

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 25<sup>th</sup> October, 2016

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** Hon. Members, I would like to draw the attention of the House to some malfunction and, therefore, until such time as our technicians will confirm, Members will use the Dispatch Box to make any interventions and/or contributions. Even though some of you are pressing various buttons, they will not work.

*(Laughter)*

They could show the red light, but they are not functioning, but the technicians are working on it. However, we can commence business.

### COMMUNICATION FROM THE CHAIR

#### DISCHARGE OF MEMBERS FROM COMMITTEES

**Hon. Speaker:** Hon. Members, I wish to notify the House that I am in receipt of correspondence from the Whip of the Minority Party, Hon. Thomas L. Mwadeghu, MP, in respect of discharge of the following Members from Committees:-

- (i) The Hon. (Eng.) James Gordon Kwanya Rege, MP, to be discharged from the Departmental Committee on Energy, Communication and Information and the Joint Committee on National Cohesion and Equal Opportunity.
- (ii) The Hon. Cyprian Kubai Iringo, MP, to be discharged from the Departmental Committee on Finance, Planning and Trade and the Committee on Regional Integration.
- (iii) The Hon. Ababu Namwamba, MP, to be discharged from the Budget and Appropriations Committee, Departmental Committee on Administration and National Security and the Constitutional Implementation Oversight Committee.
- (iv) The Hon. Isaac Mwaura, MP, to be discharged from the Departmental Committee on Environment and Natural Resources and Procedure and House Rules Committee.
- (v) The Hon. (Major Rtd.) John K. Waluke, MP, to be discharged from the Departmental Committee on Administration and National Security and the Committee on Delegated Legislation.

(vi) The Hon. Mpuru Aburi, MP, to be discharged from the Departmental Committee on Energy, Communication and Information and the Departmental Committee on Lands.

(vii) The Hon. Steven Kariuki, MP, to be discharged from the Departmental Committee on Education, Research and Technology and the Constitutional Implementation Oversight Committee.

Hon. Members, the above discharges are pursuant to the provisions of Standing Order No.176 which provides as follows:-

“(1)The parliamentary party that nominated a member to a select committee may give notice, in writing, to the Speaker that the member is to be discharged from a select committee

(2)The discharge of a member shall take effect upon receipt by the Speaker of a notice under paragraph (1).”

It therefore follows, Hon. Members, that the Members are discharged effectively.

*(Applause)*

The affected Members and Committee Chairs are accordingly advised that the discharges take effect immediately. Further, and arising from the above, the coalition is advised to be cognisant of the provisions of Standing Order No.173(3) which reads as follows:-

“A vacancy occasioned by resignation or removal of a Member from a select committee shall be filled within fourteen days of the vacancy.”

**Hon. Chepkong’a:** On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Hon. Chepkong’a? Go to the Dispatch Box.

**Hon. Chepkong’a:** Thank you, Hon. Speaker. I rise pursuant to Standing Order No.83. I am not planning to challenge your statement, but rather, I want to bring to your attention that we had a petition from over 100 Members seeking to amend the Standing Orders which are inconsistent with the Constitution.

The Constitution clearly states that each House of Parliament may establish committees and shall make standing orders for the orderly conduct of its proceedings including the proceedings of its committees. The Constitution does not talk about the discharge of a Member. It is just for the orderly proceedings of the committees. It was pursuant to this provision that we, over 100 Members of Parliament---

*(Technical hitch)*

Therefore, it is unconstitutional to the extent that it is seeking to punish someone in this House for exercising---

*(Technical hitch)*

When will our proposed amendments be brought to the House for purpose of debate?

*(Applause)*

**Hon. Speaker:** The proposal by Hon. Chepkong’a is receiving active consideration by the Committee.

*(Hon. Mati spoke off-record)*

Member for Mwingi North, I know you have been discharged for a long time. I have included a reminder on the provisions of Standing Order No.173(3), so that those discharging Members or proposing to do so must also exercise their right to bring replacements into those Committees. Moving forward, because the proposal for the amendment of Standing Order No.176, which was supported by about 154 - I cannot remember the specific number of Members - raises serious constitutional issues---

First of all, it is a right of a Member of this House to participate in the proceedings of any committee. So, the mere discharge may only affect the right of the Member, and mark my words, to participate in voting in this House and in committees. Therefore, to the extent that participating in a committee at some point is provided for in our Standing Orders, where a Member may be denied the right to vote, is a matter that cannot be left to the Standing Orders. It is being addressed by the Legal Department of this House and not the Justice and Legal Committee. I know some of you may not understand that there is a Legal Department. Apart from the Committee chaired by Hon. Chepkong'a, there is a Legal Department which is a full directorate. It is working on those issues because it is fair that no Member may be denied any of their constitutional rights provided for in the Constitution to participate in debates and, indeed, participate in voting one way or another in the House or even abstain from voting. That right cannot be taken away in a manner that is not in concurrence with the rights given to Members by the Constitution.

**Hon. Wandayi:** On a point of order, Hon. Speaker.

**Hon. Speaker:** I do not need the advice of people who may have intended to do some law. It is not about policy. You may be a Director of Policy in some organisation out there, but that does not make you a lawyer. The matter is so serious. I know it is being addressed. Indeed, Members will be given an opportunity to debate whatever the resultant recommendations of the Procedure and House Rules Committee will be. As of now, there is nothing to debate. I was merely responding to the point of order raised by Hon. Chepkong'a. I am not about to be informed even from Ugunja about anything. Whatever may have been happening in Ugunja, please, keep it to Ugunja.

**Hon. Mati:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Is it another point of order on this?

**Hon. Mati:** Yes.

**Hon. Speaker:** There is nothing to debate. Hon. Members, this is not an opportunity to debate. Learn your Standing Orders and try to internalise. It will help you to understand that once one Member claims to rise in his place on a point of order and the Speaker makes a ruling, one way or the other, it is not open for further debate by Members claiming to have points to raise. It does not matter. You will debate the matter when the Committee brings its recommendations. It is up to you, Members, when you are debating that report, to make adjustments, reject or adopt it. This is just to inform the House that the Committee is actively considering the various issues which have been canvassed in the Petition which was presented to us.

Next Order.

## PETITIONS

GAZZETTEMET OF BOMET EAST CONSTITUENCY  
AS A HARDSHIP AREA

**Hon. B.K. Bett:** Hon. Speaker, I wish to present a public Petition on the gazettment of Bomet East Constituency as a hardship area by the Ministry of Education, Science and Technology.

I, the undersigned, on behalf of the residents of Bomet East Constituency in Bomet County, draw the attention of the House to the following:-

THAT, education in Kenya is facing various challenges which have negatively impacted on the education sector ranging from equity, quality, inefficiency, poor teacher remuneration and mismanagement of educational resources among others;

THAT, Bomet East Constituency being a semi-arid area in Kenya, is characterised by numerous hardships like poverty, remoteness, harsh climatic conditions and lack of essential social amenities which have affected the general development of the area including the education sector;

THAT, the major challenge facing the education sector in ASAL areas is the reluctance by teachers to be posted to these areas;

THAT, as a result, school managements in most parts of the county have resorted to hiring unqualified teachers who may not have the requisite skills in the teaching profession;

THAT, Bomet East Constituency is yet to be classified as a hardship area hence teachers are not entitled to hardship allowance;

THAT, efforts to resolve the matter with the Ministry of Education, Science and Technology and the Teachers Service Commission have been futile; and,

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or statutory body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Education, Research and Technology:-

- (i) Recommends that the Cabinet Secretary for Education, Science and Technology in conjunction with the Teachers Service Commission gazettes Bomet East Constituency as a hardship area; and,
- (ii) (ii) Makes any other order or direction that it deems fit in the circumstance for the Petition.

And your Petitioners will forever pray.

**Hon. Speaker:** Hon. Members, I can see there are those ones who have already finished their participation in today's proceedings and are making their way out. Please, the House will sit up to 6.30 p.m. or such longer period as you may resolve. Those of you who have already finished your business in the last 20 minutes and may wish to withdraw, please, do so quietly. Others want to sit up to 6.30 p.m.

Hon. Members, allow me to recognise pupils from various schools, under the Pupils Reward Scheme by State House, seated in the Speaker's Gallery. They are welcome to observe the proceedings. I would also like to recognise those from Mogor Secondary School from Chepalungu Constituency, Bomet County; Wangunyu Primary School from Kiambaa Constituency, Kiambu County; Mamole Primary School from Kitui Rural Constituency, Kitui

County; Winyo Christian Academy from Rongo Constituency, Migori Country, and Bethlehem Community Centre from Embakasi East Constituency, Nairobi County.

They are welcome to observe proceedings in the House.

As we have done in the past, comments on the petitions will be combined. I hope Members will remember that the Member for Bomet East presented his Petition requesting that his constituency be declared a hardship area. Comments should be targeted towards that.

The next Petition is by Hon. Jude Njomo.

VIOLATION OF LABOUR LAWS AND TAX  
EVASION BY BIDCO AFRICA LTD

**Hon. Njomo:** Thank you, Hon. Speaker.

I, the undersigned, on behalf of concerned citizens of the Republic of Kenya, former and current employees of Bidco Africa Limited, who have appended their signatures thereof, draw the attention of the House to the following issues:-

THAT, Bidco Africa Limited, commonly referred to as Bidco, is a Kenyan-based and registered company that manufactures edible oil and detergent products;

THAT, the company manufactures and distributes the largest and widest range of product categories in East and Central African regions;

THAT, the role of the company in the country cannot be overstated in terms of investments and creation of direct and indirect employment;

THAT, the company has, however, in recent times engaged in tax and labour irregularities and issues of serious environmental concern that require deliberation and resolution by the National Assembly as contemplated under Article 119 of the Constitution;

THAT, in blatant violation of labour and employment laws and basic tenets of human rights in particular, workers are subjected to poor labour conditions at production plants, classification of their 2,500 employees as casual workers, harassment and unfair dismissal of employees who complain about workplace conditions as well as those that are injured at the workplace and request for compensation;

THAT, further, in violation of various tax laws including the Income Tax Act Cap.470 and the Value Added Tax (VAT) Act among others, the company was found by the Kenya Revenue Authority (KRA) to have evaded taxes in excess of Kshs1.2 billion, an amount that the company has refused to pay; and,

THAT, a forensic audit carried out in 2015 revealed that the estimated unpaid duty and VAT for the period from 1992 to 1998 was about Kshs4.3 billion.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Labour and Social Welfare and the Departmental Committee on Finance, Planning and Trade:-

- (i) Investigates and inquires into the allegation on the matters raised in this Petition;
- (ii) Requires the KRA, in pursuant to the powers bestowed on it by law, to investigate the tax evasion practices espoused in this Petition and report to the National Assembly, the Petitioner and the public as a matter of urgency;
- (iii) Requires the State labour and employment institutions to urgently address our concerns and take appropriate action; and,
- (iv) Makes any other order or direction that it deems fit in the circumstances of the Petition.

It is against our Standing Orders to put a nexus in public petitions, but I seek your indulgence to table some additional information that would help the two Committees to get to the bottom of this matter. These are the Departmental Committee on Labour and Social Welfare and the Departmental Committee on Finance, Planning and Trade.

**Hon. Speaker:** I can see Hon. Were.

**Hon. Were:** Hon. Speaker, based on what the Petitioner has asked, I do not see any problem with the two Committees working together. He has talked of tax evasion. This is a cross-cutting issue. If it is an issue of labour laws and non-payment of deductions, then that falls within our Committee's mandate. We can handle it.

**Hon. Speaker:** So your two Committees can deal with it?

**Hon. Were:** Hon. Speaker, you can look at the Petition and advise. It looks like it is touching on both labour and tax evasion.

**Hon. Speaker:** People can be taken to court on matters of tax evasion. The House should not become a debt collector. The KRA is sleeping on its job.

**Hon. Were:** Okay, Hon. Speaker. Let us handle the labour issues.

**Hon. Speaker:** Let your Committee deal with that.

**Hon. Speaker:** Finally, there is a Petition by Hon. Joseph Manje.

#### RELOCATION OF NGONG DUMPSITE

**Hon. Manje:** Thank you, Hon. Speaker. This is a public Petition by the residents of Kajiado North Constituency regarding closure and relocation of the Ngong dumpsite.

I, the undersigned, on behalf of the residents of Kajiado North Constituency in Kajiado County draw the attention of the House to the following:-

THAT, the Constitution of Kenya recognises the right to a clean and healthy environment as a fundamental right;

THAT, the Ngong dumpsite poses a health risk to the residents of Ngong Town due to dumping without set regulations;

THAT, dumping in Ngong dumpsite was established without putting in place an effective and efficient management structure;

THAT, the authorities in charge of garbage collection and disposal have neglected their role;

THAT, further to being a health risk, the dumpsite has become a hub for thugs and other criminals posing security threats to the residents of Ngong Town and its environs;

THAT, efforts to resolve the matter with relevant bodies and agencies have been futile; and,

THAT, the issues in respect of which the Petition is made are not pending before any court of law, constitutional or statutory body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:-

- (i) Intervenes and recommends the closure and relocation of the dumpsite; and,
- (ii) Makes any other order or direction that it deems fit in the circumstances of the Petition.

**Hon. Speaker:** Before I open the Floor for comments, the Petition by Hon. Bernard Bett will be referred to the Departmental Committee on Education, Research and Technology. As already indicated, the Petition by Hon. Jude Njomo will be referred to the Departmental Committee on

Labour and Social Welfare. The Petition by Hon. Manje will be referred to the Departmental Committee on Environment and Natural Resources.

Unfortunately, due to a technical hitch, I may have to result to the old ways. There are fairly new Members who are not like the Member for South Mugirango, who takes the liberty to introduce himself and give the number of terms he has served. Hon. Members, you may now have to alert me through gestures, smiles and winking.

*(Hon. Wandayi smiled at the Speaker)*

The Member for Ugunja is already smiling at me. Hon. Wandayi, please, walk to the Dispatch Box.

**Hon. Wandayi:** Thank you, Hon. Speaker. I want to comment on the Petition presented by Hon. Jude Njomo. This Petition raises very fundamental issues in so far as manufacturers or companies treat their employees. The right to safe working conditions cannot be taken away by any person. This Petition should be looked at very critically and expeditiously.

The second issue raised in this Petition is on tax evasion. Tax evasion is tantamount to economic sabotage. In many jurisdictions, people accused of such a crime are subjected to public execution. For many years, we have been made to believe that Bidco is doing very well, but we are now told that it has been involved in such malpractices. Stern action should be taken not only to safeguard the rights of employees, but also to safeguard the interests of the nation.

**Hon. Speaker:** This will be the occasion to test my memory regarding your constituencies since they are not reflected on my screen.

Let us now have the Member for Imenti Central.

**Hon. Irea:** Thank you, Hon. Speaker for this opportunity. I would like to comment on the Petition by Hon. Jude Njomo, which is a comprehensive one. It is an 11-point Petition. Besides Bidco Company violating labour laws, most of the points in this Petition touch on tax evasion and other economic crimes. I want to seek your indulgence to also allow the Departmental Committee on Finance, Planning and Trade to look at this Petition. Bidco has failed to pay taxes to the tune of Kshs6 billion.

Bidco should be audited because we need a lot of money to develop our country. We need money for loans and education. If our investors fail to pay taxes, that is an economic crime, just as Hon. Wandayi said.

I would like to ask you to look at the issue of sabotage of the economy of our hardworking Jubilee Government.

**Hon. Speaker:** Member for Kiminini.

**Hon. Wakhungu:** Thank you, Hon. Speaker. I want to comment on the Petition by Hon. Jude Njomo, which is very important. Tax evasion is a serious issue. Under the regime of former President Kibaki, there was the slogan "*Kulipa ushuru ni kujitegemea na kulinda taifa*". If taxes are not paid, the Government can collapse. For us to avoid dependence on donors and to be independent, we heavily rely on tax payments.

The National Social Security Fund (NSSF) deducts some money from employees' monthly salaries and keeps it for them so that it can help them when they retire. Some organisations deduct this money, but they do not submit it to the NSSF. Neither do they submit deductions to the National Hospital Insurance Fund (NHIF). It is my humble request that once the Committee takes over this matter, serious disciplinary measures be put in place to deal with people who do not comply.

In our Bill of Rights, every citizen is entitled to safe working conditions, but some organisations go to the extent of dismissing pregnant workers. Bidco is a serious manufacturing firm. The Chief Executive Officer (CEO) of Bidco, Mr. Vimal Shah, is a very respectable man. We expect him to lead from the front. It is very disappointing because he was the Chairman of the Kenya Private Sector Alliance yet his organisation is leading in bad practices. Serious measures should be put in place to deal with these issues. Proper audit on compliance and working conditions should be carried out. Some working conditions in these organisations are very bad.

**Hon. Speaker:** Hon. (Ms.) Sunjeev Birdi.

**Hon. (Ms.) Sunjeev:** Thank you, Hon. Speaker for giving me the opportunity to comment on the Petition by Hon. Jude Njomo.

It is said that we should give to Caesar what belongs to Caesar. We should not look at anyone's ethnic background when dealing with issues of taxation. This country must get what it rightfully deserves. I do not wish to defend any business that has been stealing from the Government. These allegations have been haunting Bidco Company. The Committee should do justice and bring vindication of these allegations. People who have been haunting Bidco Co. Ltd for any external benefits should be investigated.

**Hon. Speaker:** These are just comments. (*Technical hitch*) Let us hear from the Member for Bondo.

**Hon. Ogolla:** Thank you, Hon. Speaker. I would like to comment on the Petition on sickle cell anaemia.

Last weekend, my constituency buried a Form Two student who was suffering from sickle cell anaemia. This matter should be looked into. This ailment kills people very quietly. It is predominant in Western and the Lake regions. The Committee should work on it.

On the issue of labour, Bidco is a formidable company in the country. The Managing Director of Bidco is a prominent person. We do not want to create a situation where Parliament is used for purposes of malice or rumours. As the Committee looks at this, it is important that some of these things are looked at adequately so that we do not bring the reputation of some of these prominent companies into disrepute. Bidco is such a big, prominent and flag bearing company in the region. We do not want to see a situation where somebody just collects allegations and brings them around and puts a company of that stature into disrepute.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kipkelion West, Hon. Rop.

**Hon. Rop:** Thank you, Hon. Speaker. I want to comment on the Petition brought by Hon. Bett, Member of Parliament for Bomet East. Teachers play a very pivotal role in terms of education. I went to school in Bomet and I understand the squalid conditions institutions are in. Therefore, teachers in those areas are really suffering. Schools have no water. You have to walk for a long distance because there is no accommodation in the institutions. Those teachers are really suffering and I support the idea that the Departmental Committee on Education, Research and Technology helps to have that constituency approved to get the hardship allowance.

Two wards in my constituency, Chilchila and Kunyak, allow teachers to draw hardship allowance and yet Kipkelion and Kamasian wards are equally in dire need of the same. I really recommend that the Committee should look into this because there is a lot of disparity even when you turn to teacher distribution. People want to rush to where there is hardship allowance and forget those regions without hardship allowance in one constituency. I support.

**Hon. Speaker:** Member for Emuhaya.



**Hon. (Dr.) Ottichilo:** Thank you, Hon. Speaker, for giving me this opportunity to comment on the Petition by Hon. Manje, the Member of Parliament for Kajiado North. That Petition is very important, not only for Kajiado North but for the entire country. Throughout the whole country, our rivers are being polluted by waste from various sources like factories and homes. At the rate we are going, this country is going to run out of clean and portable water. This Petition is very important and I believe the Departmental Committee on Environmental and Natural Resources, where I belong, will work on it and also look at other problems, like in Athi River. We already have a Petition by Hon. Mwangangi on Athi River, which has the same problem. Go anywhere in this country, all our rivers are being polluted. With drought and climate change, we are in for a big problem and if there are going to be any wars in this country, they will be fought over water. Therefore, it is important for this Petition to be dealt with.

Lastly, The National Environment Management Authority (NEMA), which has been given authority to ensure that our environment and water are clean, is sleeping on the job and something must be done to make NEMA become functional and do the work that it was supposed to do.

Thank you and I support this Petition.

**Hon. Speaker:** The Petition has found its home. Hon. Manje, you know how passionate Hon. Wilber Ottichilo is about environmental matters. So, the Petition is right at home. It belongs there.

Also, Hon. Ottichilo, you as a Committee are at liberty to propose any management, regulatory or structural changes that you think will make that organisation, NEMA, perform the work for which it was created for this country. Once again, the ball is in your court, Hon. Ottichilo. As you are looking at this Petition and others, you will also be considering the proposals to suggest to the House, in your experience having worked with NEMA, how it can best be made to do the work which it is supposed to do.

Finally, let us have the Member for Igembe Central. I did not say North Imenti, so Hon. Dawood you better relax.

**Hon. Kubai Iringo:** Thank you, Hon. Speaker, for giving me this opportunity to comment on the Petition from the Member for Bomet.

Before I say that, I would like to say that I am very perturbed by my former party, the Orange Democratic Movement (ODM), for expelling me from the Committees. I am telling ODM that they are lucky they got an MP from Meru on ODM. I got the votes not because of the party but because of my own integrity and my popularity among the people of Igembe Central. I challenge you to meet me there again. I will beat you flat. I am telling you as a party. If this is the way you are going to do it, the party will shrink and collapse.

*(Applause)*

Having said that, I want to comment on the gazettelement of Bomet County as a hardship area. We have a similar Petition on Igembe Central and Tigania West constituencies. There are areas in this country which experience a lot of problems as far as distribution of teachers and payment of teachers who teach in marginalised areas are concerned. I propose that instead of looking at Bomet or Meru North only, let the whole nation be holistically looked at so that we can normalise these areas and get proper distribution of resources, teachers and other civil servants.

Hon. Speaker, I thank you for giving me this opportunity.

**Hon. Speaker:** Hon. Members, that brings us to the end of the comments on the three Petitions. Let me make it absolutely clear that the Departmental Committee on Labour and Social Welfare is a committee of this House and it comprises of members from this House. These members could very well even serve in the Departmental Committee on Finance, Planning and Trade. Should they find anything that they think is not in their limits, they are at liberty to make recommendations that the Departmental Committee on Finance, Planning and Trade takes over their Petition.

However, let us also have faith in the fact that those members are equal to the task. Indeed, Hon. David Were is a ranking member of this House. He is doing his third term. He is actually an elder now. I am sure he and his membership are equal to the task. So, let us just allow one Committee to deal with the matter and they can sit and refer back to the House for appropriate direction, whatever they think should be dealt with by the other Committee. We are not going to have two Committees dealing with one issue. You can imagine 58 members. Where are we going to accommodate them? Is it here, the Senate Chamber or County Hall? Let just one Committee deal with the matter. Most likely, you may find that they make recommendations to other bodies or agencies of Government to take action as they find appropriate.

Let us go to the next Order.

### PAPERS LAID

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

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House today, 25<sup>th</sup> October 2016:-

The Report of the Auditor-General and the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2015 and the Certificates therein:-

- (i) Kenya Bureau of Standards
- (ii) Tourism Fund
- (iii) Lake Victoria South Water Services Board
- (iv) The New Cooperative Creameries Limited
- (v) Kenya School of Government
- (vi) Kerio Valley Development Authority

The Report of the Auditor-General and the Financial Statement of the Constituencies Development Fund in respect of Garsen Constituency for the year ended 30<sup>th</sup> June, 2015 and the Certificate therein.

The Annual Reports and Financial Statements of the National Gender and Equality Commission for the year 2014 and 2015.

I thank you, Hon. Speaker.

### STATEMENT

RE-ORGANIZATION OF THE ORDER PAPER  
PURSUANT TO STANDING ORDER NO.40(2)

**Hon. Chepkong'a:** Hon. Speaker, I rise pursuant to Standing Order No.83 as read together with Standing Order No.40(2). I am seeking your intervention in reorganizing the Order Paper so that the Order that appears as No.15, that is, The Constitution of Kenya (Amendment)

Bill, National Assembly Bill No.18 of 2015 be brought forward as Order No.9. The reason is that this Bill appears to have acquired some urgency. Many other Bills have been considered but they have fallen by the wayside. So, we are seeking to have this Bill discussed in light of the new developments, which have serious consequences upon this House. I seek that you invoke your powers under Standing Order No.40(2).

**Hon. Speaker:** I hope Members who are standing are not pretending to claim to comment on this matter. You have no right to comment. If you listened to Hon. Chepkong'a, you will realize that he rose under Standing Order No.40. Once you rise on that Standing Order, it is up to me to consider whether for the convenience of the House and the reasons given we can re-arrange the Order Paper.

For the information of the House, what Hon. Chepkong'a is requesting is that Order No.15 which reads, "The Constitution of Kenya (Amendment) Bill, National Assembly Bill No.18 of 2015" be brought to the fore as Order No.9 in place of what has been printed as No.9. Hon. Chepkong'a has explained that there are sudden new developments. For the benefit of the House, Hon. Chepkong'a could explain those new developments. Unfortunately, I may not be addressed by any of you because the Standing Orders which you gave me state that it is for me to decide.

**Hon. Chepkong'a:** Hon. Speaker, this is a very serious matter. As you know, the Attorney-General sought advisory of the Supreme Court. The Attorney-General was seeking an interpretation from the Supreme Court as to whether the two-thirds gender rule as contained in Article 27(8) of the Constitution must apply in the first general election that was to be held after the promulgation of the Constitution, 2010. The Supreme Court in rendering its opinion stated that there was not to be an instantaneous application of the rule. The Supreme Court gave Parliament until 27<sup>th</sup> August, 2015 to put in place legislation that would satisfy the implementation of the two-third gender rule as required under Article 27(8) of the Constitution. Article 81(b) requires that this House and the Senate must comply with the two-third gender rule.

Hon. Speaker, as you well know, the county assemblies have already complied because there is a requirement that the two-third gender rule must be fulfilled in the county assemblies. We have tried all means. That is the reason we held this view in abeyance. We wanted to allow this House to canvass other means. The House did so only that it was not successful under the Duale Bill. We failed to raise the requisite number of two-thirds of Members in order to pass that about 94 women be nominated to the National Assembly and about 16 women to the Senate.

As a result of our failure to meet the deadline as required by the Supreme Court, some members of the public have gone to the High Court to challenge the composition of Parliament, that is, the National Assembly and the Senate. They say that Parliament has failed to put in place legislation to satisfy the requirements of the Constitution. While we were carrying out the approval of the Deputy Chief Justice hearings this morning, we asked the question: Supposing a litigant appeared before you in relation to the two-third gender rule, what would you do? She said that to answer that one only needs to read the Constitution.

Hon. Speaker, it is true that the Constitution is very clear. It states that any Kenyan who thinks that Parliament is not properly constituted can go to court to challenge its composition. The consequences are that both Houses will be declared to be unconstitutional and we shall be sent home. There is an ongoing case right now in which we had to file an affidavit this morning to defend ourselves. As you know you cannot defend yourself against a clear provision of the Constitution. So, I seek your indulgence that you move Order No.15 to take the place of Order No.9 so that we discuss this issue on progressive implementation of that particular gender rule.

*(Loud consultations)*

**Hon. Speaker:** Order, Members! Hon. Nyokabi, just read Standing Order No.40. I can see all of you standing. What are you standing for? I do not require anybody's assistance. I think many of you do not read the Standing Orders regularly.

Hon. Members, for avoidance of doubt, I will read out Standing Order No.40, which is on sequence of proceedings:-

“40(1) Each day after Prayers have been said and the House has been called to order, the Business of the House shall be proceeded with in the following sequence-

- (i) Administration of Oath;
- (ii) Communication from the Chair;
- (iii) Messages;
- (iv) Petitions;
- (v) Papers;
- (vi) Notices of Motion;
- (vii) Statements;
- (viii) Motions and Bills.

(2) Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the House, direct.”

So, you can see that I do not require your assistance; all I require is to be convinced by the reasons advanced by any Member rising and claiming that business be re-arranged in any other form. Many of you who are speaking quietly are not even privy to the fact that none of you ever responds to the petitions and various suits filed. They all claim to be filed against the House and the Speaker. So, you cannot, from where you are sitting, start saying this or the other thing. If I swear an affidavit or if an affidavit is sworn on my behalf, it must reflect the truth of what is pending before the House.

Hon. Chepkong'a has requested that we re-organize business so that we are able to debate this Bill which is a proposal to amend the Constitution.

**End F**

If an affidavit is sworn on my behalf, it must reflect the truth of what is pending before the House. What Hon. Chepkong'a has just explained is that we need to reorganise business, so that we are able to debate this Bill, which is a proposal to amend the Constitution. Debate does not mean that it will be concluded today. Why would anybody not want that to be done?

**Hon. Members:** Allow her.

**Hon. Speaker:** You can see those who do not read the Standing Orders. From where they are sitting, they are saying “allow her”. I allow her to do what? Order! Order! Unfortunately, as you all know, I stick to the rules. I am not the kind that can easily bend just because people are whispering things or looking at me, smiling because they have just arrived from attending the Pan African Parliament (PAP). You are doing a good job for the Republic, but on this one, I have to make the decision myself, so that whatever affidavits are sworn on my behalf or by myself, reflect a true position.

**Hon. Members:** Allow her.

**Hon. Speaker:** Order Members! Let me put this to rest. Business is going to be reorganised in the following order. Immediately after Order No.8, the next Order will be business appearing currently as No.15, namely, the Constitution of Kenya (Amendment) Bill (No.3) (National Assembly Bill 18 of 2015). It will come immediately after No.8 and the sequence will flow in that order. No.9 will be No.10 and No.10 will be No.11 in that order until the House concludes consideration of the other business. Therefore, the Order Paper is accordingly rearranged.

*(Applause)*

Hon. Members, occasionally, you have given me the latitude to have some dictatorial powers, but this is for the convenience of the House.

Next Order!

### MOTION

#### FREE ISSUANCE OF KENYA POLICE MEDICAL EXAMINATION (P3) FORMS

THAT, aware that the Kenya Police Medical Examination (P3) Form is a legal document that is produced in a court of law as evidence in cases which involve body injury; noting that victims are required to have the P3 form completed by a certified public medical officer; further aware that the victims are charged a fee for this service by the hospitals attending to this particular service; concerned that most citizens are financially challenged hence the medical fee charged by the hospitals, is in contravention of Article 48 of the Constitution on access to justice; deeply concerned that if the situation is left unchecked, it may lead to continued abuse of the poor, delayed justice and possible incidents of unrest; this House urges the Government to ensure that completion of P3 forms is offered free of charge at all public healthcare facilities.

*(Hon. Shimbwa on 19.10.2016)*

*(Debate concluded on 19.10.2016 – Morning Sitting)*

**Hon. Speaker:** The Member for Rarieda, take your seat, so that we can clear this.

Order Members! Business on this Motion was concluded. It was a Private Members' Motion by the Member for Changanwe, Hon. Omar Mwinyi. It was on free issuance of the Kenya Police Medical Examination (P3) Forms. What remains is for me to put the Question which, I hereby do.

The Members for Nyeri and Kajiado East, you are out of order. Allow us to just transact this business.

*(Question put and agreed to)*

**BILL***Second Reading*

## THE CONSTITUTION OF KENYA (AMENDMENT) BILL

**Hon. Speaker:** Hon. Chepkong'a.

**Hon. Chepkong'a:** Hon. Speaker, thank you for graciously agreeing to the Committee's request because this is a Committee Bill.

Hon. Speaker, I beg to move that the Constitution of Kenya (Amendment) Bill (No.3) (National Assembly Bill No.18 of 2015) be now read a Second Time.

The amendment that is being sought is contained in Article 81 of the Constitution of Kenya and the amendment that is intended to be carried shall read as follows:-

“By inserting the words “progressive implementation of legislation to ensure that two-third gender amendment is implemented in this House or any other body.”

On 8<sup>th</sup> October 2012, the Attorney-General (AG) of the Republic of Kenya filed a case in the Supreme Court seeking an advisory opinion on the attainment of the two-thirds gender principle in line with Article 27(a) and Article 81(b) of the Constitution of Kenya. The AG sought to be advised on whether this principle was to be realised immediately or progressively in the absence of a clear mechanism provided for by legislation or any other written law.

On 11<sup>th</sup> December 2012, the Supreme Court, by a majority decision, ruled that the realisation of the two-thirds principle was not an immediate right for women. The only dissenting opinion in that bench was the Chief Justice (CJ) himself. All the others agreed. He directed that legislation be enacted on or before 27<sup>th</sup> August 2015, to give effect to the principle under Article 81(b) of the Constitution. The court, however, stated that county assemblies ought to have had, at least, one-third of women after the March 2013 General Election in line with Article 177(1)(b) of the Constitution.

After the Supreme Court ruling was delivered, the AG constituted a technical working group to develop and advise on a formula for realisation of the two-thirds gender principle in line with the Supreme Court ruling. The technical working group was composed of the AG, the Ministry of Devolution and Planning through the Directorate of Gender, the National Gender and Equality Commission (NGEC), the Commission on the Implementation of the Constitution (CIC), Office of the Registrar of Political Parties, the Independent Electoral and Boundaries Commission (IEBC), Parliament through the Committee on the Implementation of the Constitution and the Departmental Committee on Justice and Legal Affairs, Kenya Women Parliamentary Association (KEWOPA), Federation of Women Lawyers (FIDA), the Commission on Administrative Justice and the Ombudsman.

As a result of this technical working group, a constitutional (Amendment) Bill was developed that was named the ‘Duale Bill’ which was brought to this House. That Bill was discussed and debated and a decision was taken. The decision was that the Bill failed because it was unable to raise the two-thirds majority required to amend the Constitution to provide for nomination of an additional over 90 women to the National Assembly and 16 to the Senate. As a result of that, the Departmental Committee on Justice and Legal Affairs developed its own Bill, the one that I am currently moving, dated 28<sup>th</sup> April 2015. It is sponsored by the Committee that I chair based on the proposals that had been debated or considered by the technical working group.

*(Loud consultations)*

**Hon. Speaker:** Members, even those who are vehemently opposed to this Bill, please, you will have your time to say what you must say, but remember, this is a constitutional amendment Bill. It still has to go through all the processes, if only you could listen to Hon. Chepkong'a. Let me not explain because I have read the Bill. It is not a long Bill. It is a very simple Bill. I do not see why you are getting excited. Even if you are very opposed, you will have time. You just lobby the Members and tell them not to come and vote for it and then it will just suffer the same consequences as the other one.

So, it is not a big issue. Do not deny the Member the right to move the Bill. If you want to create another one, you are at liberty to introduce it. We cannot just say that we will not allow Members to move Bills. Take notes, you will be given as much time as possible to object.

Proceed.

**Hon. Chepkong'a:** Thank you for that guidance, Hon. Speaker.

As a Committee, we have considered this Bill. It does not limit fundamental rights and freedoms. It, however, concerns counties in accordance with Article 110 of the Constitution. This enactment shall not occasion any additional expenditure. As a consequence of this Bill being published and read for the First Time, we held a number of meetings. We held two meetings at the Sarova Whitesands Beach Resort, Mombasa, on 15<sup>th</sup> and 16<sup>th</sup> July 2015. We invited a number of stakeholders to discuss the import of this Bill. The stakeholders who attended the meeting were the Kenya National Commission on Human Rights (KNCHR), the Women's Empowerment Link (WEL) and the National Women Steering Committee (NWSC). We received joint memoranda submitted from the KNCHR, Uraia Trust, NWSC, WEL, the International Federation of Women Lawyers - Kenya (FIDA), Maendeleo ya Wanawake, the Youth Agenda, the African Women's Development and Communication Network (FEMNET), Ground Trust, GROOTS, Future's Trust, Centre for Rights Education and Awareness, Association of Media Women in Kenya (AMWIK), Action Aid, African Women and Child and the United Disabled Persons of Kenya (UPDK). The memoranda were signed by women and men, equally, in respect of this joint memorandum.

The other memorandum we received was from the Theluthi Mbili Multisectoral Stakeholder Forum and Centre for Multiparty Democracy of Kenya (CMD). The National Gender and Equality Commission (NGEC) also participated in this conference. We discussed a number of options that could be considered by the Committee while discussing and deliberating upon this Bill.

We considered almost 15 possible situations in seeking to achieve Article 27(8) of the Constitution. While considering all of them, we came to the conclusion just like the Supreme Court, that the implementation of this gender rule cannot be instantaneous. It is not like instant coffee. It is something that is progressive in society. It is not something that you can achieve at once. We are not saying we are against women. What we are saying is that there are deep-rooted cultures in this country which you cannot overwhelm or overthrow overnight. There are some men who still believe this is a male society. If you look at some communities that are represented in this House, there are some communities which have completely refused to elect women except in the positions reserved for the 47 women. As you know, my community is very progressive. We elected over seven women in 2007, but there are communities which are conservative in nature. They cannot be blamed for their cultures. We must accept that we must live together and

we must work together. We cannot force people to do things which they think are not cultural to them. The Constitution recognises the cultures of every ethnic group in this country.

There were serious misgivings in the various options we considered. We came to the conclusion that if we pass the progressive implementation of this constitutional requirement, we will be able to achieve it in less than 10 years.

The objective of this Bill is, therefore, to propose an amendment to Article 81, as I have already stated, to insert “progressive realisation of two-thirds gender rule”. As a consequence of that, the Committee developed a number of proposals for legislations. We are seeking to strengthen the institutional framework for monitoring the implementation of equality policies, so that, at least, the two-thirds gender rule can be achieved much more quickly.

Under the amendments that we are proposing, we are also seeking to emphasise that on election of women, they must be supported in terms of civic education, facilitation, capacity building and participation in political party affairs. Those are the innovative issues we are putting in place. The other thing we are proposing is to build on gains so far realised and incrementally achieve the two-thirds principle.

The other thing we are seeking to do is to provide for sanctions to political parties who fail to meet certain thresholds in their offices, particularly, the National Executive Councils (NECs) of various political parties. We need to see, at least, two-thirds gender representation in the next NECs of various political parties.

The other thing is to empower the Independent Electoral and Boundaries Commission (IEBC) and the Registrar of Political Parties (RPP) to gazette the necessary mechanisms and procedures from time to time by way of subsidiary legislation that will achieve the two-thirds gender rule.

This is not a fairly long amendment, but a fairly straightforward amendment. The Supreme Court anticipated this in its ruling, that we were going to propose progressive implementation as clearly stated in the Supreme Court opinion. So, anybody who is saying that we are doing something that is against the advisory opinion needs to read that advisory opinion. We have just picked the words from the Supreme Court advisory opinion. We have just proposed to amend Article 81(b) to read “progressive implementation” of this particular constitutional requirement.

With those remarks, I move. I request the Leader of the Majority Party to second.

**Hon. A.B. Duale:** Hon. Speaker, as I second, I want to go on record before the great women of this House and the ones outside that our intention and spirit for the attainment of the two-thirds gender rule has not changed. In my community, you change gears when you are faced with a serious matter.

*(Laughter)*

You change gears. Basically, this House was driving along the Thika Superhighway and we were about to crash. We came back to Nairobi. We have now modelled the vehicle and we want to move and reach our destination.

How do we reach our destination? This is a very long history.

Hon. Speaker, my colleagues who were in the last Parliament will agree with me that the new Constitution 2010 under Article 27(8) provides that the State and Parliament are under obligation to put in place legislative measures to implement the principle that not more than two-thirds of members of elective or appointive bodies shall be of the same gender. We must be very



candid to ourselves. Has the Executive and the Judiciary implemented the two-thirds gender rule? Someone needs to tell us where they have done that. I can say without fear of contradiction that they have not. The Supreme Court does not reflect gender proportions. Another person will be appointed tomorrow to the position that is remaining in the Supreme Court.

In my community, the person who has a hump sleeps better than those without one. He or she knows how to sleep better. In life, you live the way God has destined. This matter could not be resolved in the 10<sup>th</sup> Parliament. The Attorney-General (AG) went to the Supreme Court for advice. The Supreme Court gave an advisory opinion and obligated that Parliament must enact this law by 27<sup>th</sup> August, 2016 as amended by this House.

Hon. Speaker, you and most Members here are witnesses that there was a Bill called “Duale Bill”. We, as the leadership, tried. We whipped Members and the closest number of Members we managed to get was 210.

Hon. Speaker, if you take your camels to a watering point and they do not want to drink water, there is no way you can force them. Hon. Chachu is a pastoralist. He comes from a constituency where the best camels are bred. If you drive them to a watering point and they stand in the water pond and refuse to drink water, however much you hit them, they will not drink the water. You will have to take them back to the grazing land.

Hon. Nyenze is my witness. We brought people to the watering point a number of times, and they refused to drink water. With the support of my sisters and the country at large, can we now find another middle ground? This is what this Bill is saying.

*(Applause)*

*(Hon. (Ms.) Kanyua consulted loudly)*

Hon. Nyokabi comes from Nyeri. The little I have heard about ladies from Nyeri is that they are not like the ladies from my county. They are dangerous. So, Hon. Speaker, protect me. She can jump from there. We went in circles and talked about how good our mothers, wives, sisters and the women of Kenya are. We tried to speak in all languages to convince the House. We also spoke in our mother tongues outside this Chamber. Ultimately we are back to square one. The only hope we have under the Hon. Chairman of the Departmental Committee on Justice and Legal Affairs is that we should compromise.

In 2007, when Kenyans went through Post Election Violence (PEV), they came for the Serena talks. The two coalitions agreed and Hon. Raila Odinga became the Prime Minister and Hon. Mwai Kibaki became the President. I would like to ask our sisters and colleagues: Can we think like that time of the National Accord? Can we have a National Accord with the likes of Millie Odhiambo and Hon. Nyokabi? Can we have a Kofi Annan atmosphere?

Hon. Speaker, I am sure that you are a senior politician because you were here in the 9<sup>th</sup> Parliament. If you look at progression of women leaders in this House from the 1<sup>st</sup> Parliament to the 11<sup>th</sup> Parliament, you will realise that the numbers are increasing. This cannot work even in the House of Commons. The House of Commons has attained the highest percentage of gender rule by about 28 per cent. The Congress does not have what we are looking for. Look at a democracy like France.

I can only compare Kenya with its peers. You cannot compare Kenya’s parliamentary democracy with that of Djibouti or Uganda. I would like to thank the leadership from Rift Valley

and central Kenya. They have been increasing the number of women coming to this House. I would like to ask Nyanza, North Eastern and Coast---

**Hon. (Ms.) Odhiambo-Mabona:** I am here!

**Hon. A.B. Duale:** Hon. Millie Odhiambo is a unique Member of Parliament in terms of how she navigated as the only woman Member of Parliament. This is a story for another day. She is not an ordinary person; she is a serious female politician. This Bill is progressive. It is making political parties have an obligation in their party constitutions and affirmative on how to increase the number of female Members of Parliament in their nominations. It is asking State actors to bring more resources for civic education. The people of Kenya and voters must be convinced to elect more women to this House. This is not a walk in the park, neither is it a birthday party. Voters in this country whose majority are women must undergo a serious civic education programme.

This Bill is also asking political parties, from the funds they receive, to set aside certain resources for capacity building of women leaders in this country. In the evenings, we all go to good houses run by our wives and we go to visit our mothers over the weekends. There is nothing we are denying. There is no conspiracy theory here. All we are saying, Hon. Nyokabi, as the Chair of the 47 caucus, is that we will walk with you.

*(Laughter)*

However, you want to force us to climb the hill when we have not changed the gears. You will make more people not support you. Ask Hon. Naomi. We tried. I am sure Hon. Naomi will agree with me. We have tried our best. We even asked the President and the former Prime Minister, as a party leader, to speak. We asked everybody to speak but we are now back. For us to walk this route, I want us to support this middle ground that is important and progressive. It is only nine months to the general elections. We will have another set of leaders in this House and they will start from scratch. Maybe a few of us will come back. This Bill is important.

There is nothing wrong in you reorganising the Order Paper. This is a Bill that was before the House Business Committee (HBC). It is in the Order Paper. There is no crime in it being in the Order Paper. The Speaker has said let us discuss it and I think it is coming at the right time. I am seeing great women in this House agreeing with me except the Chair of the 47 caucus.

*(Loud consultations)*

We are not in a Maendeleo ya Wanawake meeting. We are in the Chamber. I admire my wife and sisters. I know how women react when they are in agreement. From their body language, they are in support of this Bill.

Hon. Speaker, I beg to move and ask everybody to support this middle ground. I second.

*(Several Members entered the Chamber)*

**Hon. Speaker:** Those making their way in, take your seats fast.

*(Hon. M'uthari entered the Chamber)*

The Member for Igembe North, be seated in the House. You are now walking aimlessly.

*(Question proposed)*

Hon. Members, before we go to---

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

**Hon. Speaker:** There is no Question to be put on this Bill. Again, it is good to familiarise ourselves with processes and procedures. When you are dealing with a Constitution (Amendment) Bill, you do not just say “put the Question” merely because it looks like you could be 70. There are definite thresholds.

Hon. Members, before we go into debate, allow me to recognise and introduce a delegation of members of the Busia County Assembly’s Public Accounts Committee (PAC), who are seated in the Speaker’s Gallery. The delegation comprises the following:-

- |                         |   |                  |
|-------------------------|---|------------------|
| 1. Mr. Maurice Chetambe | - | Chairperson      |
| 2. Mr. Gardi Jakaa      | - | Vice-Chairperson |
| 3. Ms. Monica Mng’ala   | - | Member           |
| 4. Mr. Charles Wakhungu | - | Member           |
| 5. Mr. Ernest Obola     | - | Member           |

The Committee is accompanied by:-

- |                        |   |                  |
|------------------------|---|------------------|
| 1. Mr. Siata Gerald    | - | Clerk Assistant  |
| 2. Mr. John Nabonwe    | - | Researcher       |
| 3. Mr. Elijah Mwaru    | - | Hansard Reporter |
| 4. Mr. James Karani    | - | Serjeant-at-Arms |
| 5. Mrs. Deksta Wabwire | - | Secretary        |

The delegation is here on a benchmarking visit to learn, share experiences and broaden its knowledge and understanding on the workings of our PAC.

I wish to welcome them to the National Assembly and wish them a fruitful engagement with the said Committee.

*(Applause)*

Also in the Speaker’s Gallery are students’ councils from various schools in Tetu Constituency in Nyeri County. The constituency is represented by Hon. Ndung’u Gethenji. They are also here to observe proceedings of the National Assembly.

Welcome to the Assembly.

*(Applause)*

Let us now have the Member for Ruaraka.

**Hon. Kajwang’:** Thank you, Hon. Speaker, for allowing me to speak on this very important constitutional amendment. I want to salute my daughter who is my firstborn as I salute my wife. I am sure she must be watching. We agreed that she was going to watch this debate this afternoon. And I want to salute my sister who is in this House. If you did not know, I have a biological sister in this House, who is the Member for Mbita. I am sure you did not know that.

*(Applause)*

I want to salute the important ladies of Ruaraka who made it possible for me to come to this House. I salute all the ladies of this country that have made these gallant men be what they are today.

We have for a long time debated this issue of affirmative action. I am delighted to support this Bill. However, it has come at a time when we thought we will lose the war of two-thirds gender rule. It took ladies of this country such a long time to fight for it. In the middle of all the confusion and debates that we have had in this House, we almost lost the war. However, with the introduction of this Bill, we can have a future that we can build on.

Many things can be said, but this afternoon, allow me to just put my mind to what could have been on the minds of the Constitution makers. My sister was in the Committee that made this Constitution. Allow me to just think like a man on what may have been in the minds of these fellows as they talked about Articles 81, 27, 100 and all those good Articles that culminate into the two-thirds gender rule. You will see that many of these Articles appear in Part II of the Constitution. There are very good constitutional rights provided in there. There is the right to a clean environment, right to health and right to housing.

When I talk about housing, I am very passionate because where I come from I do not know at what point in life we will ever graduate from the low-cost neighbourhoods of Mathare and Korogocho to get to where the Constitution wants us to be. I am very passionate that one day when I am still alive, we will get to where my people thought the Constitution would take us.

I tend to think that many rights that we have, good as they are – the right to health and right to environment – must have been done within the context of building the entire architecture of the Constitution. This is where Article 81 of the Constitution came from.

I like the way this amendment has been worded. It says; “progressive implementation of legislation.” That is important for me because I have always wondered how the two-thirds gender rule would be plucked from the Constitution and be implemented without an enabling legislation. There must be legislation one way or another around the subject, which is flexible and can be negotiated by the membership.

This is where ladies will have an input, everybody else and people who are talking about the wage bill will be put together. This is the legislation to realise what the Constitution had proposed. In that negotiation, it can happen within the same year or even a month, of the passage of that Constitution. However, it cannot be done within the Constitution without legislation around it. If you look at Article 81 of the Constitution, you will find that it does not mention the legislation to bring up that baby called “two-thirds gender rule”.

Hon. Speaker, the most important part of this amendment that should be supported is the fact that it refers to legislation that will implement it. I know many people are asking: “When is this going to be implemented? Is it one year or 10 years?” There is no time limit. Is it a bottomless pit? This is where we need to understand each other. The fact that this amendment talks about development of a legislative proposal means that we can negotiate and have a clear timeframe within which this can be done. “Progressive” is about creating instruments for us or the structure. However, the content that we will put in involves how we can talk to each other as legislators. We already have a policy.

Hon. Speaker, if I am unable to keep within the 10 minutes, I will beg for just two minutes to explain what I must say.

We already have a policy of two-thirds principle and we cannot run away from it. It is a policy that we must implement. If, today, we were to pass this legislation, it behoves on us that

the Leader of the Majority Party or whoever it is that brings legislation to this House would have to bring a legislative proposal that implements Article 81 as amended.

I want to urge my sisters and men in this House to be men enough. You cannot argue all over every time without giving a solution. You have talked a lot. The men have said what they have to say, but now it is time to act. We must get something to go home with. We must get something around which we can put a legislative proposal to get us where we need to be. Other people are saying: "Let us go home." That is reckless in my view. We cannot do that. We must find solutions to fill in the gaps which the people who were making the Constitution may have not put.

I agree with the advisory opinion. However, if you look at it, you will find that the judges are directly talking about progressive enactment of legislation that will bring this to an end.

Hon. Speaker, I would like to sit back and particularly hear the voices of women in this country, led by their leaders, cheer up and encourage us that this is the right direction so that, in a twinkle of an eye, I can be able to go back to Ruaraka Constituency with a legislative proposal that will bring those people here.

Lastly, there are women---

*(Loud consultations)*

**Hon. Speaker:** Order, Members! Please, allow Hon. Kajwang' to make his point. Even if you feel like vomiting, please, just go to the loo and vomit there. Allow him to make his point.

*(Laughter)*

**Hon. Chepkong'a:** On a point of order, Hon. Speaker.

**Hon. Speaker:** What is out of order?

**Hon. Chepkong'a:** Hon. Speaker, is it in order for the female Members of the Departmental Committee on Justice and Legal Affairs to shout at Hon. T.J. Kajwang' when in a meeting we held on 21<sup>st</sup> July, 2015, the Report of the Committee with respect to this issue was unanimously adopted as proposed by Hon. Benson Mutura and seconded by Hon. George Kaluma with the minutes recording that there was no dissenting voice to the adoption of the Report? Is it in order?

**Hon. Speaker:** Of course, they are out of order in so far as shouting is concerned. However, they are at liberty to change their mind. May be, they have visited some new shrines of knowledge in their villages and they are now wiser.

**Hon. Kajwang':** Hon. Speaker, thank you very much for your direction.

*(Loud consultations)*

**Hon. Speaker:** Hon. Kajwang' will be heard in silence, Hon. Nyokabi and Hon. Serut.

**Hon. Kajwang':** Hon. Speaker, I was on the last issue.

I think there is a constituency of women that has not been heard. The question of two-thirds has been an urbanite problem. There are very many ladies in the rural areas. There is a lady in Waondo, who needs to be heard on the issue of two-thirds. Many times when we speak about them, we say that they never went to school. They may not have been as fortunate as some of our ladies have been, but they are our mothers. We know them. That is the majority of women

we have come to this House to represent. I have many of them in Mathare. I also have many of them in Korogocho. The narrative should change from the urbanite woman to the woman of Kenya.

Hon. Speaker, I support.

*(Applause)*

**Hon. Speaker:** Hon. Members, I told you never to mind. All of you will speak. As you know, this being a constitutional amendment Bill, you will speak until all of you are breathless. Let us hear those with alternative views, led by the Vice-Chair of the Justice and Legal Affairs Committee.

*(Applause)*

Hon. Members, everybody, including the County Women Representative for Nyeri, should be heard in silence.

**Hon. (Ms.) Kanyua:** Thank you, Hon. Speaker. Let me start on a very positive note by greeting the students from Tetu Constituency, Nyeri County who are here today.

Hon. Speaker, on the matter of two-thirds, we have never had a sadder day. Today we gather here to discuss a Bill seeking to postpone the promise of progressive realisation of the two-thirds gender rule that was made to the women of Kenya. We are seeking to remove it completely from the Constitution. It is, indeed, very sad.

Let me start by declaring that we have a very good Justice and Legal Affairs Committee. As a Committee, we had a meeting today to vet and approve the nominee for the position of the Deputy Chief Justice of the Republic of Kenya. However, on the matter of two-thirds gender rule, we have a male and a female Justice and Legal Affairs Committee. This is because the female Members of the Committee have never agreed to the Bill that is before the House. They did not accept it then and they do not accept it even today.

The Committee has 25 male Members and four female Members. It is a Committee of 29 Members. Even the composition of the Committee should comply with the two-thirds gender rule. No matter how much we oppose these Bills, they always find their way to the Floor of this House. I want women in this House, and women of Kenya generally, to know that the Bill before this House today is nothing but a show of might; that the 25 men of the Committee were able to canvass, collude and do many things to bring this Bill here today. That shows how much we need more women in Parliament.

The two-thirds gender rule matter is a live debate. We have come here before, and Members are aware. I thank all the Members who supported the first Bill (Bill No.4). We were able to get 195 Members, including Hon. Chepkong’ a himself. Hon. Duale moved that particular Bill. This is a democracy and we attained 195 votes. We required 38 more votes for that Bill to go through. The answer is not to go back to the starting line but the answer is to rise up from the 195 votes.

The Bill that we are discussing today should not be taking us back to zero but it should be giving us a position from the 195 votes. We had given those proposals. There are Members who wanted the two-thirds gender rule to be implemented in two cycles of general election through a process we call “staggered implementation”. If the staggered implementation proposal was included in the “Duale Bill”, the 38 Members who did not vote for it would have voted for it. We

are in a House with 349 Members. We already have 195 votes. The answer is not to go back to where we came from but the answer is to speak to the other people who did not support the Bill that we had.

Therefore, today, we completely oppose this Bill on progressive realisation of the two-thirds gender rule. We oppose it vehemently. We oppose it completely with everything that we have. We oppose. We will oppose, oppose and oppose! We will oppose it completely!

*(Applause)*

**Hon. Speaker:** Order, the County Women Representative for Nyeri and the Member for Mbita Constituency. Even as you oppose, there must be decorum.

*(Laughter)*

Your voices must not make it impossible for the House to transact business. You are on track in recording your opposition. Proceed.

**Hon. (Ms.) Kanyua:** Thank you, Hon. Speaker. We just want to register how strongly we will oppose this Bill. The men in this House must prepare for a battle royal. This Bill will not pass in our presence. If you are going to go to another parliament to pass it, be that as it may--- If there is another national assembly, be that as it may--- In this National Assembly where we are Members, where we have votes and where we have 195 friends who helped us in the first round, this Bill will not pass. It will not pass! We will do everything we can to ensure that this Bill does not pass.

Coming to a more positive point, there are many pieces of legislations that need to be passed so that the two-thirds gender rule can be realised. The Committee has a set of those legislations. We have discussed and debated them. Many of them are very progressive. They require political parties to do everything they can to nominate women on the tickets that they will be issuing to candidates. They also require political parties to make sure that the two-thirds gender rule is achieved even in the county assemblies across the country.

Hon. Speaker, the rules require that presidential candidates get involved in this matter because they will require votes from women. Gender issues are matters presidential candidates in the Republic of Kenya need to pay attention to.

Those legislations are what we need to pass. I do not agree with my colleagues that we need to pass the progressive realisation Bill for us to pass the other legislations. That is not true. That is a misinterpretation of the Constitution. The Constitution requires that we pass a formula by which the two-thirds gender rule will be realised. We should pass a formula. We are not required, in the language of this Bill, to pass progressive implementation of legislation. That is not what the Constitution requires us to do and that is not what the Supreme Court has required us to do. We are required to pass a formula. If we are not able to pass a formula to give a mechanism by which the two-thirds gender rule will be realised, be that as it may---

In fact, in a worst case scenario, we are prepared to have this matter rested until the 12<sup>th</sup> Parliament. The 11<sup>th</sup> Parliament, where we are seated now and where we belong, can pass the legislations that have been discussed by the Departmental Committee on Justice and Legal Affairs Committee. Many of these legislations have already been published pieces of legislation that will ensure that there is two-thirds compliance within political parties and the electoral

system. We need not interfere with the Constitution at all. If we are not able to improve it, we should leave it as it is. The Bill we have here is a complete departure from improvement of the Constitution.

The women that Hon. T.J. Kajwang' was speaking about in the rural areas--- Let me take this opportunity to say that the idea of dividing women that some are rural while others are urban is wrong. I want to tell all the women of Kenya that marginalisation is the same. It knows no rural, upcountry or urban centre.

**Hon. Members:** Yes!

**Hon. (Ms.) Kanyua:** The marginalisation we feel as women is shared across this country. I speak as a woman from central Kenya and as a woman who knows what marginalisation means, not just here in Parliament but in all our lives. There is nothing as sad as being denied an opportunity for not committing crime, but because of the mere fact that you are a woman. To be denied an opportunity only for being born a woman, a decision for which only the Maker had a choice to make and a decision you could not appeal--- You are born a male or a female because of the Maker's design. Our Maker intended that men and women will lead this country together.

If the 11<sup>th</sup> Parliament is not able to improve the Constitution, we beg our colleagues to leave it as it is. Let us pass other legislations which will answer the question on the two-thirds gender rule. We should not make the Constitution take a back seat in the name of implementing it.

The Bill we have will negate the very rights the Constitution has given. We are prepared to support all the legislations on two-thirds because we have had this discussion. Many Kenyan women will contest in the next election and many Kenyan women will vote for the women of Kenya. If the 12<sup>th</sup> Parliament will be assessed, there will be many more women who would have been elected, but the answer, and I keep repeating, is not the Bill that we have today. This is not a middle ground. Actually, this is no ground. This is a bad piece of legislation that we are opposing. Caucus 47, the Kenya Women Parliamentary Association and many progressive male Members of this House are opposing this Bill. Fathers, brothers, uncles and nephews, and especially fathers and husbands, kindly do not support this legislation.

Thank you, Hon. Speaker.

*(Loud consultations)*

**Hon. Speaker:** Order! This is a National Assembly Chambers. It is not a football pitch or people watching a game of rugby.

*(Laughter)*

Hon. Members, it is important that we allow everyone to speak their bit in silence just as we have heard the County Women Representative for Nyeri speak. Also put into perspective the words by the Hon. T.J. Kajwang'. Even as we make some of these laws, let us provide for quick access to clean drinking water and good housing for everybody. Let all those rights be realised for every Kenyan. So, nobody should be opposed to anybody enjoying whatever rights that are in the Constitution.

Yes, the Member for Gem.



*(Loud consultations)*

Order Members! Hon. Members, the Member for Gem has not even opened his mouth to say anything.

*(Laughter)*

Order Members! The Member for Gem must be heard. He has not said even a word.

**Hon. Midiwo:** Thank you, Hon. Speaker. You know last time we voted on the Aden Duale Bill, the ladies who are now uncomfortable with what I am about to say praised me because I voted with them. I am shocked that they already know what I am going to say before I say it.

This is not a small matter. I beg Hon. Nyokabi to hear me. As a country, we must find a solution to this problem.

*(Hon. (Ms.) Odhiambo-Mabona consulted loudly)*

**Hon. Speaker:** The Member for Mbita, we heard the County Women Representative for Nyeri in silence. Why is it that we cannot allow others to speak? The next thing you are going to find me doing is to do the best thing I know how. You will all be out of the Chamber!

**Hon. Midiwo:** Hon. Speaker, then we will have a very sober debate. We must debate this issue. We find ourselves in a quandary created by the Constitution which my friend, Hon. Nyokabi says we cannot touch. When we campaigned for the passage of this Constitution, both the former President and the former Prime Minister told this country that 20 per cent was bad and that it has challenges. This is the National Assembly of this country and we must say some things as they are even though some of us may not want to hear them.

This afternoon I was watching a speech by the First Lady of the United States of America campaigning for Senator Hillary Clinton who is just about to become the President of the world.

*(Applause)*

In her speech, Michelle Obama has dismantled the Republican Party candidate Donald Trump without calling Hillary Clinton a woman. She has said everything good about her capabilities. That made me to talk on this Bill. I am an avid supporter of the debates of the United States politics. Hillary Clinton has not said that she wants to become the first woman President of America. Everybody knows that. She talks about issues. So, we want our lady colleagues in this House to listen to us as we seek to find a solution. I am a supporter of the one-third gender rule. Gender is not only women but gender is all of us. We need to listen and hear each other out in a debating Chamber. If we shout, then we will not find a solution. It is true that there is the female and male gender because the issue was contentious. However, what are the facts? I have said here that I, Jakoyo Midiwo, the representative of the people of Gem wants a solution, but I also want us to talk about the numbers of members of political offices in this country. Our lady colleagues must tell us how we should fund our offices. How nice would it be to say that we maintain the one-third gender rule, but talk about the frivolous constituencies that we have that the same Constitution has given us? As a country, we cannot talk about numbers. We must talk about numbers that we can afford so that we do not have to go to China to beg in order to pay

people. This is not a small issue. The 20 per cent which is wrong with our Constitution and which we promised Kenyans that we shall revisit has to do with political offices and the size of the counties.

I believe that if we had followed the Bomas suggestions in terms of devolved regions, there would never have been a Mpeketoni. One of the reasons is that some counties are too small that they are one-and-a-half clans. So, the smaller clan is feeling threatened. It is not only in the marginalised region; it is even present where we come from. The other day, I spoke about this issue on television and a former member of that Commission sent me a text. I did not reply because I believe in what I am saying and the right place to talk about these issues is here.

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

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

Everybody knows in this country that women are marginalised. It is a fact. I want to correct my friend, Hon. Nyokabi who said that she comes from central Kenya where they know about marginalisation. There are many parts of this country where women go to fetch water a whole day and come back with just a five-litre *kibuyu* of water. These are issues which we must talk about. Is this the only way to fix it? We must face this situation. We must rise above the petty debate about this issue. There are several issues---

**Hon. Members:** No!

**Hon. Midiwo:** You can shout but you will need my vote. I am trying to reason so that we all vote together. If you say “eeeh” it is okay, but it is not parliamentary. Would you like milk for your children, roads and hospitals or more MPs in this House? Those are issues that women of this country must tell Kenyans. We must do that. There is one issue that I must raise. I was in Uganda recently---

**An hon. Member:** On a point of order!

*(Loud consultations)*

**Hon. Midiwo:** I want you to listen. Relax. I was in Uganda recently. There is one thing which I have always said about women seats. In Uganda, a woman who represents an equivalent of a county in our sense earns more money than the single Member constituency. These are issues. Why is this issue not being raised amongst us? Why does Christine Ombaka who represents over 300,000 voters earn the same amount as Midiwo who represents 70,000 voters? That to me is not affirmative action. If Uganda can do it, we can do it. We must accept that this issue is not as small and trivial as we are making it to be.

You can do everything. You can make all the noise but this is not a street issue. The most important issue here is the principle. Those of us who are not in a rush and support this should agree with the principle, but think inside and outside the box. If you do not hear us, we shall never get a solution.

We support you but you must not force us to support you because you will not get our votes. It is important. There are very many issues related to the bad 20 per cent of the Constitution. It is good time now for us, as a country, to deal with the bad 20 per cent of this

Constitution. However, you must know that if we are talking about the one-third gender rule, it is not about women only but it is about men and women. Some of us want to begin advocating for the boy-child. If you do not want it to be a reason, we will reason it away from you. We want to support you. I am with you but for this I support the progressive method.

I support.

**Hon. Deputy Speaker:** You have pronounced yourself that you support it. I am told you have decided that you will be raising your hands.

**Hon. Members:** Yes!

**Hon. Deputy Speaker:** Order, Hon. Members! Let us be orderly. The same rules will apply. We will consider regions, both sides of the House and other things even if you have decided to raise up your hands.

Yes, Hon. Kang'ata.

**Hon. Kang'ata:** Thank you, Hon. Deputy Speaker, for giving me this opportunity. I have no problem with the agitation by the women leaders. I would only urge them to become more strategic. I am one of those people who believe in the idea of women empowerment, including representation. The only issue is the strategy that is being employed.

If I were in your caucus, one of the things I would be pushing for is not the original idea that we came with here because that idea was about increasing the nominated Members of Parliament. The best case scenario would have been that you push for the division of your position so that, for instance, in one county, you have several women Members of Parliament as opposed to the current situation.

In Murang'a County, for example, we have only one representative, and that is Hon. Sabina Chege. I agree it is very unfair, but if you were to push for the division of your seats, that may make sense. The reason most of us do not support the idea of nominated Members of Parliament is, one, it is unfair to come here using a free seat - you all know how painful it is to fight for a political position.

Two, you also know that the criteria of nomination is so skewed; it is very unfair. So, the best case scenario would be to push for your positions to be divided so that in Murang'a County, for example, you have about three or more women representatives. If you did that you will also be doing yourself a good service.

You all know the problems you encounter in your constituencies. One of the criteria of judging a good leader, based on experience, is how available they are. I find women representatives getting a lot of negative publicity because it is usually impossible for them to be felt in each and every corner of their big counties. So, if you were to come here and push for the division of your seats, it would make sense because you would be representing a smaller unit and you would be felt as opposed to where you represent a huge county and most likely no one feels you.

You seem to be holding brief for nominated Members of Parliament. To me, it does not make sense. It is something which is quite elitist. I agree with those people who are saying that this push for increased women representation through nomination is purely a fight for the elite women. It does not resonate with the common woman down there. If you were to push for it to change so that it becomes a fight for an increased representation in your county, it would make sense. You will have what is called "legitimacy". This is "legitimacy" in the sense that you are in this House through voting. It means you have been voted upon. That makes a lot of sense and that is the only way I can support this idea. I need to be counted as one of those Members of Parliament who are sitting on the fence on this issue.

(Laughter)

I have to sit on the fence because I do not support Nyokabi's idea of pushing for an increased number of nominated Members of Parliament. I cannot support it. That is a bloated workforce. That is what she has been pushing for. I was here when she brought the original amendment. On the other hand, I do not support the idea of us pushing women completely out of representation. As to whether we are going to make it progressive or not, the best option would have been to put in place a time limit which we do not have in this proposal. To that extent, I am not so sure whether to support or oppose the Bill. As long as the bottom line or the philosophy of your agitation is to push for an increased number of nominated Members of Parliament, I do not support the idea of free things.

We are living in a society where people need to work for what they get. We are living in a world where people need to be competitive. We are also living in a world where we should encourage our girls to realise that you do not get anything for free. You have to work for it. The only way to work for it is to fight it out there on the ground, get elected, come here and become a fully legitimised Member of Parliament.

With those few remarks, I dedicate my submissions to my two children Rita Mali and Yuna Morgan. I have made my best presentation on this issue.

**Hon. Deputy Speaker:** Let us have Hon. Millie Odhiambo with her new title - the only elected female MP from the Orange Democratic Movement (ODM).

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Deputy Speaker. From the outset, I vehemently oppose this Bill. First of all, I want to acknowledge Hon. Kajwang' who has indicated that we are relatives. That is actually true. His father is what I call in Luo "Nyathi Nyaguowa". We share a common grandmother. I am, therefore, horrified that while he has exhibited intelligence in the past, today something has gone amiss. I will go and consult our common ancestors and find out what is wrong with my relative, Hon. Kajwang'.

Where I come from, we respect women. That is why I stand here today as the only elected woman in ODM in Kenya because we come from an area of leadership where we respect women.

After a 16-year dearth in the election of women in Nyanza since Phoebe Asiyo, I hoped that Hon. Kajwang', Hon. Jakoyo and others would have supported me. I am tired of being embarrassed every time because when Jubilee people call for a meeting we are 16. I am the chairperson of the 16 women who are called "the Leading Women Caucus in this Parliament". When we say we are going into our sub-committees, the women in Jubilee go to their corner while in ODM, I sit in my sub-committee alone. I am tired and embarrassed and yet we are the biggest single party in this country.

As a progressive party, I know the position of my party leader. My party leader supports women. He does not support what we have here which is progressive and means absolutely nothing. I want to indicate that I happened to have been in the Committee on the Bill of Rights when we were drafting this Constitution. So, I have the legislative history. I was also in the Parliamentary Select Committee where we sat with the President and the Deputy President of this country, Hon. Musalia Mudavadi and Hon. Orengo. You can hear the level that I am speaking about. I sat in that Committee and I can give you the legislative history.

When we came to the issue of women, people expected us to have disagreed on every issue including the system. We disagreed on the issue of women as we are disagreeing today

until we formed a “mini Serena” and agreed that we were going to put 47 County Women Representatives. We also agreed that we would top up the balance in this Parliament.

I respectfully disagree with the Supreme Court because if they were not clear about the obvious meaning in the Constitution, the next way of interpreting the Constitution would have been going to the legislative history which they failed to do. If they read the legislative history, they would have known that we vehemently opposed the word “progression” when it comes to women. I remember that when we defeated the other Constitution, I was vehemently opposed to it because of the word “progressive”. I still vehemently oppose this because of the issue of progression.

**Hon. Ganya:** On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Order Hon. Millie! I know you are passionate about this. This is still a debating Chamber. So, allow Hon. Chachu to prosecute his point of order.

**Hon. Ganya:** Hon. Deputy Speaker, I also had a chance to serve in that Select Committee in the last Parliament with my dear sister, Hon. Millie Odhiambo. The HANSARD is there to testify to the truth. We never had any discussion on progressive realisation of the two-thirds gender rule. With that reality and circumstance being clear, is my sister in order to mislead this House?

**Hon. Deputy Speaker:** Allow her to respond.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Deputy Speaker. I listened to the Member clearly. He has said that we never agreed on the issue of “progressive”. That is exactly what I am saying. He is basically supporting me. We never agreed on progression. We also did not talk about “progressive”. I would be willing to bet my life on this if we brought the copy of the HANSARD Report. Martha Karua, Charity Ngilu, Sally Kosgei and I were vehement. We created a commotion in that house.

We almost jumped on the tables when they were denying us the 47 County Women Representatives. I will still oppose the Bill. I have been here as the only elected woman in ODM and if we did not bring in the 47 Women Representatives, I would be the only elected Luo woman. Because we got 47, I now have my sisters here, but we are still a minority. I would like to see more women coming here. I am not selfish because I know I am a *simba*. I can get re-elected but I do not want to be in this House alone. I want other women to be here with me.

Even if I was to agree with the Supreme Court - which I do not - what this Bill is doing is not what the Supreme Court has told us to do. The Supreme Court has told us to go progressive. What my friend, Hon. Chepkong’ a, is doing is basically to restate that the Supreme Court has told us to be progressive. We all know that because we can read the ruling. He does not need to tell us what is in the ruling. What he should have done is to give us the formula in the ruling. He has not given us the formula and we are still not sitting pretty. We will pass this Bill. If the court decides soberly, I can assure you we will still go home having passed this Bill because we are not doing what the court told us to do. There is no formula and there are no numbers.

As women, we will be willing to negotiate because we are not unreasonable. We negotiated for 47 County Women Representatives and we are willing to negotiate for a few more - maybe 20 or 30 more in the next Parliament. We are not unreasonable, but give us the timeline and the numbers. That is missing here. That is what we are saying. Give us the numbers and timelines.

Do not give us cost when it comes to women. In the last Parliament, when we were increasing the geographical constituencies primarily for men, we did not talk about the cost. Every time it is a women issue, we talk about cost. That is why men tell us they do not cook in

homes but when there is a paid job they give it a fancy name like “chief chef” and then take up the job. Suddenly, culture does not matter. You all become chief chefs and take women away from the kitchen. We will not allow such things. We have been at it for too long. We will not allow the intimidation by my brother, Hon. Midiwo.

Finally, I want to compare Kenya with her peers because Hon. Duale told us to do so. I am called to advise many parliaments. Two weeks ago, I was called to advise the Mauritius Parliament on gender issues. I have also been called to advise the Ugandan Parliament, among several other parliaments. I am embarrassed because while I advise those parliaments, we are doing worse in the region. Uganda and Rwanda are doing better than us. Somalia, even with the turbulence it is facing, is doing better than us. Kenya is an embarrassment in the region on gender issues and we are tired.

People tell us that women in Kenya are intelligent, brave and articulate but when we stand up to be counted, we realise we do not have sufficient numbers. We are tired of the cultural issues – and sometimes the elitism when appropriate – that are being used to discriminate against women in this country.

I want to tell Hon. T.J. Kajwang’ that I am as rural as they are. I came with him from Mbita and we are as rural as we came. I went to school in Nairobi and in Homa Bay. I am elitist and rural. I am representing the old woman in Waondo Village, where Hon. Kajwang’ comes from. I have absolute and complete mandate as an elite rural woman.

With those remarks, I oppose the Bill.

**Hon. Deputy Speaker:** We do not have male colleagues contributing to this Bill.

**Hon. Kajwang’:** Is Hon. Kaluma here.

**Hon. Deputy Speaker:** I am also balancing. Let us have Hon. (Ms.) Emaase.

**Hon. (Ms.) Otucho:** Thank you, Hon. Deputy Speaker. At the outset, I oppose this Bill. This Bill is a let-down to the women of Kenya. I am surprised listening to our male colleagues alleging that we want more women in this House. When Kenyans voted for the new Constitution, in their wisdom, they provided for the two-thirds gender principle. They said that no one gender shall comprise more than two-thirds of the membership of this House. This Parliament was expected to provide a formula. I am an accountant and a formula is supposed to give a solution. What is progressive? That will not give any results because there are no numbers attached to it. It is not saying anything. We should come up with an agreeable formula that addresses and ensures that in elective positions, we have one-third of women in this House.

I am a *simba* like Hon. (Ms.) Millie Odhiambo. I am here, having been elected in a constituency. I can fight but there are other women who may not be as strong as those of us who came to this House through an election. We want a mechanism for ensuring that we guarantee equality and offer opportunities to the women of Kenya.

I oppose this Bill because women of Kenya deserve better than this. We should come up with a formula so that we can meet the deadline. Otherwise this House will not have given the women of Kenya the justice they deserve by passing this Bill.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Chamber is almost made up of one gender.

**Hon. (Ms.) F.I. Ali:** Thank you, Hon. Deputy Speaker for giving me the opportunity to contribute to this Bill. At the outset, I want to oppose it. I have been a sad mother and Member of Parliament for the last four years that the issue of two-thirds gender actualisation has been debated.

Hon. Speaker, the Leader of the Majority Party has said that they are doing a reverse. In my view, in terms of achieving the two-thirds gender principle, Kenya has reversed 100 years. Kenya is a signatory to many international instruments that require this country to achieve gender equality.

Progressive realisation of the two-thirds gender principle is nothing. It is just a game. It is just like a sentence in a book. It is just meant to cheat Kenyan men and women. Hon. Midiwo said that gender is not just about women. We all know that gender is about men and women. The disparity between women and men leaderships in this country is huge. We are, today, talking about women but we might be talking about men tomorrow. As women of this country, we will not take this kindly. Progressive realisation is nothing but a lie to Kenyans.

I was at the Bomas of Kenya during the national constitutional review convention meetings that took place in 2003 and 2004. The men who were present then wanted representation of men and women to be actualised now. With this kind of Bill, we are going backwards. Gender equality is not about rural or urban women because we also have rural and urban men. What is the rationale behind rural women being denied opportunities? This is another tactic of dividing women. It is useless to talk about women in that perspective. It is not an intelligent debate. Just as we have rich and poor men, we also have rich and poor women. When it comes to women, the division is unbelievable. We are tired of public relation Bills. We want a formula that says in the next Parliament, there should be given this number of men and women.

**Hon. Kajwang:** (*Off-record*).

**Hon. (Ms.) F.I. Ali:** Hon. Deputy Speaker, please protect me from Hon. Kajwang'. He is not a friend to his women voters. Kenyan women should watch this debate and vote out men like Hon. Kajwang', who oppose their progress. Kenyan women are sad because we are humiliated in this House on a daily basis. What do you expect outside Parliament? What women go through outside this House is worse.

I oppose this Bill in totality.

**Hon. Deputy Speaker:** The County Women Representative for Narok, you have the Floor.

**Hon. (Ms.) Tuya:** Thank you, Hon. Deputy Speaker. At the outset, I want to vehemently oppose this Bill. When it comes to gender issues in this country, the term "progressive" simply means "would not do it" and "cannot do it". There are no two meanings to the term "progressive" when it comes to gender equity. We will be duping Kenyans and women of Kenya talking about this "animal" called "progressive". The Bill is unconstitutional because it does not offer us a solution to a principle that was voted for and supported by a majority of Kenyans during the referendum in 2010.

I have a lot of respect for the Leader of the Majority Party. He said that since the Executive and the Judiciary have not implemented the principle, we will not do it as the Legislature, as it will be wrong. Two wrongs do not make a right. As honourable members of the 11<sup>th</sup> Parliament, we need to stand up and be counted as progressive Hon. Members, strong and courageous enough to confront the need for gender equity in this country.

Again, the Leader of the Majority Party has said that the body language in the House seems like we are agreeing to this Bill, and yet we are pretending to oppose it. The time when a woman says "No" when she means "Yes" is long gone. That was a thing of the times of our great grandmothers and not even our grandmothers. The women of this House know what they want and we say "Yes" when we want it. We do not say "Yes" when we do not want it. When we do not want it we say "No". Here we are saying "No" to this Bill.

What is the meaning of the word “progressive”? I am happy that my seniors are seated right across me, including Hon. Kajwang’, who has utterly surprised me by supporting this Bill. The word “progressive” means “a process favouring progress; a process favouring change; a process favouring improvement developing or happening gradually.”

Hon. Deputy Speaker, tell me where we have moved gradually from where we were not even in 1963. This so-called *pole pole* is what is going to destroy this country. We have not moved an inch from the so-called progressive direction that was given to us by the Supreme Court in 2012. We are not serious and that is why I am saying that we are lying to Kenyans and we are pretending. We are burying our heads in the sand.

The issue of gender equity or two-thirds is not about women. It is an affirmative action to bring about equity in leadership and even in development spheres of this country. We are trying to pretend that we do not know that there has been successive marginalisation of women and deliberate exclusion from leadership positions because of our socialisation process. We are trying to pretend as a country. What we are trying to correct is an imbalance created by our society so that we give all human beings equal footing in representation and building this country called “Kenya” in all spheres. It is not about women.

As my colleagues have said, there will come a time when we will talk about men. It is possible. The process might be slow but I can tell you it is surely coming.

I talk as a women representative. The position I am holding in this House is an affirmative action position. The opportunity given to me by the Constitution to sit as a Member of the National Assembly has given me tremendous capacity. I can say for sure that I will go for this affirmative action position once more. Otherwise, I have the capacity to vie for a governorship position or even the presidency of this country. Without the opportunity afforded to me by the affirmative action position of women’s representative, I would not be here. The only reason I will vie for it once more is that we still have a lot of demystification to do for Kenyans to understand why we have this affirmative action position.

However, God willing in 2022, I will clear the way for another woman from Narok to come and sit here to get the capacity I have got as I move on to the next level. That is basically what we are talking about.

The proposals that have been brought before this House have not been about delivering positions to women on a silver platter. We are deceiving Kenyans and putting lies out there that what we want is a soft landing. We do not want soft landing. We just want an opportunity to put our best foot forward and fight against a socialisation process that has been perpetuated to make people believe that women cannot be in leadership positions in this country.

Hon. Deputy Speaker, if you read the text of this amendment, you will see that there is some contradiction. What we are being told is that the proposed amendment seeks to insert the words “progressive implementation of legislation to ensure that---” However, if you read the Bill deeper under the Memorandum of Objects and Reasons, you will find that the second last paragraph talks about the objective of this Bill being to propose an amendment to Article 81 to insert a phrase stating “progressive realisation of the principle that---” These are two different issues.

Being a constitutional amendment, I understand that we have no opportunity to correct this through an amendment. However, we must look at it seriously by opposing it vehemently. I call upon our male colleagues because this is not about women, but it is about building this nation to the next level where Kenya can be on the world map of progression in terms of development.



At this point, I wish to point out that there is a defect in the constitutional amendment proposed by Hon. Chepkong'a and we need direction on how to deal with it. This is because progressive implementation of legislation is totally different from progressive implementation of the principle. What we need is implementation of the principle, but it cannot be in the manner in which it is in this Bill because it does not propose anything. It is just taking us back to square one.

With those few remarks, I once again oppose and oppose this Bill.

**Hon. Deputy Speaker:** Let us change the gender. Let us have Hon. Kaluma.

**Hon. Kaluma:** Thank you, Hon. Deputy Speaker. Hon. Priscilla Nyokabi, who is my good friend and Vice-Chair, indicated that she wants to oppose this thing with her everything.

*(Laughter)*

I also want to deal with this Bill with literally my everything. Just to allay the fears of my sister, Hon. Cecilly Mbarire, the next governor for Embu, there is no reason for God to have mercy on her.

Where we are is when we think gender as a woman issue. When we begin talking about gender, we begin forgetting that we are all sons and brothers of women. Some of us are husbands of women. Those who are not husbands are lovers of women. All of us are husbands of women. Some of us are very good friends of women. I am a grandson of a woman.

Hon. Deputy Speaker, mine is a bit unique because I am also a father to a woman. We need to look at this issue keenly and not just think in terms of one being a woman or man. This constitutional prescription is a Bill of Rights provision. Having looked at Article 27, I would like to ask a question: Why would the female Members of this great House be worried if no amendment is proposed to Article 27? I do not know whether you have looked at Article 27, which is a Bill of Rights provision. It being so, you cannot take it away without a referendum.

I want to request for sobriety from all Members. This matter went to the Supreme Court which, in its wisdom, sent it back to Parliament. This is not a Constitution-making House; it is a legislation-making House. The Constitution was telling us to go back and legislate in a manner that would enable this issue to be implemented.

Hon. Deputy Speaker, I am saying this so that we take ourselves away from the thinking that the solution to the situation in which we find ourselves in terms of implementing the one-third gender principle can only be in the Constitution. It is not and that is why I agree with Hon. Kajwang'. In as much as we all support women, we must go back to the decision and find where we need to deal with this issue.

What does progressive mean? Let me thank the Member of Parliament (MP) for Narok County for stating that it means going forward. It is positive and to me, it is better than constant. However, the fundamental question we need to ask as MPs is whether we need this constitutional amendment to do the legislative work we should be doing. Sometimes, we could oppose this Bill because it is superfluous. But remember progressive is already in the decision and the Bill of Rights requirement in Article 27. It is already there. Is the use of the words "progressive implementation by legislation" something that takes away or gives you a firm reminder and a firm foundation to keep reminding the national leadership in the only Assembly of the nation seated here to do something about this? If that is the intent of this Bill, then I support it because it is not taking us backwards. He is saying we must constantly remember we must have legislation

in order to do this thing in the manner contemplated by Article 27 and the Supreme Court decision.

Remember, we never sought review of the Supreme Court decision; it is already there as a progressive requirement according to the Supreme Court thinking. Now, how do we deal with it? Even as we speak – and Hon. Alice Wahome will tell you - so few within this Parliament have read that Supreme Court decision. One person says, “Let us put it in the Constitution so that it is a constant reminder.” How can it be taken away?

We need to deal with the realization of the gender principle in legislation because it gives us the flexibility that a constitutional amendment or the requirement for it does not give us. Some male Members here have told me that among the things they want to put in the legislation is the age of those additional women who will be coming. This is very strange, but beautiful thinking.

*(Laughter)*

I was looking at the MP for Narok County. It is so beautiful when you see her around here. Some---

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Kaluma I do not want you to raise the temperatures in the Chamber. You were doing very well until you started bringing your compliments.

**Hon. Kaluma:** I am sorry, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Okay. Hon. Members, he has apologised. So, can we now move on?

**Hon. Kaluma:** Hon. Deputy Speaker, I have apologised. You know some ages raise temperatures while others lower temperatures.

**Hon. Deputy Speaker:** Hon. Kaluma, I will give the Member for Narok the right to reply, but can you allow her to respond to your comment?

*(Laughter)*

**Hon. (Ms.) Tuya:** Thank you, Hon. Deputy Speaker. This is a very serious issue and it is what we are fighting for as the women of this country. Hon. Deputy Speaker, I may be beautiful and I know I am, but I am just like all my sisters in this House. However, we are not here to beautify these seats of Parliament. We are talking about a serious issue and the only thing the Hon. Member for Homa Bay can see is the “flowery-ness” of women. That is what we are fighting. If your mindset is about how beautiful, flowery and good a woman is, that is not why we are here. We are here to contribute substantively for the change of the lives of women of Kenya.

Hon. Deputy Speaker, it is not in order for the Member for Homa Bay to make such a conclusion. I want him, with your permission, to withdraw, apologise and focus on why we are here. Let him focus on the real issues and not side-shows.

**Hon. Kaluma:** Hon. Deputy Speaker, my sister always reminds me to talk to issues. I never used the word “beautiful”. If I did, then I withdraw and apologise. You are not beautiful.

*(Laughter)*

**Hon. Deputy Speaker:** Okay. Please, continue. You are getting to the side-shows.

**Hon. Kaluma:** Hon. Deputy Speaker, I was saying this in terms of what some Members think they will put in the legislation, which I will oppose.

**Hon. Deputy Speaker:** Hon. Kaluma, can you speak to your point? We are beginning to think you have no point. Can you tell us that you do have a point?

**Hon. Kaluma:** Hon. Deputy Speaker, I have a very serious point. I never mentioned the word “beautiful” but if I did, it was not appropriate. You should not see the beauty of your sister in this House and so, I withdraw. I was talking in terms of what some Members are imagining they will put in the legislation. I want to warn those male Members who think that when we say there will be legislation, then their imagination of legislating age will come in. We will not do that. This is a House of the representatives of the people of Kenya and we want Kenyans of all shades, ages and body weight to come here.

As we deal with this matter in a progressive way, passing this Bill does not take away anything. In fact, instead, it gives us a firmer foundation to move forward. I wonder why we had to go to the Supreme Court. I do not believe there is a woman outside there who wants free things. Issues such as how we get to increase the number of women here are matters to be negotiated and are details that can only go in legislation and not in the Constitution. If you put it in the Constitution, it will be so hard to change even when you need that change. So, I request my brothers and sisters in this House to be open about this thing. Let us not just oppose it because it is “a woman-man thing”. By the way, may all women, particularly all the leaders we have here, do better than we are already doing! This is so that this thinking that the number of women will not be of any importance is not there. You are doing very good work, but work even harder, so that the society can also increase your numbers as we think progressively.

With those serious considerations I support. If I offended any sister of mine, I apologise. I was talking about their mindset and not mine. I am very progressive.

**Hon. Deputy Speaker:** Let us have Hon. Alice Wahome.

**Hon. (Ms.) Wahome:** Thank you, Hon. Deputy Speaker, for giving me this opportunity to speak to this amendment. At the outset, I agree with my sisters that we oppose this amendment.

*(Hon. Kajwang’ and Hon. Kaluma walked out of the Chamber)*

The two Hon. Members walking out now have been a problem in this House when it comes to matters gender. We are being told about progression and there is a Supreme Court decision that talks about progressive application. The Kenyan society spoke when we passed the Constitution of the Republic of Kenya in 2010. Within that Constitution, the country captured in Articles 27, 81 and 100 the case of marginalisation, affirmative action and marginalised groups. To date, we have done nothing as the National Assembly to bring legislative mechanisms to support those provisions.

It is appalling and regrettable that four-and-a-half years will end and this Parliament continues, through some of our colleagues here, to joke about a serious matter like this one. It is a coup against the Kenyan Constitution for this Parliament to fail to legislate and support it. We even had timeframes within which this House was supposed to come up with legislation. Why does it become an issue only when the question of gender is spoken about? If the question of gender was in reference to men--- I think we made a mistake. We ought to have said two-thirds

women or men. This is because gender has been confused. It is true and I believe that we meant women.

It is women who are not in the Kenyan decision-making tables. Look at all these seats. I want to commend my brother who is still here because I have seen his stand and support regularly. I am sure he is here to oppose this particular amendment that is being brought. Hon. Chepkong'a who has left this House and is the owner of this Bill should not deceive this House that this was a Committee Bill. That is because Hon. Priscilla Nyokabi, as the Vice-Chair and other Members of the Committee have said that they never agreed in the Committee. We negotiated and discussed with Hon. Chepkong'a and, without any fear of contradiction, agreed that he will be withdrawing his Bill in favour of 'Duale Two'.

He undertook to withdraw this retrogressive Bill. The word 'progressive' does not apply in this document. He agreed and at no time did we agree that he will come back after the loss of 'Duale Two'. It is the backyard and underhand dealings that have brought this country to where it is. I am willing to be cited for contempt that the Supreme Court was wrong on this question. When it talked about progressive application of Article 27, where did those words come from because they cannot be found in Articles 27, 81 or 100?

Let him know that, at that time, the country was at a standstill. The women of this country went to the Supreme Court and stopped it because its constitution then and today is unconstitutional. It should not have any authority to determine constitutional matters at any level if there are no three women sitting in it. They are now recruiting. We do not want to see another male judge in the Supreme Court. This is because the women of Kenya will actually go back and stop it at a very critical time of our year or term of this Parliament.

Parliament is a let-down in respect of this particular case. We have tried and held discussions. When I see Hon. Kaluma, Hon. T.J. Kajwang' and Hon. Jakoyo, I see very far in terms of political hypocrisy in this matter. When I see Hon. Chepkong'a and Hon. Duale saying this Bill is good, I see very far. I believe the political heavyweights in this country across the board are not behind the two-thirds gender principle. If they were, we would not be here allowing a Chair of a very serious Committee to come back with this particular amendment.

Let us not negotiate this principle by asking if we should have 10 or 30 women. Article 27 of the Constitution does not have those numbers, but it talks about two-thirds. Mathematics or scientific calculation of two-thirds has figures and a formula, and that is what we have been refusing to come up with because of failure of political goodwill. It is only when it comes to women that we talk about numbers and that the House will be very big. Why did we add the constituencies from 210 to 290? Why do we have 47 governors plundering the economy of the whole country? Why can we not speak and say the resources going there can be managed by only 7, 8 or 16 governors, so that we can speak to the question of saving?

Why can we not reduce or remove the Principal Secretaries (PSs) and leave the Cabinet Secretaries (CSs) as the Accounting Officers because when we come to accountability, there is confusion as to who should be held accountable? You know the PSs and CSs take us round. These are places where we should look for saving. Why can this House and Hon. Members not speak of reducing their salaries instead of saying more women will mean--- They are confusing and creating incitement by saying that the 47 women have not done this or that. That is incitement of the country against women and this country cannot survive without women. Many of the Hon. Members in this House have said they have more than one woman in their houses and bedrooms. So, it is not possible for them to say that the women are many when we know in

their houses they move from one to another. How come the women are many when it comes to this House?

I beg to oppose this---

**Hon. (Ms.) Odhiambo-Mabona:** On a point of information.

**Hon. Deputy Speaker:** Hon. Alice, do you want to be informed?

**Hon. (Ms.) Wahome:** Yes.

**Hon. Deputy Speaker:** Just try using your microphone to see if it is working.

**Hon. (Ms.) Odhiambo-Mabona:** On a point of information, Hon. Deputy Speaker. I wish to inform Hon. Alice and the Kenyans who are watching this as we speak, I have just received a text message that Justice Lenaola, who is my former classmate and whom I have nothing personal against, has been nominated to the Supreme Court. So, we can see what progression is. We will wait for donkey years for progression.

**Hon. (Ms.) Wahome:** Thank you, Hon. Millie for that information because I had just said "I hope". The Judiciary has messed this country regularly. This morning, the Deputy Chief Justice nominee said that she hopes we will have a woman. If the Judiciary had expressed itself properly, we would be relying on judicial authority and not hope because the Judicial Service Commission (JSC) has failed Kenyans once again. Therefore, let us have this amendment thrown out so that Kenyan women will not rely on anybody's goodwill, but the Constitution of this country.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Christine Ombaka. I think you should try your microphone. It is already on.

*(Hon. (Ms.) Ombaka moved to the Dispatch Box)*

**An hon. Member:** You cannot cross the Floor of the House.

**Hon. Deputy Speaker:** She can with the problem we have now. Apparently, they are working but, just use it now that you are at the Dispatch Box.

**Hon. (Ms.) Ombaka:** It is not working but thank you, Hon. Deputy Speaker, for giving me this opportunity.

Like fellow women here, I would like to oppose this. But I want to highlight a few things. First, let me congratulate the men in this House who have been behind women. There are quite a number of men who are with us. I also want to congratulate my party leader who was here when we were voting on this Bill.

Many Members have highlighted the fact that this Bill is not going to help women. There is this catchword that is being used in the Bill. It is "progressive". It looks positive because something that is progressive moves on and improves your life but, this "progressive" thing we have in this Bill is a bit on the blind side because you cannot identify how "progressive" is going to be measured. We do not see how we are going to come up with indicators of "progress" for women.

If we are going to use the word "progressive", we must put certain things in place to ensure that progress is actually taking place. We need indicators. We need a formula that will work it out in such a way that the two-thirds gender rule is realised. Indicators must be there to tell us that on a specific year, the following women were added onto the number of women who are in Parliament. It should also indicate for the next year and so on and so on. So, we can see the numbers increasing day by day, year by year or whatever period that is there. Indicators are

critical if we are going to use the word “progressive” because we want to see the way it is progressing step by step. We are also going to look at how it is progressing.

What are the strategies you use to make progress? That is all missing. There is no strategy. There are no indicators. It is a blind game. It does not add value. It does not show improvement in the number of women. So, we need to rephrase. We need to come up with certain things that will convince us that women are actually improving and the number is increasing at a particular stage.

On the positions of Women Representatives - the 47 positions - first of all, I want to thank you, Hon. Millie, for the many things you have done for women. If you were there as it has been said and you have also said that the posts of Women Representatives were created at your time, that is a wonderful thing. But I want to say that even though it is an improvement over and above what was there before, those women still need to be appreciated. It has added the numbers of women in Parliament right now. When we are going to begin to see the number of women, we have a head-start. We will start at 47 and above. It is a good Bill for women to be here, but it is also important that it is not just the number we want. We also need a good attitude towards the women we have here.

We have suffered as women in Parliament in these positions because people call us flower girls. We are not flower girls. I do not think I am one. I will never be one because I am above being a baby or a little girl who carries flowers. These 47 women work extremely hard. We have worked extremely hard and yet, there is a negative attitude that we are not relevant; we are not performing; we are a waste of time and, therefore, a waste of resources for this country.

If 47 women are already being accused that much, how many more will be accused if we add the number to this? That is why I would wish that Women Representatives are respected. They must be seen in a positive light because we are going to add more women in Parliament, over and above the 47 and onto the 16 and we need more.

So, I just want to prepare ourselves to the fact that the more we add women in Parliament, the more we see negativity in the role women play. We need to reverse that. So, it is my appreciation that women have come a long way and that we still have more women to add. Those who are scared of women do not realise that even the two-thirds as a formula does not make us equal. We are talking about men and women coming to Bunge on equal terms but, when you are working on that formula of two-thirds, one gender will be the two-thirds. Another will be one-third. There is still that imbalance. We are not asking for 50 per cent. We are aware that it is extremely difficult to achieve that right away. So, we are comfortable with the two-thirds gender rule that should be applied but, at the back of our minds, we are aware that it is not equal still. It is two-thirds on one side and one-third on the other.

I would like to conclude by telling the men that time is coming when women will be more than men. The men will also want this new Bill. They will want to increase their number. I do not know why they are afraid. They walk out. They do not want to listen so that they can also position themselves in this House. The Bill will address both genders. As I see, the men have walked out as though the Bill is so bad and they will never benefit from it. I think they have a lot to benefit if we are here in the House on equal terms but, the two-thirds gender rule is a good Bill that we must push. The men must be there to listen to it and also to begin to position themselves should the women be more than them. Where will they be? They need to be here to fight it also for themselves and we shall support them.

That is my conclusion. I do not support this Bill until we come up with a formula that is going to address the issues that we are raising; and the very fact of how many we need in this

House. How many more women do we need? Where is the formula to be used? What are the indicators and what is the strategy?

Thank you, Hon. Deputy Speaker. I do not support, like everybody else.

*(Applause)*

**Hon. Deputy Speaker:** Members, that should be the last one to come to the Dispatch Box. We will try to use our own microphones.

**Hon. Members:** They are not working.

**Hon. Deputy Speaker:** Okay. Let us just try it first. Do not say they are not working.

Hon. Cecily Mbarire?

**Hon. (Ms.) Mbarire:** Thank you, Hon. Deputy Speaker, for giving me this opportunity to stand and join my colleagues in opposing this Bill. I want to put it on record that this is the most retrogressive legislative proposal I have seen being brought to this Floor. It says nothing. It simply tries to hoodwink the women of Kenya to believe that there is anything being done about that right that was enshrined in the Constitution.

Let me say this: I am really disappointed with the Chairman of the Departmental Committee on Justice and Legal Affairs, Hon. Chepkong'a. The reason I am disappointed with him is that, as Hon. Alice Wahome stated when she spoke, we had a very candid an open conversation around the two-thirds gender rule and the Bills that had been brought on this Floor. After the Duale Bill was shown the door, we had a conversation with the Chairman, Hon. Chepkong'a. He accepted that there was need to bring a new Bill, but with clear timelines, clear numbers and a clear formula of how to get there.

That he can now sneak back the very same Bill that we vehemently opposed, a Bill we sat down with him and the Leader of the Majority Party to say no to, is to show that the voices of women count for nothing on this Floor.

It is unfortunate that he has left this House without listening to our voices once again. The question is: Who is he working for, if not for himself?

*(Applause)*

Who is directing him to bring Bills that the women of Kenya have said no to? The women Members of Parliament (MPs) in this House speak for the women of this country. We have had serious consultations with the civil society. We have met women at the grassroots level, held workshops with women, meetings with women and they have said what they want. The Constitution is very clear. That, he now comes back here and ignores those voices is bad.

Hon. Deputy Speaker, it worries me that we should have such kind of games being played on a very important issue that is clearly enshrined in the Constitution. As the women of this country and as women leaders who have the privilege to sit in this House, we must come out strongly against this. We must say no to people playing games with matters this important. I have listened to the male speakers who have spoken before me and tried to belittle the role of women Members of Parliament inside here. Hon. Midiwo talked about people getting "free things". I have been a nominated Member of Parliament in this House. The Hon. Millie Odhiambo and others have been nominated in this House. We did not get those seats for free; we worked for them through our political parties.

*(Applause)*

We campaigned for our candidates and parties and found ourselves here. To show you how important it is to get that affirmative seat, we moved on. We have been able to go on, run for seats and come back to this House. Therefore, let nobody belittle affirmative action. Had I not gotten that one opportunity to be here for five years as a nominated Member of Parliament, I would not be seeking the seat of the governor of Embu County. It is because I got a chance where my capacity grew. Like Hon. Soipan has said, that is what we want to offer the women of this country because the playing ground is not level between men and women in the political arena in this country. So, I wish to state that, as women Members of Parliament in this House, we shall oppose this Bill and we will demand that the right thing is done. We also need to be consulted before any Bill comes before this House. We shall go to the courts to stop the next Parliament from sitting until this issue is heard and truly implemented.

Hon. Temporary Deputy Speaker, time has come when we cannot keep making noise all the time about issues that are constitutional and that were passed. Some of the people opposing them were on the frontline telling Kenyans to pass this law because it is good for women and that the Constitution is the most progressive for the women of this country. But when it comes to implementing those provisions within the Constitution, it is always a fight. We need to be heard loud and clear. It is unfortunate that the proposed judge of the Supreme Court is of the male gender. That means at the Supreme Court level, we have also failed the two-thirds gender rule that is the Constitution. More than ever before, the women of this country ought to speak very loudly and make it very clear that we cannot go for anything short of what is provided for in the Constitution. I want to urge all the women Members of Parliament and the male colleagues that supported us on the two-thirds gender rule of Hon. Duale to, please, ensure that we send this retrogressive law out through the door. Time has come when we must speak in one voice.

I urge our male colleagues that we are not seeking for favours. It is not a privilege to pass that which is in the Constitution, but it is a right. You cannot speak here and say: "Hon. Cecily Mbarire, from now on you are a man", if I do not go through the necessary surgical processes that will make me a man. That is what this law is doing. This law is saying that we shall provide the two-thirds gender rule progressively without stating how it will be done. We must be very clear on the numbers, timeframes and the formula that we shall use. We are willing to negotiate. There must be some goodwill by providing the numbers and how they will be achieved over a certain period of time. I want to encourage the women Members of Parliament and the male colleagues that have been supporting this process that, indeed, it has never been easy to pass these things. If you look at the battle that has been fought by those that were before us like Hon. Phoebe Asiyo and others, it was never easy. We should not give up. We must keep our eyes on the ball, but we must not allow retrogressive laws that will take the women movement backwards to be passed on this Floor.

With those many remarks, I wish to vehemently oppose this legislative proposal.

**Hon. Deputy Speaker:** Hon. Chachu Ganya.

**Hon. Ganya:** Thank you, Hon. Deputy Speaker. From the outset, I want to support the Constitution of Kenya (Amendment) (No.3) Bill No. 18 of 2015. I appreciate that our Constitution provides for the gender equity rule. It provides for two-thirds gender equity in our Parliament. As Kenya National Assembly, we have made efforts to realise gender equity. You recall we had two Hon. Duale Bills. Thanks to our Speaker, we voted twice so that we can realise



the two-thirds threshold required to pass a Constitution (Amendment) Bill in the National Assembly.

One way or the other, a decision had to be made. That day, a decision was made although it was in the negative. Our Constitution did not anticipate our Parliament to be a rubber-stamp Parliament. At the end of the day, a decision had to be made and it has been made. Our Constitution provides for many rights in the Bill of Rights. Have we realised all those rights five years down the road? I do not think so. This Constitution provides for adequate shelter, clean environment and access to clean water for every Kenyan. In some quarters like in the minority communities, the right to the Equalisation Fund, which even after we have passed a Constitution of Kenya (Amendment) Bill in this Parliament, are yet to realize those funds five years later. I am talking specifically about the Equalisation Fund.

It would be unfair for us to argue that all is lost. I served in the Tenth Parliament and we know how many women were in this House. Today, we have 47 gracious ladies from our 47 counties and 16 others elected in our National Assembly and equally, a good number in the Senate, although most of them are nominated. In our county assemblies today, the two-thirds gender rule has been realised. In my county, not a single woman was elected. But all the nominations, except for one or two, went to women. Today, we have two-thirds gender equity in our county assemblies all over the country. That is a realization of that gain. Equally, the numbers in this Parliament are by far better than what we observed in the Tenth Parliament.

Having said that, it is true we are yet to realise the two-thirds gender rule. The Supreme Court advised that this can only be realised through a progressive formula. This Bill provides for us to come up with legislation that will enable us to realise this in the long term. I agree with my women colleagues that we must have a concrete timeframe within the laws that we are going to make here, to ensure that this is not in vain. I am sure the word 'progressive' means something. Once we are ready to do the actual legislation to realise what we are amending today in our Constitution, I am very sure very clear timeframes will be provided for because that is what the Constitution demands and it must be done. That must be done because that is not a wish of anybody here. It is actually the right thing to do and we must do it.

I beg my colleagues, especially the female gender, to also be realistic. This country must move on at the end of the day. We have fought this battle. I have voted with them. I will still vote with them when it comes to the actual Bill, but not on this one. The country has to move on. I will not allow some civil society groups to go to court and disband the National Assembly of this country. There is so much that will be at stake, and that cost will by far outweigh the benefit we will realize from going on with this Bill and having this Parliament disbanded when we are in the wee hours of the Eleventh Parliament.

The journey has started. I am very sure we have not realized what we wanted. I am sure my colleagues have really fought a hard battle and they have been hurt. This is a very sensitive political issue, even for our leaders in this country and in the campaigns. I am sure they are listening. We are all listening. I am sure we will realize what we need because a decision has been made. This is not a rubber-stamp Parliament. One way or another, a decision has been made. We voted with you; we stood with you. But I am sure we will still cross that bridge when the right time comes.

I support this Bill, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Rachel Ameso.

**Hon. (Ms.) Amolo:** Ahsante sana Naibu Spika. Nasimama kupinga Mswada huu kwa sababu unaelezea mwendo wa pole pole. Mwendo wa pole pole ni mwendo wa yule mzee kobe

ambaye tumekuwa tukisoma tukiwa katika shule za chekechea. Kweli ndugu zetu Wabunge wa kiume wangukuwa na nia ya kutusaidia ili idadi ya akina mama iongezeke katika Bunge letu la kitaifa, wangetupatia namna ya kufanya hiyo hesabu ili tuweze kujua moja ukiongeza moja utapata mbili. Lakini hapa hawajatuielezea lolote.

Inamaanisha kwamba hili neno “pole pole” ama vile wameliweka katika lugha ya Kimombo ‘progressive’ ni njia moja ambayo hakuna lolote litatendeka hata kesho kutwa. Kwa hivyo, ingekuwa vizuri sana watueleze ni muda gani ama masaa mangapi ambayo hili neno “pole pole” litaanza kufanya kazi. Lakini sasa, hili ni neno tu lililowekwa pale.

Tunataka kuwaambia akina mama katika nchi yetu ya Kenya kwamba tunataka kuwakumbusha ndugu zetu kuwa tumeenda shule, tumesoma na tunaolewa Kimombo. Kwa hivyo, hawawezi kutubabaisha na maneno kama hili neno ‘progressive.’ Tunalielewa kwa sababu tumeenda shule kama wao, tuna akili kama wao na, hata hapa, tunachangia vile wao wanachangia.

Nataka kushukuru sana ile nafasi sisi akina mama tumepewa kufika katika Bunge hili letu. Tumejifunza mambo mengi tangu tuje. Hiyo miaka minne ambayo imepita, tumejifunza mengi. Sasa tuna namna vile tunaweza kumenyana na hawa ndugu zetu ikifika wakati wa kura pale maeneo ya uwakilishi Bungeni.

Nataka kumhakikishia dadangu Mhe. Millie kutoka kule Mbita kwamba tunajua ni yeye tu ndiye Mbunge mwanamke ambaye amechaguliwa katika Bunge hili kwa chama chetu cha ODM. Sisi tunamhakikishia ya kwamba 2017 tutakuwa wengi hapa Bungeni kwa sababu tumepewa zile nguvu ambazo tunahitaji; tumefunzwa na pia tumejifunza wakati huu ambao tumekuwa hapa Bungeni.

Nataka kuwaambia akina mama wote katika nchi hii yetu ya Kenya kwamba, sisi tumejifunza, tumeona dalili ya hili Bunge leo. Unaweza kuhesabu ni wanaume wangapi wako hapa. Leo hii wametuaachia Bunge ili tuongee mambo ya akina mama. Tukizungumza mambo ya jinsia au ‘gender’ haimaanishi ni wanawake peke yao. Jinsia ni wanawake au wanaume.

Kwa hivyo, nataka kuwaambia akina mama wa Kenya: Tafadhalini leo hii tunaoleka katika msimu wa kupiga kura. Tafadhali mkiona mama yeyote amejitokeza kusimama, huyo ndiye ningewaomba mmpigie kura ili tuweze kuangalia namna ya kuongezea namba za wanawake katika Bunge letu. Tunataka kuona magavana na maseneta wanawake wakichaguliwa. Tunataka kuona idadi ya Wabunge wanawake ikiongezeka.

Nimepewa nguvu, najiweza na niko tayari kuingia katika eneo langu la Kakamega Kaunti. Nikiwa mzaliwa wa Khwisero, nitaenda kung’ang’ania kiti cha Ubunge pale Khwisero ili nimpatie mama mwingine nafasi kufika hapa Bungeni kuongezea ile namba ya wanawake.

*(Applause)*

Kwa hivyo, nawaambia akina mama pale nje: Tafadhalini, mwaunge mkono wale ambao tunawahitaji ili kuongezeka hapa Bungeni.

Ukiangalia Wabunge akina mama ambao wamechaguliwa katika kaunti, kwa kweli, lilikuwa jambo gumu kabisa. Lakini ukiangalia utendakazi wao, wamefanya kazi kwa njia inayofaa kabisa. Ningewahimiza wale ambao wanaweza kung’ang’ania vile viti vya Ubunge, tafadhalini tokeni ili tuwapatie akina mama wengine nafasi kumenyana wapate viti hivyo.

Leo hii, nafurahia sana kwa sababu wakati Rais Obama wa Marekani alikuja hapa, alisema jambo moja: Timu haiwezi kuwa timu kama haitachukua vijana na wanawake katika nchi. Haiwezi kuwa timu ya wanaume pekee ndio itacheza mpira. Kwa hivyo, tunahimiza

kwamba lazima hapa tuwe timu moja. Tuwe na vijana na akina mama ambao watacheza mpira pale kiwanjani. Na mpira unapochezwa, hakuna timu itakuwa na wachezaji 11 na wengine watano. Ikiwa timu zinachezeshwa watu 11, timu moja itakuwa na wachezaji 11 na ile timu nyingine pia itakuwa na 11. Sisi hatuulizi 11 kwa 11. Tunauliza tu kiasi ili akina mama waongezeke katika Bunge letu la Kenya.

Leo hii ni jambo la ajabu sana kwa sababu siku zote tunapata Bunge limejaa ndugu zetu wanaume. Lakini leo akina mama, naliangalia Bunge na naomba Mwenyezi Mungu ahakikishe kwamba hapo mwaka wa 2017, viti hivi ambavyo viko wazi vijazwe na akina mama. Hii ni nafasi ambayo tunaona kwa kweli tukiwachiwa nafasi, tunaweza kufanya hii kazi. Ndio sababu ndugu zetu wametoka nje. Lakini sisi tunawaambia hivi vipasa sauti tunaweza kuvitumia vilivyo na nchi hii yetu ya Kenya bado itaendelea mbele. Kwa hivyo, nasema hii nafasi ni yetu na tukiendelea kuitumia, tutaweza kuongezeka ikifika mwaka wa 2017. Nawambia akina mama kule nje wampigie mama yeyote atakayesimama kuomba kura.

**Hon. Deputy Speaker:** Hon. Ameso, there is a point of order by Hon. Savula. Give him a chance.

**Hon. Angatia:** Is she in order to insinuate that ---

**Hon. Deputy Speaker:** Who is she?

**Hon. Angatia:** Is the Member for Kakamega County in order to insinuate that the House right now consists of only Members of the feminine gender and yet, you can see that five of us here are male?

**Hon. Deputy Speaker:** Are you in order, Hon. Ameso?

**Hon. (Ms.) Amollo:** Ahsante sana, Mhe. Naibu Spika. Mhe. Savula ni Mbunge kutoka Kakamega Kaunti ninayemheshimu sana. Kama angeweza kunisikiliza vizuri, nimesema kwamba nawashukuru sana wale ambao wamebaki Bungeni kuunga Mswada huu mkono ama kuupinga. Hivyo ndivyo nilivyonena kwa lugha ya Kiswahili. Ningependa kumjulisha kwamba sikusema kwamba yeye ni mwanaume ama mwanamke. Tunao ufahamu kuwa yeye ni Mbunge wa Lugari na kwamba, yeye ni mwanaume. Tunamjua yeye kama Mhe. Savula. Sikusema vile anavyodhania. Namshukuru sana kwa kuwa katika kikao hiki cha leo. Ninampongeza zaidi.

Naibu Spika, kwa hayo machache, ningependa akina mama wajitokeze. Wanaona vile tumebaki hapa wachache. Tunawaomba akina mama watuunge mkono tutakapojitokeza kule mashinani mwaka wa 2017.

Kwa hayo machache, naupinga Mswada huu.

**Hon. Deputy Speaker:** Member for Nyandarua County. We still seem to be having a problem with the microphones. Please, come to the Dispatch Box.

**Hon. (Ms.) Muhia:** Thank you, Hon. Deputy Speaker, for giving me this opportunity. Considering that my name is Wanjiku, I am contemplating changing it if, indeed, the Members of this House do not want to do what "Wanjiku" has sent them here to do.

I stand to oppose this Bill. I also ask every other Member who is here to oppose Hon. Chepkong's Bill. He seems to have a hidden agenda considering the timing. He has rushed to the House to tell us that things are going haywire. I am a beneficiary of affirmative action. I am an affirmative action seat holder as the Member for Nyandarua County. I come from Kipipiri Constituency. I come from the area where the immediate former Member of Parliament, Hon. Amos Kimunya, my current Member of Parliament, Hon. Gichigi and 10 other candidates contested. If I dared go for the Kipipiri seat, I could possibly not have got even 200 votes. I was born in Kinangop Constituency. There were over 15 candidates. If I ever attempted to go for that

seat, I would not have won it. To speak the truth, there were two ladies from Kinangop Constituency who contested for the seat. None of them got 1,000 votes.

Therefore, affirmative action comes with great opportunities for women and other affirmative action groups in this country. As a result, I have since gained confidence and strategic capacity. I can now stand in any of the constituencies and dare the other candidates. Because of affirmative action, I can now contest and come back to this House as a member of a constituency. It is very unfortunate for Hon. Jakoyo and other colleagues to compare women to roads. This is pure incitement of Kenyans. When Hon. Jakoyo stands here and says that we need roads, and not to increase the membership of this House, he should appreciate that we are not talking about increasing the membership of the House. There was a time when this House had 210 Members from 210 constituencies. When we increased the constituencies to 290, the issue of roads did not arise. It is always very important to realise that women are the majority in this country. They contribute immensely in terms of revenue generation. They contribute to nation building because they are the majority. There should be no reason for women issues not to come on board. As women, we have to negotiate. When there are other issues to be taken on board, we do not have to negotiate. We have to get rid of this perception. As Members of Parliament, we do not need to incite Kenyans by telling them that women want free parliamentary seats. We are saying clearly that the 47 women who came to this House as a result of affirmative action have built the capacity and can now go for other seats, be it gubernatorial or Cabinet Secretary.

The Bill that was previously brought here to address this matter failed because we missed 38 Members to vote for it. Could there have been a better way forward? Even if we speak until cows come home, at the end of the day, we need a solution. When we talk of “progressive”, we mean progressive of what? Are we going to wait for Jesus to come? Are we going to wait forever? The word “progressive” has no clear meaning. We are not speaking of any solution. We need a solution. We need to get rid of this cultural ideology because the time has come. We are in the 21<sup>st</sup> Century. We should get rid of the cultural ideology that women do not vote for one of their own. It is time we started distributing equitably the positions and opportunities that come along with these things.

We can also speak of reducing our salaries, if the size of Parliament is really big. This would be a better option, and not the first option. Some people are saying that this House is so big and, therefore, we need to do away with the 47 women representatives. According to them, we do not even need to think of the two-thirds gender rule because we will increase the numbers. As I finish, this House has a capacity. We have dealt with serious issues before. We have strategized and negotiated. We need a fair game for each gender. Today it is women; tomorrow it can be men. In order for us to be good Kenyans, we need to sit round a table, where no party should feel like the other party has taken the opportunity.

With those few remarks, I wish to oppose and oppose this Bill.

**Hon. Deputy Speaker:** Hon. Seneta.

**Hon. (Ms.) Seneta:** Thank you, Hon. Deputy Speaker, for giving me this chance to also contribute to this important Bill.

At the outset, I want to oppose. I want to tell Kenyans that this Bill is a public relations game that is being played. It has been brought to the House to show that Parliament is doing something about gender.

I oppose this Bill because it is withdrawing all the gains that we have made under the new constitutional dispensation. Kenyans fought for the new Constitution. Women stand to gain a lot from the new Constitution. Today is a very sad day for women. If we pass this Bill, we will

take them backwards. This Bill has some gimmick words like “progressive”, which means we can take even 10 years to comply with the two-third gender rule. It means we can have five women in five years or in 10 years. The word “progressive” means there is nothing that is restricted. It means we can as well not achieve the one-third gender. Therefore, I urge this House to sit again and do something serious to show that we need proper representation of women in this House.

Hon. Deputy Speaker, I urge our male colleagues to take women representation in the National Assembly and Senate very seriously. We need women representation. Women representation does not mean a budgetary implication. Every other time we talk of women representation here, people talk about budgetary implications. When counties employ over 1,000 staff and give them very big motor vehicles and huge allowances, this country does not complain about budgetary constraints. But when representation of women is talked about, it is always a struggle.

I remember very well when we were fighting for the Affirmative Action Fund for the County Women Representatives in this House, there was such a big battle over issues of budgetary implications. Whenever we talk about women issues here, we talk about budgetary implications. It is high time this House realised that women representation in the National Assembly, Senate and in the counties is equally very important as male representation.

I also urge women in this country that it is high time they woke up and competed for positions in the counties, National Assembly and the Senate so that, every other time, we do not beg and beg for laws that will favour us. I also urge our women, who are the majority voters in this country, that it is high time they elected women leaders and that it is high time they do themselves a favour by electing women to represent them in the National Assembly so that these kinds of laws that are being sneaked to the Floor of the House, when women are few and male colleagues are many, are not passed.

I oppose, oppose and oppose this Bill and urge my colleagues to also oppose it. Thank you, Hon. Deputy Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Hon. Nyikal.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Deputy Speaker. I have sat here very patiently listening to the debate. I start by saying that the issue of gender has been discussed for many years and it is always emotive. I sat because I have had an opportunity to work on this as my main job for three years. I have seen the value in discussing gender issues with concern, calmly and without emotions. The fact that there should be equality between the genders is no longer an issue to be discussed against or for. It is clear that really we need that equality for harmony in society. What has always bothered me is that when it comes, on both sides, you do not see calmness or facts being put across, but you see emotions that actually stop people from looking at the issues that are there.

What are the issues for the case that we have today? We have the issue of gender. I have talked about the issue of the Constitution. We have not really discussed in detail today the logistics of the size of the Houses that we require and we need to put into consideration. We also have the issue of a court case. We have been told that someone has gone to court to say that Parliament is not legal as it is and we have the issue of this Bill itself. We need to look at these issues individually and see where the matter lies.

Article 28 of the Constitution on equality is clear. I do not think anybody disputes that. Article 81 on the principles of the electoral system is also clear, and that is the Article we are seeking to amend today. The issue comes up in Article 97 mainly about the National Assembly, where we are talking about the membership in Parliament. Article 177 mirrors this in the county assemblies. In the county assemblies, what was done is a very simple issue of arithmetic: that after the election is over; you look at the number of women and nominate enough women to abide by the rule of one-third. We did not do that in Article 97. Instead, we sought to get a political solution for what is simply an arithmetic issue. If we go by the current Constitution under Article 97 and Article 177, the only problem that will arise is that we will end up having a large Parliament. We would have a maximum, if no woman was elected at all, of 444 Members of Parliament. We have never sat down to look at the economics of such a decision, what it means and why we do not want that. If more women are elected, the number will obviously be less than that.

We have sought to look at very complex ways of solving what is basically a mathematical problem. If for example, we were to reduce the numbers of Members and revert to the former state of 210 constituencies and then we apply Article 177, we will end up with a total of 324 Members of Parliament. This number includes the number of women we shall have elected to fill up the gap in order to attain the one-third gender rule. This is the way we should look at it. Even in the Duale Bill, that was the attempt that was made but again, we did not go about it very soberly. The substantive Speaker indicated clearly that there is a case in court that is questioning the legality of Parliament. We may take it for granted but politics, as it is, is very possible that some group there may actually want to disrupt the country. As Members of Parliament, we cannot discuss this matter without taking that into consideration. Somebody goes to court, and some judge says that Parliament is illegal. Where shall we be as a country? It is something we need to take it into consideration. We should not take it for granted.

The fourth issue is the Bill itself. Taking all those things that I have said into consideration, what is the issue with the Bill? One thing about this Bill is the way it has come into Parliament. The Members of the Committee tell us that this Bill was not agreed on at the Committee level. The second thing is that this Bill was brought abruptly. I would have expected, at least, the House Business Committee (HBC) to discuss it. I am afraid it did not.

The third thing about the Bill is that it is too simplistic. It does not address the issues at hand and it does not give confidence to our female colleagues that, if we decide to go the progressive way, the matter will be subjected to a legal process. I understand that in politics, there are difficulties in accepting the progressive method. Let us go the progressive way. Let us give it a chance to work out proper legislation that will take this into consideration. I, therefore, find it very difficult to support this Bill in those circumstances. It was not brought in good faith. Two, it is too simplistic.

*(Applause)*

Three, the only option we have - and I will appeal to our female colleagues - is that we have to find a way. I am told that a Constitution (Amendment) Bill cannot be amended, but I would have said that we take this Bill back, amend it and bring arithmetic calculations on what we agreed. Do we want to reduce the number of constituencies and then go by Article 177 of the Constitution and nominate enough women to get the two-thirds gender rule? That is the way to go. As it is, whichever way we go, and if we take the Bill as it is, it will create a lot of issues later

on that cannot be solved. The Committee should give us another Bill that is well thought-out that we can discuss.

Let me say this to my female colleagues: Since 2007, I have always said that when it is a matter of gender, it is not a war between men and women. We should look at the issues in society that give rise to this. If we now set it as a war and all my female colleagues are saying it is war and we are going to fight, we will take it that way. Does it take this country anywhere? As we tried before, we should get together and sit down. I have been at pains. Off-the-cuff, I would have said: Let us finish the matter of the women problem. I do not think that is the right solution for the country. We need to look at the correct way of solving this.

With regard to this matter, in 2012, a whole Cabinet Committee was put in place with four Ministers, Permanent Secretaries (PSs) and legal heads. It turned out that it was a mathematical problem which we have to agree on to either have a big Parliament or we change the Constitution. That is what we need to do. Therefore, we need a Bill that addresses all the issues so that we have an amicable solution. We should avoid the danger of allowing people to disrupt Parliament or arguing forever and not getting anywhere.

**Hon. Deputy Speaker:** Let us have Hon. Janet Nangabo.

**Hon. (Ms.) Wanyama:** Ahsante Mhe. Naibu Spika kwa kunipa nafasi hii nichangie mjadala huu wa jinsia ya kike. Nakubaliana na mnenaji, ndugu yangu Mheshimiwa aliyeongea kuhusu Mswada huu ulioletwa na Mwenyekiti wa Kamati ya Masuala ya Kisheria. Kama kiongozi katika Bunge hili, natumai wenzangu kule nje wananisikiliza ndiposa tuwaambie nini kinachoendelea.

Jumamosi iliyopita, nilikuwa Bungoma kwa hafla ya mazishi mahali fulani. Mama mmoja aliamka akasema kwamba wale akina mama ambao wako Bungeni hawataki kushughulikia masuala ya akina mama kule nje. Alisema kwamba tuwe na akina mama wengi ndiposa sauti zetu zisikilizwe katika Bunge. Niliwahakikishia wananchi kwamba viongozi ambao tuko Bungeni, haswa akina mama, tutahakikisha kwamba masuala ya akina mama ama jinsia ya jamii moja yatashughulikiwa.

Nimesikiliza wenzangu wakisema kwamba iwapo tutaongeza idadi ya akina mama katika Bunge, huenda Bajeti itakuwa juu na nchi yetu itagharabika sana. Wakati walipobuni Maeneo Bunge 290, hawakuangalia mambo ya bajeti. Lakini tukizingatia kuwa na akina mama katika Bunge, wanaongea kuhusu bajeti.

Ningependa kumshukuru Mhe. Millie Odhiambo kwa kusema kuwa akina mama pia wanafaa kuja Bungeni na, vile vile, kuwakilisha nchi yetu katika nyadhifa mbalimbali. Ningependa kuwashukuru kwa sababu walihakikisha kuwa tuna akina mama 47 katika Bunge hili. Tumeshikana na wale wenzetu ambao walichaguliwa - ukiwa mmoja wao - kuhakikisha kuwa tunapigania masuala ya akina mama nchini. Ningependa kumshukuru Mhe. Rais kwa kumpendekeza Waziri Amina Mohamed kwa Muungano wa Afrika. Tungependa kuwaambia ndugu zetu wa kiume kuwa iwapo wanasema kuwa masuala haya yatatusaidia sisi kama akina mama na viongozi, basi lazima wafikirie pia ndugu au dada zao ambao wanaweza kuwa kwenye nafasi kama hizi zetu.

Ningependa kumuunga mkono dadangu Nyokabi kuhusiana na suala la idadi ya wanawake katika Kamati zetu. Amesema kuwa Kamati yao ina wanawake watano tu, ilhali wanaume ni 25. Itakuwa vigumu sana kuzungumzia mambo ya jinsia moja katika Kamati zetu. Ningependa kumwambia Naibu Spika kwamba aende apigania kiti cha ugavana katika eneo la Bomet. Ningependa pia kuwaambia Millie Odhiambo na Rachel Shebesh kuwa wasiogope kutafuta viti vya kisiasa kwa sababu tutawaambia akina mama wawachague.

Tumelezwa kuwa kuna mtu ambaye alienda mahakama kutaka kujua kwa nini tumechelewa kutekeleza Katiba hii. Nimeshangaa sana kusikia wenzetu wakisema kuwa Katiba hii ni mbaya kwa asilimia 20. Kwa nini waliipitisha Katiba hiyo na makosa hayo bila kuangalia uongozi wa wanawake?

Wanawake lazima wawe na nyadhifa mbalimbali katika nchi yetu. Ni lazima tuwatendee haki akina mama ambao ni viongozi nchini. Katika eneo langu, akina mama ambao ni viongozi ni wachache sana. Nilikuwa diwani, lakini sikubaki hapo kwa sababu nilihakikisha kuwa nimepigania kiti na nikachaguliwa kama mwakilishi wa akina mama katika kaunti. Tusilale bali tuhakikishe kuwa masuala yetu yanatekelezwa. Tukiwa kule nje, tunaweza kueleza wenzetu kuwa masuala yao yanawakilishwa vizuri hapa Bungeni.

Napinga Mswada huu.

**Hon. Deputy Speaker:** Hon. (Ms.) Birdi.

**Hon. (Ms.) Sunjeev:** Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute. I oppose this Bill. I respect Hon. Chepkong'a, and I would have respected him more if he sat with us from the beginning of this Bill to the end to see what each Member of Parliament has to say about it.

I would like to present myself as a case. It is a very interesting case. Who would have thought that in the history of Kenya, there would be a Member of Parliament who would represent the interest of minority groups and happens to be an Indian and a woman at that? It would have been a dream, but it was made possible by affirmative action. Members of Parliament worked very hard to get this Constitution, like Hon. Millie, who is sitting here right now. Their work enabled people like me to be in Parliament today.

**Hon. Deputy Speaker:** Hon. Birdi, you will have a balance of nine minutes when debate on this Bill resumes.

## ADJOURNMENT

**Hon. Deputy Speaker:** Hon. Members, it is time to adjourn the House. The time being 6.30 p.m., the House stands adjourned until tomorrow Wednesday, 26<sup>th</sup> October 2016, at 9.30 a.m.

The House rose at 6.30 p.m.