt that NGOs were only complementing the work of the Government and actually bringing extra and additional resources that the Government so badly needs, including food security, water, security and even currently governance and accountability policy work and advocacy. It is a lot of work. In Kenya, we know how much work the PBOs have done in terms of social and political reforms in this country. We are talking of genuine checks and balances for the Government. Their work also serves very well as a gauge for democracy for this country.

With those few remarks, I support this Bill. I am really looking forward to the operationalisation of the Act.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Member for Ikolomani Constituency, Hon. Shinali.

Hon. Shinali: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I rise to support the Amendment Bill that has been brought to the Floor of the House by Hon. Aghostinho Neto.

Hon. Temporary Deputy Speaker, the time this Act has taken to be operationalised is a clear demonstration that there is unwillingness from the Office of the CS to implement this Act. This Bill that is now coming to the Floor of the House is going to solve that problem.

First of all, I want to appreciate the work that NGOs are doing in this country. They complement services of the Government in several sectors ranging from health, education, water and so many others, including training of our very disadvantaged people of the very low class.

Hon. Temporary Deputy Speaker, as we bring in this Bill, we have to appreciate the donors who bring us those funds because they are savings that they have made and they are taxpayers' money. It is only good that we allow the NGOs to work because that money had earlier been channelled through the Government line ministries but we realised that the money

was not being utilised effectively and efficiently. NGOs are on the ground. It is their major work that they do on a day-to-day basis.

Hon. Temporary Deputy Speaker, if you also visited some of the refugee camps in Kenya, you will realise how much NGOs are doing for this country, and even to this Parliament. We have NGOs that have sponsored Members of Parliament for training, I, being one of those who have benefited from training in Holland last week.

With those remarks, I just want to thank the work the NGOs are doing in this country and support this Bill to be passed. According to me, this Bill has actually come late. It should be passed very fast.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Molo, Hon. Macharia.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill by Hon. Neto. It is important we streamline the NGO sector in Kenya. This is because we have had NGOs that come up and defraud *Wananchi*. For example, we had NGOs that came up after the 2007 ethnic violence in my constituency. They defrauded suppliers and members of the public and left. We have also had NGOs in Nairobi who have been defrauding our suppliers. I think streamlining those NGOs is important without also forgetting that there are straight NGOs that have given serious input into the wellbeing of Kenyans.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Member for Rarieda, Hon. Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this Bill. This amendment by Hon. Neto is very important. This is because at times when we give the CSs the leeway to give the time when an Act of Parliament can be operationalised, they misuse that provision. This is a good law. Debate about the role of NGOs has been going on in this country. Of course, there are times that NGOs tend to exceed in terms of the benefits they give to the community. There are times that some of the NGOs definitely have questionable activities. However, by and large, the majority of NGOs in this country do a good service. The fact that we have a proliferation of NGOs in our country is in a way an admission that there are many parts of this country where Government services still do not reach the people.

I have always argued in this House that when we make laws in this House, we as the lawmakers should be the ones to state the date when the law should come into effect. However, when we give the CSs the leeway to be the ones to decide when the law can come into effect, many of them misuse it. This is because we give that leeway without caveats and once that is done, it is them to apply when it is necessary. Some of them bring subjective considerations into the operationalisation of the law which in a way hurts the people of Kenya. It has to be understood that every piece of legislation that we make in this House goes towards addressing the lives of our people. So, when a law that has been passed by this House cannot be operationalised because the CS is taking too long or for some subjective reason does not feel comfortable with certain provisions of the law, it is wrong.

Cabinet Secretaries (CSs) have not been given any role in our Constitution to make laws. That role has been given specifically to Parliament, with the President having the power of veto. This probably is a lesson for us that, as we go forward, let us stop this habit of always vesting too much powers on the CSs.

I have always argued about the powers that CSs enjoy. It has to be remembered that right now, they are no more than the appointees of the President. For them to make it look like they are frustrating the efforts of Members of Parliament to make laws is unacceptable. Members of Parliament go through a very difficult process of getting elected to this House. The fact that you come to this House means you are speaking not just for yourself, but for the people of Kenya. That is because not all the 40 million Kenyans can come to this House to express their views.

I want to commend my good friend, Hon. Aghostinho Neto, for removing that hindrance to the operationalisation of the law. Most importantly, as we go forward, let us remove this leeway that we are giving CSs that they often misuse to try to frustrate the operationalisation of laws to the detriment of our people.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Member for Njoro, Hon. Kiuna.

Hon. J.K. Ng'ang'a: Thank you, Hon. Temporary Deputy Speaker. I also rise to support this Bill and congratulate my brother, Aghostinho Neto. This Bill is going to supplement Government's efforts in many areas where it would like to assist *Wananchi*, but funding may sometimes be very little. When those NGOs come, they try to help in many areas such as provision of water. Sometimes, they go to an extent of drilling boreholes, building some dams and even chip in during drought. I would caution that as we support, we should set some mechanism to make sure that the source of funding is known and that money is utilised properly.

I support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Member for Kisumu East, Hon. Shakeel Shabbir.

Hon. S.S. Ahmed: Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill by my dear brother, Hon. Neto. This Bill was passed in 2013. The CS and the Executive seem keen to sabotage its implementation. We have the vision, direction and legislation, but the implementation is what lacks in this country. Vision without implementation, to quote a famous president, Mr. Kagame, "is hallucination."

While we have the three arms of Government; the Executive, Legislature and the Judiciary no one arm of Government should be frustrating the other. This is a very important thing. The NGOs are our stakeholders and partners. Of course, there are bad ones and good ones, but we cannot throw the baby out with the bathwater. A lot of work has taken place. As soon as this thing is implemented, it will streamline the NGOs, regularise them and put into operation some for the regulations that are required.

I would like to go a little further and say that I would like to chastise the CS and the Executive for delaying this law so far. If there were problems with it, they should have been brought forward here. They have not. I think that this is the sort of thing that is stopping the Government from implementing the good visions they have. Also, we have no idea as to why one particular person can stymie and sabotage the work of 290 Members of Parliament.

With those few remarks, I want to thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Kanduyi, Hon. Wamunyinyi.

Hon. Wamunyinyi: Thank you very much, Hon. Temporary Deputy Speaker, for giving me the chance to contribute to this important Bill.

It is important for us to remind ourselves the main objective of this Bill, which is to ensure the amendment of a clause in Act No.18 of 2013. The amendment is merely about the

commencement date: That the CS has the power, in accordance with the law, to determine on which date the law will be operationalised. This must be a lesson to us Members of Parliament that when we are passing a law, let us be mindful of clauses which will make it difficult for the law to be operationalised.

You can imagine this Act was passed in 2013 and to date, it has not been operationalised. What makes it difficult for the CS to publish in the *Kenya Gazette* that the law is operationalised? It is for this reason that I feel we must draw the attention of Members. I want legislative drafters, the Legal Department in Parliament, to make sure that they look at small things that can make it difficult for a good law which was passed not to be operationalised. I support it and commend my brother, Hon. Neto, for bringing this Bill which would essentially ensure that this Act is operationalised for the people of Kenya.

All Members contributing to this have emphasised the importance of the Public Benefits Organisations (PBOs) to ordinary Kenyans in the rural areas of Bungoma, Garissa, Wajir, Nyando, Nairobi and other places. There are those that benefit from the support that we get from the NGOs and from donors, that is geared towards filling the gaps where the Kenya Government and people of Kenya have not been able to do something. The NGOs and private donors have been able to fill the gap to support ordinary people. It is for this reason that in many ways, this Act is important for the people for Kenya. I, therefore, as I contribute to this, wish to point out that in fact, the area that I represent, generally Bungoma and the region, you will find that NGOs have been very instrumental. We have the One Acre Fund and the civil society that is working to support *Wananchi*. They can only do this work properly when there is a law that ensures things are done in an orderly manner.

I have recently had cases where members of the civil society organisation in Bungoma have gone to file a petition in order to see that this situation is normalised; for them to operate in an orderly manner. The civil society has supported our operations. In Bungoma, I have been joined by them particularly in supporting the public wellbeing through the provision of healthcare and water supply in some areas. I know that some Non-Governmental Organisations have been involved in ensuring that people get clean water. They support agriculture and even construction of bridges. They have done all kinds of projects in partnership with the communities and it is, therefore, important we ensure that we pass this law.

Hon. Temporary Deputy Speaker, as I contribute on this important Bill, last week, I had cases where members of the civil society were struggling with the administration in Western region, particularly those responsible for human rights activities. They were looking at some issues which affect *Wananchi*. They have taken the responsibility to do some small issues we cannot do ourselves and help our people. There is every reason for the operationalization of this Act. Therefore, we should not just pass this Bill, but appeal to the authorities to have it assented to and ensure that the Public Benefits Organisation (PBO) Act is operationalized.

We all have had challenges in the past. I want to stress that very good laws have been passed in this country and even the Constitution but, there are some areas of the Constitution which cannot be effected before an enabling supporting Act is passed. As a House, we have the responsibility to ensure that we do not make mistakes repeatedly. We need to learn from the past. We have seen our country get into problems. We have seen conflicts arise from some pieces of legislation that are passed. Therefore, it is important for us, having learnt from this, to ensure in future that no such mistakes are made.

I thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity and state that I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, let me again recognise schools that are in the Public Gallery. Ober Boys Boarding, Kasipul Kabondo Constituency, Homa Bay County; Nkonyi Primary School, Yatta Constituency, Machakos County and Mutheru Primary School, Kandara Constituency, Murang'a County. You are welcome to the National Assembly.

I now give the Floor to the Member for Kirinyaga, Hon. Winnie Karimi.

Hon (Ms.) W.K. Njuguna: Thank you, Hon. Temporary Speaker, for giving me this opportunity. I join Members in supporting this very important Bill; the Public Benefits Organisations (Amendment) Bill. Those organisations have been of great use to the community. I remember sometime back in Kirinyaga, they supported women. They gave a donation that enabled them implement a water project which is still managed by women to date.

The earlier the Bill is put in place, the better because NGOs support and target vulnerable and disadvantaged people. This is the area which makes our people---

(Hon. Wamunyinyi and Hon. (Eng.) Gumbo consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Order, Hon. Members! Hon. Wamunyinyi and Eng. Gumbo.

Hon. (Ms.) W.K. Njuguna: Thank you, Hon. Temporary Deputy Speaker. They target vulnerable people who are really suffering in our communities. In most cases, they target the disabled, women and orphans. They have very good programmes that make our communities have better lives. They also touch the health sector and support those people. They also provide water in some cases and agricultural projects. All those projects can eradicate poverty in this country.

Therefore this is a very good Bill which should be supported by everybody. They even train our communities and promote teamwork. They train communities on how to own their projects and identify local resources in their areas, and that promotes the communities' wellbeing.

I support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you. I now give the Floor to Hon. Member for Chuka/Igambang'ombe, Hon. Njuki.

Hon. Njuki: Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this Bill. I thank Hon. Neto for not losing the zeal to bring back to Parliament what was not performed.

I want to cite an incident I came across in the 1990s while I was working in Kitui as a civil servant. We visited two remote areas called Nuu and another one called Voo during Moi's days. Incidentally, the people of Nuu and Voo hardly knew Moi but they knew Ndingi Mwana a Nzeki because of the work the NGOs had done in that area of drilling boreholes, a bit of roads and rock catchment where they tap rain water using rocks. The NGOs had really touched the lives of the people to the extent that they thought NGOs were the Government. That is normally repeated almost everywhere in this country; from the remotest parts of this country like parts of Tharaka Nithi County where the footprints of the NGOs are much more than what the Government is sometimes able to do. It shows that the NGOs play a very critical role in bridging the gap between what the Government is able to deliver and what they are not able to do.

It is a sad story to see legislation being delayed in implementation not because of anything that is holding the Executive back but, in this case, the CS. The CS might probably

think this is one of those things that are not urgent. Probably, they have marked the trays “in” and “out” but they also have urgent in what is not very urgent. Gone are those days when coats used to be left in the office, in-trays full and documentation or work done at leisure. It is a lesson to this National Assembly that even though we have clear separation of powers among the Legislature, the Executive and the Judiciary, there are some things we will not trust or leave any more, like an open cheque, to the CSs to implement. From 2013 to date, we have wasted almost three years and half of what could have been very valuable by NGOs in this country.

With those few remarks, I thank you for giving me the opportunity to support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Member. I now give the Floor to Member for North Imenti, Hon. Dawood.

Hon. Dawood: Thank you, Hon. Temporary Deputy Speaker. I support the Bill by Hon. Neto. I believe the amendment he is seeking is right because the Bill was signed by the President over three years ago in March, 2013. It should have been in operation because I believe Public Benefits Organisations (PBOs) do a lot for this country. They play a very critical role.

There are some rogue public NGOs which were covered in the media about a month or two back. There is an NGO which operates, I think in Kibera. Apparently, most of what they get is given out as salary for a gentleman and his wife, both of who work for the NGO. Nothing trickles down to those it is meant for.

I believe that once this Bill is put in place, those kinds of people will be checked. Non-Governmental Organizations have done extremely well in all parts of the country.

(Hon. King'ola spoke off the microphone)

Hon. Makau is talking a bit louder than I would wish him to. NGOs in this country have done a lot especially in the pastoralist and rural areas like in Meru. They are in charge of many water and school projects. With this Bill in place, we will have a framework where everybody can know what exactly NGOs do because many are duplicating the works which have already been done. If we have the Bill in place, we can have a better framework for things to be done.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Mary Emaase.

Hon. (Ms.) Otucho: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I also want to join my colleagues to congratulate the Hon. Member for bringing this Bill.

It is a very straightforward Bill. We have had issues with implementation of laws and legislation. We cannot leave it to the whims of the Cabinet Secretary (CS) to decide when such an important and critical Bill should be implemented, when we know and appreciate the work that the NGOs are doing in this country. The object and purpose of the Public Benefits Organisations (PBO) Act was to encourage and support the work of those organizations as they meet the diverse needs of the people of Kenya. Just yesterday, I spoke to an official from one of the NGOs which is providing water in one of the areas in Teso South Constituency. I was very happy. They just needed some support towards community contribution.

This is a very critical Bill. It is very timely. We should all support it. The provisions of that Bill should be implemented immediately so that we provide a conducive working environment for the PBO sector to grow and expand. We need to provide the administrative and legislative framework to enable them to carry out their activities. They are very important to this

country and are reaching out to the most needy and vulnerable as already mentioned by one of my colleagues. I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Mavoko, Hon. Makau.

Hon. King'ola: Thank you very much, Hon. Temporary Deputy Speaker. I rose today to tell this House about one of my colleagues who is an exemplary leader. Hon. Temporary Deputy Speaker, I want to thank you. You visited my constituency and spoke so well about me. I am sure if you continue like that in all constituencies, you are going to raise our profile. I want to thank you so much.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Makau. I now give the Floor to the Member for Kajiado, Hon. Mary Seneta.

Hon. (Ms.) Seneta: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also support this important Bill.

At the outset, I was once an employee of one of the organisations in my county and so, I have been mentored by the NGOs. Many organisations work round the clock to ensure that many of our communities get the services that they may not get through our inadequate Government allocations. They also complement Government resources. Therefore, there is need to support this Bill which gives a framework of how they should also work.

Many of those public organizations or NGOs also support our counties quite a lot in terms of resources. They also bring the community together especially when they are looking for community cost-sharing projects. They bring our communities together. They also help in terms of capacity building, especially for women. They do quite a lot in terms of women empowerment and also in the fight for human rights. It is high time that we create a conducive environment for them so that they can also work within a certain framework. I also support the fact that they should be regulated or have a framework which they can work on so that they can also have a regulated system.

I support this Bill and urge that it is implemented as proposed by our colleague, Hon. Neto.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, there are no more speakers on this. However, I believe it has been fully ventilated on and so, I will now give a chance to the Mover, Hon. Neto, to reply.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. I appreciate my colleagues for the very kind sentiments when they were responding to this Bill.

First of all, I would like to thank Hon. Abdullahi Diriye for doing what I did not do. He was a good Seconder. He elicited the salient points in the Bill, showing what the objectives are and what that Bill helps in totality. I have heard colleagues speak and they appreciate the work that has been done by PBOs; which all of us agree to. I have also heard some dissenting voices speaking to the fact that some PBOs may have been responsible for other atrocious acts in the past. I would like us to distinguish the fact that most of the PBOs we are talking about are involved in development work. We should not lose focus and instead support the ones that are doing a good job. In equal measure, should there be PBOs which are doing things contrary to the law, they should be punished. We should not punish all PBOs in totality simply because some are wrong. That point needs to be made.

The second thing is that this PBO Act is going to be important. Presently, the regulation of the PBO sector has not been very good. If we operationalise this Act, it will create regulation

on two fronts - one at the federation level and another at the authority level. If applied, those kinds of checks and balances will be useful.

Thirdly, most PBOs have been coming to communities and environments and working without the members of the public knowing what they are supposed to deliver. With the PBO Act coming into force, they will be able to give information to the various communities in terms of their budgets; what they are planning to do and the timelines in which they are supposed to do so. That sort of accountability will ensure that the communities are not ambushed and we do not have people who are just soliciting for money in the name of communities and not delivering results.

The fourth thing is to appreciate the fact that not all development the world over can be done singularly by the Government. That is why we need to give PBOs a chance to support the extra work of Government in terms of development in moments when the Government is not able to.

The other thing is the fact that the Government ought to give PBOs space. A Government that supports fundamental rights, civic and political issues, makes the people bond. If we have a robust PBO sector, that Government is going to be kept in check. Whenever Government is kept in check, at least, there is someone to tell them when they are wrong. It is good for Government to make sure that the PBOs have space for purposes of democratization and ensuring that Kenya is run properly.

The other thing is that the PBO Act having been assented to in 2013, the PBO sector has been in limbo for too long. Right now, we must make sure that this particular law comes into force so that the sector people can move forward in terms of making sure they adhere to the particular issues that are in the PBO Act.

The objectives of the Public Benefits Organisations (PBO) Act are very clear. The Bill states that the Government is supposed to consult with PBOs so that work is harmonised. There are several sectors where PBOs have been in competition for services. During the immunisation programme, some children were immunised twice simply because PBOs were in competition. With this law coming into force, there will be regulations in terms of the places that PBO's work. Programmes are going to be monitored because there will be harmony.

I would like to warn various briefcase NGOs because there are people who have been operating briefcase issues in the name of communities and soliciting for money and then disappear. Once this Bill comes into force, it will ensure that the whole Act is streamlined so that we can have accountability.

The Departmental Committee on Labour and Social Welfare might be keen and desirous in bringing other amendments to give effect and improve sections of the PBO Act, which is quite in order. I would like to request them to first ensure that this Act is operationalised. We should look at the good aspects of the Act and the parts that need to be amended in a forward looking manner without really saying that we cannot operationalise it until some sections are amended. Let us first operationalise the Act and after seeing the wrong parts of it, we can then amend them.

Members have spoken to the fact that each time you give authority to the Cabinet Secretary (CS) to give effect to Acts; he is always laid back, thus taking away the legislative prowess of the National Assembly. Whereas we appreciate the Executive role of the CS, I think the legislative role of the country should be left to the National Assembly and the Senate so that we can make laws and the CS is only supposed to give effect in terms of implementation.

I look forward to the passage of this Bill in Third Reading so that we can operationalise the PBO Act.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I will not put the Question for obvious reasons.

Next Order.

MOTION

DEPLOYMENT OF CHAPLAINS TO LEARNING INSTITUTIONS

THAT, aware that cases of unbecoming conduct among young people has been on the rise as exemplified by runaway drug abuse and addiction, drunkenness, sexual orgies and general irresponsibility; and deeply concerned that those incidents of loose morals have been worsened in the recent past by emerging radicalization of the youth leading to inclination towards terrorism and lawlessness, this House urges the National Government to consider deploying chaplains to all secondary schools and tertiary institutions in order to instil desired morals, social virtues, national values and a sense of responsibility, to address and root out moral decadence at an early age, and to supplement the work of guidance and counselling departments operating in those institutions.

(Hon. Odanga on 3.8.2016)

(Resumption of Debate interrupted on 3.8.2016 – Morning Sitting)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): We had already started debate on this Motion. Hon. (Ms.) Ombaka had a balance of nine minutes. I am not seeing her in the House and so, I will allow those of you who want to contribute to this Motion. Hon. Macharia.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker. I would like to thank Hon. Odanga for bringing this Motion. It is important for us to understand a few things. Chaplaincy has been an ongoing issue. The motive of this Motion is to stem out bad behaviour, radicalisation and the recently manifested acts of burning schools. I understand that right now, learning institutions like technical training institutes and medical training institutes have chaplains. Most schools are sponsored by churches that send their clergymen there and some days are set aside for their teachings. I need to understand the issue of urging the Government to employ chaplains. Recently, five schools were burnt in my constituency and yet, they had chaplains who were seconded by the sponsoring churches. I need to further understand this Motion.

I oppose it.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Chanzu.

Hon. Chanzu: Thank you, Hon. Temporary Deputy Speaker. I support this Motion because chaplains are religious people who come from the sponsoring churches. For example, if it is the Church of God, the chaplain will come from that church. Hon. Macharia was asking about the import of this Motion. I think it seeks to formalise the role of chaplains in schools. The chaplains are there but the church may just decide to send somebody in an *ad hoc* manner. Maybe, somebody is just sent to a school because of a function like prayers in preparation for the examinations. This should be formalised so that the chaplain becomes part of the school just like

it was when I was at the University of Nairobi (UoN). This will deal with a lot of matters. It is not only about praying for the students, but they will also help in guiding and counselling them. When there is an issue, we can have somebody to make reference to. The other day, the CS made a very drastic statement that students who burn schools will face the law on their own. That contravenes the law. The only thing to do is to take those students to rehabilitation centres. You cannot jail them. Deploying chaplains is a process that is part of development of the young people. The Motion should be amended to include deploying chaplains to primary schools because some kids acquire some bad habits from there. Children in primary schools now know a lot of things. In my view, this Motion is important.

When the church sends chaplains in an *ad hoc* manner, they have to use money to travel and, therefore, they should be compensated because some schools in rural areas might not afford them because of the cost of education. The chaplains are going to play a big role of moulding youngsters, organising prayers and offering guidance and counselling. Chaplains will help in making discussions and be part of the process of bringing up the young people in schools. When you go by the Constitution, it is a role that we should bring out so that it is played by somebody.

With those few remarks, considering that it is an issue we understand, I support.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor of the House to the Member for Baringo County, Hon. Grace Kiptui.

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker.

Despite the fact that the Mover was not here, I have the side of this Motion. To me, I cannot see how we can say having a chaplain in a school is expensive. Look at the converse of that. Recently, when we came face to face with the burning of schools by students, some of the reasons were that parents no longer have enough time to bring up kids. They are very busy trying to look for economic strength to send them to school, clothe them, and feed them and all that. That is so much so that there must be somebody else in the society who can pay attention to challenges those young people are facing. I read a lot in the newspaper. It was clear that the young people of now are very fragile. When they get challenges and there is nobody they can turn to, we have witnessed even cases of suicide like in the universities where some students used school fees to gamble. When they realised they had no money, were there someone they could turn to and relate the story, maybe, they would have been counselled.

Chaplains are very key in such institutions because those are people who are learned in human psychology. The human brain is very delicate. It can be twisted to whichever direction by people who have studied human psychology.

Children who are in boarding schools are very far from their homes. When they have challenges like disciplinary issues or where they feel the administration is not giving them enough room to express themselves, maybe, they would turn to chaplains in the schools.

When we talk of issues of spiritual matters, we cannot divorce spiritual matters with learning. Those are people who are growing. They need to be complemented so much so that they become holistic in their studies. We know, for sure, academics are not enough to bring out an all rounded human being.

To me, this is something we cannot compromise on as a nation, unless we do not care about our tomorrow. We should do those things for posterity. That is so that we have well rounded people to whom we can turn over the running of our nation in the days to come.

If the burning schools is anything to go by, there must be some lack of backbone for our young people to be able to say: "This is wrong. We should not do it". Why is it that it is so easy

for someone to influence them that easily for them to do so much destruction and yet, they know they will need the classes tomorrow and other people who will be born tomorrow will need the same classes? There is something about their conscience which is not right. We need to beef it up so that we have human beings who are scared of doing evil and people who can even report when someone is planning something which is not good. When the chaplains are there, they can trust them more than the teachers. The teachers are administrators. That other guy is able to talk to them in a way that is not like when the teachers are talking to them. Most of those students fear the teachers, in any case. They are friendlier to the chaplains.

I propose and support that every institution should have a chaplain because of the nature of our country at the moment.

When I was in school, we had one. I know the benefits that one gets when there is a chaplain. They help a lot especially where there is lack of parental guidance. Some children have difficulties relating with their parents. Where do they turn to? They cannot go to the teacher. If they hold those issues, they will burst. So, it is better to have an outlet where they are able to communicate.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Mosop, Hon. Bitok.

Hon. Bitok: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to comment on this Motion that has been brought by Hon. Geoffrey Odanga as regards chaplainship.

I support the deployment of chaplains to schools or institutions of higher learning to assist in bringing up the young ones and participating in moulding the society where radicalisation and bad behaviour is witnessed. Chaplains are found especially in church sponsored institutions, but payment to those chaplains becomes a problem. We should encourage the Government to set aside some funds to deal with chaplainship. We have institutions which are not sponsored by churches, but are sponsored by the County Education Boards. Such institutions can be considered in future and be given sponsorship where the spiritual nourishment of students or pupils can be seen to be discharged. Schools in Kenya are being burned. There are institutions which are said to have satanism being practised. This issue can be sorted out by having chaplains that can deal with this matter. I propose that chaplains be given an opportunity and the Government sets aside funds to pay them.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I give the Floor to Hon. Mary Keraa of Kisii County.

Hon. (Ms.) Keraa: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. Deployment of chaplains in learning institutions is in order because in schools, children cannot only rely on academics. They also need spiritual nourishment. I thank the owner of this Motion. At this time when schools are being burnt, we need those chaplains to give our students and pupils in primary, secondary schools and in higher learning institutions spiritual nourishment because without them, the teachers alone cannot curb radicalisation and drug use in school.

Those in boarding schools are away from their parents and the teachers only go to class when they have lessons. We hope chaplains will help us to instil moral values to those students. The Government should put a budget in place so that they can be considered in payment. There are those small schools which cannot afford to pay the chaplains. The Government should come in and pay them so that our children can grow up morally in schools. I support this Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I want to use Standing Order No. 1 to allow Hon. Emaase to conduct some business.

PAPER LAID

Hon. (Ms.) Otucho: Hon. Temporary Deputy Speaker, I beg to lay the following Paper on the Table of the House today:-

Report of the Departmental Committee on Information, Communication and Technology on its consideration of the Senate Amendments to the Access to Information Bill, 2015

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, the time being 1.00 p.m., the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.