

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****Thursday, 25<sup>th</sup> March 2021**

The House met at 10.00 a.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]***PRAYERS**

**Hon. Deputy Speaker:** Order, Hon. Members. We are slightly short of the required quorum. Therefore, I order the Quorum Bell to be rung for ten minutes.

*(The Quorum Bell was rung)*

**Hon. Deputy Speaker:** Order Members. Please, take your seats now. We want to start business. We have the required quorum.

**ORDINARY QUESTIONS**

**Hon. Deputy Speaker:** This seems to be the more active Order of this morning. So, let us start with the Ordinary Questions. We will start with the Member for Nakuru Town East, Hon. Gikaria.

*Question No.031/2021***STATUS OF IMPLEMENTATION OF REPORT ON  
ALLEGED CORRUPTION AT EGERTON UNIVERSITY**

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary Ministry for Education the following Question:

- (i) What is the status of implementation of the recommendations contained in the Report of the Inspectorate of State Corporations of March 2020, regarding alleged corruption and abuse of office by the former Vice-Chancellor of Egerton University, Prof. Rose Mwonya, and the Management of the University?
- (ii) Could the Cabinet Secretary explain why the University Council allowed the Registrar in charge of Academic Affairs, who was on compulsory leave following the adverse findings of the Inspector of State Corporations, to resume duties?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Question will be replied to before the Departmental Committee on Education and Research.

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As we go the next Question, it is important for me to point out that Question No.038/2021 by Hon. Mwadime, Question No.106/2021 by Hon. Waruguru and Question No.109 by Hon. Lomorukai are all deferred on their request, having satisfied myself that the requests are reasonable. So, we will ignore them as we arrive there and consider them deferred.

*Questions No.038/2021*

SCHEDULED EXPRESS PASSENGER TRAIN STOPS

*(Question deferred)*

*Question No.106/2021*

COVID-19 TESTING

*(Question deferred)*

*Question No.109/2021*

STOCKING FOOD RELIEF

*(Question deferred)*

So, I skip that one and go to the Member for Trans Nzoia County, Hon. Janet Nangabo, who has requested in writing that Hon. David ole Sankok, for whatever reason, is going to ask the Question on her behalf.

*Question No.045/2021*

STATUS OF IMPLEMENTATION OF UHC IN TRANS NZOIA COUNTY

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, on behalf of the Member for Trans Nzoia County, Hon. Janet Nangabo Wanyama, of the famous phrase *utamu*, I beg to ask the Cabinet Secretary for Health the following Question:

- (i) What is the status of implementation of the Universal Health Care (UHC) Programme in Trans Nzoia County?
- (ii) What measures is the Ministry putting in place to ensure that appropriate criteria is established and adhered to in identifying the vulnerable, the poor and disadvantaged members of the society, particularly the disabled and women who are intended to benefit from the Universal Health Care Programme?

**Hon. Deputy Speaker:** Very well. That will be replied to before the Departmental Committee on Health. Now let us go to the Member for Sigowet/Soin Constituency, Hon. Koros.

*Question No. 060/2021*

## STATUS OF SOIN IRRIGATION PROJECT

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Agriculture, Livestock and Fisheries the following Question:

- (i) Could the Cabinet Secretary explain the status of Soin Irrigation Project Contract No.NIB/T080/2015-2016 in Chebululu area of Kapkormom in Sigowet/Soin Constituency?
- (ii) How much money has been allocated for the said project since its inception in the year 2015/2016, what amount of money has been utilized to date and what is the planned completion date for the project?
- (iii) Could the Cabinet Secretary explain why the contractor has been unable to complete the project in view of the fact that there has been no notable progress on the project since it was initiated six years ago?

**Hon. Deputy Speaker:** That one will be replied to before the Departmental Committee on Agriculture and Livestock. Next is the Member for Homa Bay Town Constituency, Hon. Kaluma.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Speaker, let me have just one second to get this. We are now digital.

**Hon. Deputy Speaker:** Well. You do not seem to be in the right GB.

*(Laughter)*

**Hon. Peter Kaluma** (Homa Bay Town, ODM): My leader was contacting me on some small thing, but not on slay queens.

**Hon. Deputy Speaker:** You know there are some terms that should not go on record at all. You already have the microphone. Can I allow you a minute or more so that you can do it happily, by giving the chance to another Member? Unless you want to use the harder one, the one which I am sure you are more used to.

*Question No. 094/2021*

## BALANCE IN RECRUITMENT INTO PUBLIC SERVICE

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Speaker, I am already there. I am asking the Cabinet Secretary for Interior and Coordination of the National Government the following Question:

- (i) Could the Cabinet Secretary provide statistics and names of persons who hail from Homa Bay Town Sub County who have been recruited into the Public Service to serve as Assistant County Commissioners or Deputy County Commissioners in the last ten years?
- (ii) What plans has the Government put in place to ensure that recruitment of Assistant County Commissioners or Deputy County Commissioners reflects fairness, regional balance, equality and gender as envisioned by the Constitution?

I am raising this Question because we have not seen a person called an Assistant County Commissioner or a Deputy County Commissioner in the larger Homa Bay region.

**Hon. Deputy Speaker:** Order, Hon. Kaluma. You will have a whole day at the Committee to raise all those pertinent issues. So, we can as well ask you to be patient. The Question will be replied to before the Departmental Committee on Administration and National Security.

Let us go to the Member for Ndhiwa.

**Hon. Ali Guyo** (Garsen, JP): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Just a minute. What is out of order, Hon. Guyo Wario? What is it?

**Hon. Ali Guyo** (Garsen, JP): Thank you, Hon. Deputy Speaker. My point of order is that you directed the Question by Hon. Koros to the Departmental Committee on Agriculture and Livestock while the National Irrigation Board (NIB) is under the Ministry of Water, Sanitation and Irrigation. So, I think it is the Departmental Committee on Environment and Natural Resources.

**Hon. Deputy Speaker:** You see, there has been a lot of shifting among the departments in the Ministry. Allow me a few minutes to consult fully. Actually, you have raised a fairly pertinent issue. The NIB was shifted to the Ministry of Environment and Forestry. So, Hon. Koros, would you be comfortable with that? I do not think it is about your comfort. It is about the place where it can be answered better. Do you have an issue with it, Hon. Koros? That is a fairly clear issue.

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): Yes, Hon. Deputy Speaker. I have no problem. I had previously asked the same Question and it was taken to the wrong Ministry.

**Hon. Deputy Speaker:** Where had it been taken?

**Hon. Kipsengeret Koros** (Sigowet/Soin, Independent): It was taken to the Ministry of Environment and Forestry. At that time, the NIB was under the Ministry of Agriculture. I think there have been a lot of problems. The way you have said, there have been a lot of problems with those institutions.

**Hon. Deputy Speaker:** Absolutely, but it is in the public domain that the NIB is now under the Ministry of Environment and Forestry. Let us send it to the right Committee – the Committee on Environment and Natural Resources. Member for Ndhiwa.

*Question No. 101/2021*

STATUS OF ROADS UNDER CONSTRUCTION IN HOMA BAY COUNTY

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (i) Could the Cabinet Secretary provide the progress of construction, including the scope of works being done on the Rodi-Kopany-Ndhiwa (C672) and Ndhiwa Centre-Sori Roads?
- (ii) Could the Cabinet Secretary explain the criteria that were used to split the construction and scope of works into two contracts, how the two firms undertaking the works were awarded the contracts and provide the identity of the said firms?
- (iii) Very importantly, could the Cabinet Secretary further state the number of local residents currently benefiting from the project, including those who are employed as skilled and non-skilled workers, and state how much they are being paid?

The Rodi-Kopany-Sori Road has been a cash cow. This time it will not happen. That is why I am asking this Question.

*(Applause)*

**Hon. Deputy Speaker:** Order, Member for Ndhiwa. You escaped with “murder” when I was busy consulting on something here. Like I told the Hon. Member for Homa Bay, anything that you have can be canvassed properly in the right Committee. Therefore, I will have to tell you that this will be replied to before the Departmental Committee on Transport, Public Works and Housing. You will have sufficient time to prosecute your case.

Let us have the Member for Teso South, Hon. Omuse.

*Question No. 102/2021*

DEPLORABLE STATE OF MACHAKUSI-AMUKURA-NAMBALE ROAD

**Hon. Geoffrey Omuse** (Teso South, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (i) Could the Cabinet Secretary explain the plans in place to address the deplorable state of the Machakusi-Amukura-Nambale Road which serves parts of Busia, Bungoma and Kakamega and is crucial in supporting the agricultural and economic activities of those counties?
- (ii) When will the Ministry upgrade the road to bitumen standards?

**Hon. Deputy Speaker:** That Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. Let us have the Member for Mwingi Central, Architect Gideon Mulyungi.

*Question No. 103/2021*

IRREGULAR MOBILE TELEPHONE CONNECTIVITY IN MWINGI CENTRAL

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Information Communication Technology, Innovation and Youth Affairs the following Question: -

- (i) Could the Cabinet Secretary explain the policy measures used to identify areas to be provided with mobile telephony networks connectivity in the country?
- (ii) Could the Cabinet Secretary provide a list of areas that have mobile connectivity provided by the leading mobile telephony service providers, including the areas with such services in Mwingi Central Constituency since 2017 to date?
- (iii) Could the Cabinet Secretary confirm whether public participation was carried out in accordance with Article 46 of the Constitution in the identification of sites for construction of telephone service transmitters, indicating the total number of persons who attended and who presided over the event?
- (iv) What measures is the Ministry putting in place to ensure that all areas in Mwingi Central Constituency are connected with mobile telephony services by all the service providers in the country?

Thank you.

**Hon. Deputy Speaker:** Very well. That will be replied to before the Departmental Committee on Communication, Information and Innovation. Let us have the Member for Kinango, Hon. Tayari.

*Question No. 107/2021*

ILLEGAL QUARRY MINING IN MWACHE FOREST

**Hon. Benjamin Tayari** (Kinango, ODM): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 107/2021 directed to the Cabinet Secretary for Environment and Forestry.

- (i) Could the Cabinet Secretary explain how and who authorized quarry mining in Mwache Forest despite the fact that the forest is protected and gazetted?
- (ii) What plans are in place to ensure that urgent rehabilitation of destroyed sections of the forest is carried out?

I asked the same Question in the last session, but the Cabinet Secretary did not give a reply. So, this is the second time I am asking this Question.

**Hon. Deputy Speaker:** That is noted. The Question will be replied to before the Departmental Committee on Environment and Natural Resources. I can see that the Chairperson is not in neither is the Vice-Chairperson. Can we have a Member of the Committee? This is a question that has been asked twice. Hon. Wario, are you a member of that Committee? Kindly raise it with your Committee and make sure that this matter is taken seriously now that it is being asked for the second time? I am sure you can pass that information.

Next Question is by the Member for Westlands, Hon. Tim Wanyonyi.

*Question No. 108/2021*

LIST OF ALL PRIVATE DAMS EXISTING IN EVERY CONSTITUENCY

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Deputy Speaker. I beg to ask Question No. 108/2021. I asked this Question in the last Session and it was directed to the Cabinet Secretary for Environment and Forestry, but with the change of functions, it should be handled by the Cabinet Secretary for Water and Sanitation.

- (i) Could the Cabinet Secretary provide a list of all private dams existing in every constituency, indicating whether each of the dams currently conforms to structural safety standards, the effect of each dam on the surrounding environment and the risk mitigation mechanisms put in place by the respective dam proprietors, if any?
- (ii) Could the Cabinet Secretary provide a list of all industries in every constituency within a radius of 100 metres of residential areas and the waste disposal mechanisms and plans in place, if any?
- (iii) Could the Cabinet Secretary explain the policy measures in place to ensure existence of buffer zones between residential areas and approved industrial zones, and confirm whether regular inspections are undertaken to ensure compliance? Thank you.

**Hon. Deputy Speaker:** Hon. Tim, what did you say was the issue with this Question? I find it proper if it goes to the Departmental Committee on Environment and Natural Resources. Do you have an issue with that?

**Hon. Tim Wanyonyi** (Westlands, ODM): No, I do not have an issue with that.

**Hon. Deputy Speaker:** So, it will be replied to before the Departmental Committee on Environment and Natural Resources. Let us go to the last Question by the Member for Tharaka Nithi County, Hon. Beatrice Nyaga.

*Question No.126/2021*

PLANS TO EXPAND RAILWAY NETWORKS

**Hon. (Ms.) Beatrice Nyaga** (Tharaka Nithi CWR, JP): Thank you, Hon. Deputy Speaker. I rise to ask to ask Question No. 126/2021 directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary explain the plans the Ministry has to expand railway networks and connectivity in the country?
- (ii) When will the railway line be extended to Tharaka Nithi County to promote economic growth in the area, and if so, state the planned timelines for the project?

Thank you.

**Hon. Kathuri Murungi** (South Imenti, Independent): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it? Let me first refer the Question. What is it Hon. Murungi?

**Hon. Kathuri Murungi** (South Imenti, Independent): Thank you, Hon. Deputy Speaker for giving me this opportunity. I wanted to make a 30 seconds remark on the Question. They cannot mention Tharaka Nithi without mentioning Meru. I want to amend that Question to include Meru County. Because you cannot mention Tharaka Nithi without referring to Meru County.

*(Laughter)*

**Hon. Deputy Speaker:** You had an opportunity to ask your own Question. What is it Hon. Beatrice? Hon. Kathuri, you are out of order. Hon. Beatrice Nkatha will not refer to...

**Hon. (Ms.) Beatrice Nyaga** (Tharaka Nithi CWR, JP): Hon. Deputy Speaker, I do not represent Meru County. I represent Tharaka Nithi County. That is my interest.

Thank you.

**Hon. Deputy Speaker:** Hon. Member for South Imenti, you have been answered properly. If you have an issue, you can ask your Question. You can do a Statement or a Petition. Now that you are a seasoned Member, I am sure you know how you can handle all that. That is settled. The Question will be replied to before the Departmental Committee on Transport, Public Works & Housing.

That marks the end of Question Time. Therefore, we will go to the next Order.

What is it Hon. Atandi?

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Thank you, Hon. Speaker. It is on a matter that I wanted you to take note of.

Last year, I raised a Question to the Cabinet Secretary for Treasury and it was not responded to. This year, I did the same. It appears that the answer is not forthcoming. I would like you to intervene and ensure that my Question is responded to in the shortest time possible.

**Hon. Deputy Speaker:** Had it been taken to the Departmental Committee on Finance and Planning?

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Yes, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I do not see the Chairman of the Departmental Committee on Finance and Planning. I am not sure if I know the Vice-Chairperson. Hon. Atandi, I thought you are a member of that Committee. I thought you are.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): No, Hon. Deputy Speaker. I am not a Member of the Departmental Committee on Finance and Planning.

**Hon. Deputy Speaker:** You used to be when you first asked the Question? It is not that it is relevant; whether you are a member of a particular committee or not, your Question still needs to be answered. I wanted to get from you the possible reason why it was not answered. I know at one point in time you were a member of the Departmental Committee on Finance and Planning. I know that you have good qualifications to serve in that Committee.

**Hon. Samuel Atandi** (Alego-Usonga, ODM): At the time I asked the Question, I had been discharged from the Committee. However, last year, I had to seek the Speaker's intervention and the Question was not answered. The people of Kenya and I need justice because the Question is very important.

**Hon. Deputy Speaker:** Okay. Allow me to consult, now that you have said it is an extremely important Question. Other Members have also asked the same question. We would want to know – maybe we should ask the Leader of the Majority Party to follow up with the Chair of the Departmental Committee on Finance and National Planning so that he sees to it that the injustice meted on Hon. Atandi is rectified. I think that will make Hon. Atandi comfortable.

Let us proceed. We had already called the next Order. Let us have the Leader of the Majority Party to prosecute that bit.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Deputy Speaker. I will be looking at Hon. Atandi's issue. Allow me to move the following procedural Motion.

### PROCEDURAL MOTION

#### EXEMPTION OF BUSINESS FROM THE PROVISIONS OF STANDING ORDER NO. 40(3)

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Deputy Speaker, I beg to move:

THAT, this House orders that the business appearing as Orders No.9 and 10 in today's Order Paper (Morning Sitting), be exempted from the Resolution of the House of 10<sup>th</sup> February 2021 (Approval of the Calendar of the National Assembly (Regular Sessions) for the Fifth Session (2021)) being a Thursday Morning, a day allocated for Business not sponsored by the Majority Party, Minority Party or Business sponsored by a Committee.

Hon. Deputy Speaker, as Members would be aware, we dedicated Thursday morning Sittings specifically for processing Private Members Bills. Hence every time we have anything that is not strictly Private Members, we need to seek your permission to introduce that business however limited it is. We do not want to be seen taking advantage of Private Members time to prosecute business that is sponsored by a party and not by a Member.

If you look at the Motion appearing as Order No.9, without anticipating what will happen, we have an important matter to prosecute. We need to give this Committee time to go and look into this Petition. In fact, the earlier the better.

We completed sampling on Tuesday for Order No. 10. Members will agree that we finish that business today so that in the afternoon, we conclude the remaining part.

I will be asking for another half an hour of the Private Members' time to prosecute business that would not ordinarily come on Thursday morning, but would have come on Thursday afternoon, purely for convenience of the House. It will help expedite matters as we move on. It is a fairly straight forward matter.

I beg to move and seek your co-operation on this matter. I ask the Leader of the Minority Party to second.

**The Deputy Speaker:** The Leader of the Minority Party, kindly have the Floor.

**Hon. John Mbadi** (Suba South, ODM): Hon. Deputy Speaker, the Leader of the Majority Party has said it all in this Procedural Motion.

I second. Thank you.

*(Question proposed)*

*(Question put and agreed to)*

**The Deputy Speaker:** Next Order! The Chairperson, Departmental Committee on Communication, Information and Innovation, kindly have the Floor.

## PROCEDURAL MOTION

### EXTENSION OF TIME FOR CONSIDERATION OF A SPECIFIED PETITION

**Hon. William Kisang** (Marakwet West, JP): Hon. Deputy Speaker, I beg to move:

THAT, notwithstanding the provisions of Section 14(3) of the Media Council Act (Act No. 46 of 2013), this House resolves to extend the period for consideration of the Public Petition for the removal of Ms. Tabitha Mutemi from the membership of the Media Council of Kenya, which was conveyed to the House on 11<sup>th</sup> March 2021 by a further period of 14 days with effect from 29<sup>th</sup> March, 2021.

Pursuant to Standing Order No.227 and Section 14(2) of the Media Council Act, you referred the aforementioned public Petition to the Departmental Committee on Communication, Information and Innovation for consideration.

Further, pursuant to Section. 14(2) of the Media Council Act, 2013, you directed the Committee to consider the Petition within seven days from 23<sup>rd</sup> March 2021.

This implies that the consideration by the Committee and the House ought to be concluded by next week, Tuesday, 30<sup>th</sup> March, 2021.

Due to the increasing COVID-19 cases in the country, the Committee, in its own wisdom, resolved to request for written submissions from the relevant stakeholders. We received them by Tuesday 23<sup>rd</sup> March 2021 from five stakeholders. We are seeking more time so that the Committee can meet tomorrow and on Saturday to consider the submissions from the stakeholders and then table a report next week Tuesday. Thereafter, the House will reschedule for debate. That is why we are seeking two more days so that we can conclude this matter within the 14 days.

From the ruling that you made last week, we should conclude everything by Tuesday, but we do not have that time. We request the House to give us time so that we can complete.

With those few remarks, I beg to move. I ask Hon. Osotsi, a member of the Committee to second.

**Hon. Deputy Speaker:** Hon. Osotsi, kindly have the Floor.

**Hon. Geoffrey Osotsi** (Nominated, ANC): Thank you, Hon. Deputy Speaker. I wish to second what the Chair of the Committee has moved.

The law under the Media Council Act allows the Committee under Section (14) (3) to have a look at the Petition within seven days. However, because of the huge public interest in this matter, we have received numerous responses from stakeholders which we could not have looked at within the seven days. In future, we may need to relook at this law so that we extend this period to, maybe, 14 days. That way, the Committee will have enough time to look at issues raised.

This is a very sensitive matter which the Committee would like to spend quality time, upon scrutinizing the issues raised and come up with a good report for this House to look into. Most importantly, the Act also seems to suggest that the final say would be made by the Cabinet Secretary for the relevant Ministry. However, these are issues and loopholes that we need to consider in terms of amendments to the Act.

I second.

*(Question proposed)*

*(Question put and agreed to)*

**The Deputy Speaker** (Hon. Moses Cheboi): Next Order!

## **BILLS**

### *Second Reading*

#### THE BUSINESS LAWS (AMENDMENT) BILL NO. 2

**The Deputy Speaker** (Hon. Moses Cheboi): Hon. Members, what remained was the Question to be put and having confirmed that we have the requisite quorum, I put the Question.

*(Question put and agreed to)*

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

**The Deputy Speaker** (Hon. Moses Cheboi): Very well. Next Order!

## **REPORT AND THIRD READING**

### THE CROPS (AMENDMENT) BILL

**The Deputy Speaker** (Hon. Moses Cheboi): What remained was the Question to be put.

*(Question put and agreed to)*

Now let us have the Mover to move that Third Reading. Is that the Hon. Tandaza?

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**Hon. Kassim Tandaza** (Matuga, ANC): Hon. Speaker, I beg to move that the Crops (Amendment) Bill (National Assembly Bill No. 25 of 2019) be read a Third Time. I also request Hon. Benjamin Tayari to second.

**The Deputy Speaker** (Hon. Moses Cheboi): Okay, Hon. Tayari.

**Hon. Benjamin Tayari** (Kinango, ODM): Hon. Speaker, I rise to second that the Crops (Amendment) Bill be read a Third Time.

**The Deputy Speaker** (Hon. Moses Cheboi): Having confirmed that we have the requisite quorum in the House to make this decision, I will put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

### *Second Reading*

#### THE LAW OF SUCCESSION (AMENDMENT) BILL

*(Hon. Peter Kaluma on 11.03.202)*

*(Resumption of Debate interrupted on 11.3.2021- Morning Sitting)*

**The Deputy Speaker** (Hon. Moses Cheboi): On this one, we are resuming debate interrupted on Thursday February 18<sup>th</sup> 2021 in the morning Sitting. No. We are resuming debate which was interrupted on Thursday 11<sup>th</sup> March, 2021, Morning sitting and we have a balance of 2 hours. Therefore, Hon. Members, I want to ask you in the sense of self-responsibility, any Member who had spoken please you will not speak on this one and, therefore, indicate just in case you are given an opportunity by mistake. In the meantime, I am looking for the list of the Members who have spoken. I am trying to familiarize myself. Hon. Mutua Baraza who is top on the list had already spoken on this. I am trying to see whether Hon. Mbui had spoken to it because he is second.

**Hon. Robert Mbui** (Kathiani, WDM-K): I have not.

**The Deputy Speaker** (Hon. Moses Cheboi): You have not? So, proceed.

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Deputy Speaker, for giving me this opportunity.

First, I want to congratulate and thank Hon. Peter Kaluma for coming up with a brilliant piece of legislation because, clearly, this is one of the problems that this country has faced. You will recall that almost every time a wealthy individual passes on, there is always a fight and this fight is about his wealth. Many times funerals do not take place for months on end because there are people coming out of the woodwork claiming to be part and parcel of that individual's family. What happens is that bodies remain in the morgues for months but, when you figure out what the problem is, it is never really the fight about the bodies. It is always about the wealth.

In addition, the amendment is meant to ensure that this problem is solved. I think one of the biggest problems we face as a country is that many wealthy people do not write their wills. It is important for people to learn from what has been happening over the years; that if you have any thing that can be inherited, ensure you have put it in order. This is so that, at the time you are not here, the people who remain behind do not have to keep fighting over whatever it is that you have accumulated. You worked so hard for your money and then at the time when you are not there,

people fight so hard for that same money and those beneficiaries who are really worthy end up losing out.

I have looked at the old law, which is also in this Bill and what it is intending to amend. In the part of the definition of the dependents, it says 'a wife' or 'wives' or 'former wife' or 'wives'. That obviously is one of the problems because whenever people are married and then they go their separate ways, it means that they go through court process and that marriage is terminated. Therefore, you are former wife because there was a marriage and it was terminated. At the point of termination, whether customary or through the Attorney-General or even through church, there is a settlement that is made. That person who you terminate your relationship with takes some share of the proceeds that you got together when you are married. If you pass on then, it means under the old Act that the person that you terminated marriage with can still come and make a claim on whatever it is that you have accumulated after you have...

**The Deputy Speaker** (Hon. Moses Cheboi): It is much better if you say 'if a person passes on'. Not 'if you pass on'.

**Hon. Robert Mbui** (Kathiani, WDM-K): Oh, if a person passes on?

**The Deputy Speaker** (Hon. Moses Cheboi): Yes, because....

*(Laughter)*

**Hon. Robert Mbui** (Kathiani, WDM-K): Hon. Deputy Speaker, because I was addressing you, I see the fear and I will correct myself going forward.

Hon. Deputy Speaker, there is also the definition where they say 'where the deceased was a woman, her husband, if he was being maintained by her immediately prior to the date of her death'. This is furthermore very ambiguous because apparently it means when people want to prove that they were being maintained, I hear that they normally take photographs of maybe them having a cup of tea together, and sitting on a chair next to each other. That means even a person who was a worker can claim to have been maintained and claim ownership and that they should actually be maintained.

I agree that the proposals Hon. Kaluma has brought are very important. First, he says 'the dependent should be - and this is what he defines it - the spouse and children of the deceased, whether or not maintained by the deceased immediately prior to his death'. I think that makes sense because ideally the people who should inherit do not necessarily have to have been maintained at the time that person was alive. What happens is that you could have grown up children who are independent and doing their own things. So, if you say you can only inherit because you are being maintained, then that means you disenfranchise those ones. I think this is a very intelligent proposal that the dependent be defined properly as spouse or children, whether they are maintained or not.

Hon. Deputy Speaker, the only part I am uncomfortable with is this part where he has picked from the old law. It says that, a dependent is also such as the deceased's parents, step parents, grandparents, grand children, step children, children whom the deceased had taken into his family as his own, brothers, sisters, half-brothers and half-sisters, as were being maintained by the deceased immediately prior to his death. I find this extremely wide. It is important that we consider it and we propose to amend it. If it is not the spouse or the children... That is because sometimes people could die in an accident and the whole family is wiped out. In case those are not the immediate dependents, then we must state who is next so that there is no fight. The next person would possibly be the parents and if not, the siblings, but it has to be organized in such a way that

there is order. This is because when you put together all these names, it means all of them will be fighting in court and everybody will be making a claim. Somebody passes on, the brothers, the sisters, the grandparents and everyone else wants part of his wealth. Everybody suddenly becomes his relative. It is, therefore, important that we look at that part and sort it out.

With those remarks, I support.

**Hon. Deputy Speaker:** Let us have Hon. Rahim Dawood.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Deputy Speaker. I join my colleagues in supporting this Bill by Hon. Kaluma, but with a few exceptions. This is a very good Bill in the sense that it is clarifying who a dependant is. Previously, a dependant would be a wife or wives or former wives. A lot of opportunistic people have recently come out and demanded a share of what they did not sow. It is not just about men, but also women who are given out as inheritance. As much as Hon. Kaluma has specified who a dependant is, when he goes to Section II...

*(Hon. (Ms) Mishi Mboko consulted with Hon. Martin Owino)*

**Hon. Deputy Speaker:** Order! Who is that speaking very close to the ear of the Member for Ndhiwa? Who is that? Sit there.

Now let us proceed.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Deputy Speaker. Hon. Kaluma has suggested that a person not named in this section shall not be a dependant for purposes of this Act, unless that person proves to have been maintained by the deceased for a period of two years prior to his death. That section is prone to abuse. You could be supporting somebody out of goodwill. That does not mean that person will now have a share of your property or inheritance. I believe when we get to the Committee of the whole House, we need to look at that section very well.

I agree with the Leader of the Minority Party in the sense that we need to graduate on who is to get the inheritance in accordance with the way each beneficiary contributed towards the deceased person's wealth creation efforts. The shares of the widow and the children of the deceased person cannot be the same as the shares of his half-brothers or half-sisters. We need to have a graduated scale that will be used to share out the inheritance of a deceased person. In the Islamic law, it is very clear as to who gets what. I wish during the Committee of the whole House, Hon. Kaluma could introduce some issues as captured in the Islamic Law because it gives proper direction on how the wealth of a deceased person should be inherited.

This is a good Bill which needs a little refining. We need to be very careful about what we pass in this House because we may want to create a fairground but, at the end of the day, we may disenfranchise a lot of people. A child is innocent whether he was born by a former wife or a current one. He has a share in the inheritance. If we get those clarities during the Committee of the whole House, I will support the Bill with amendments.

Thank you, Hon. Deputy Speaker. I support.

**Hon. Deputy Speaker:** Can I confirm whether Hon. Charles Nguna Ngusya has spoken on this Bill?

**Hon. Charles Nguna** (Mwingi West, WDM-K): I have not yet.

**Hon. Deputy Speaker:** Proceed.

**Hon. Charles Nguna** (Mwingi West, WDM-K): Thank you, Hon. Deputy Speaker for the opportunity you have given me. This is a very brief amendment, which we need to make as soon as possible.

Let me take this opportunity to thank Hon. Kaluma for seeing it very important to bring this matter to the attention of the House. In my constituency, I recall there were so many burial ceremonies which had been postponed because of this controversial issue of the law of succession. Some people took more than five years before they got buried because of those controversies. You recall that the ownership, control and management of properties are a controversial thing. One of the main objectives of Hon. Kaluma's amendment is to lock out opportunists who claim a stake of everything that the deceased had acquired legally. I am supporting this Bill because it is going to bring clarity on how dependents can inherit property at a given time.

Although the Bill lists all the dependents who can benefit, we also need to arrange it in a particular order as to who is supposed to inherit what? The Bill seeks clarity on the definition of "dependents". Many people are good Samaritans who support many people in their life time but, most of the time, such benefactors claim inheritance when one dies. We need to come out clearly that supporting somebody when you are alive does not amount to an entitlement of inheritance. Therefore, I support this amendment and call upon Hon. Members to support it. There is nothing much as the idea is to avoid a situation where opportunistic schemers successfully claim a stake in deceased persons' property.

With those few remarks, I support fully.

**Hon. Deputy Speaker:** Very well. Since I see most of the Members are to my left, let me get one to my right, starting with Hon. Sankok. I will then come back and give a chance to two Members to my left because there seems to be more Members interested for reasons I do not seem to understand at all.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Deputy Speaker for giving me this opportunity. You can see that to your left, we mostly have male Members. You can now understand the interest that this Bill is attracting.

Hon. Kaluma has come with a Bill that is very important. It is a Bill which will solve a lot of problems we have witnessed in the recent past. In the process of Africans being civilized, they ended up being westernized. They forgot their culture and embraced other peoples' culture. In the process, we ended up having a lot of problems, especially with regard to the law of succession.

We had a very well spelt out succession procedure in our diverse African cultures and traditions. In our tradition, you would never find someone who is an ex-wife trying to fight for properties of a deceased person. In the African set-up, we do not talk about the deceased. Because we have been westernized instead of being civilized, we are and this Bill will sort out some of these issues.

It is pathetic that this only affects the rich; those who have something to be inherited. So, people are not interested in the person who has passed on, but the properties he has left behind. Sometimes, this gives a lot of problems to their families and burials have been delayed for years. This is because somebody from nowhere just emerged and claimed to be a dependant. That is why it is very important to define the word 'dependant'.

The slay queens have slayed their way into families and reaped where they have not sown. This is pathetic because no burial of our female colleagues has been postponed. But for the male, it is a problem because of the issue of slay queens. I support this Bill and especially its definition of dependants. I have a little problem and think in the Committee of the whole House...

**Hon. Deputy Speaker:** Do not use too much of that word ‘slay queen’. I am not so sure if it is completely parliamentary. I am trying to consult some linguists here on that queen who slays. I am not so sure, but just proceed using English that is well understood.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, I am sure you have understood. I have a problem with clause 29(1) (b) which states dependents include:

“(b) such as the deceased’s parents, step parents, grandparents, grandchildren, step-children, children whom the deceased had taken into his family as his own, brothers and sisters and half-brothers, half-sisters, as were being maintained prior to his death.

I think this will bring a lot of problems and confusion. We need to redefine this because if you are my dependant and I have taken you in while I was alive, you should appreciate for the years I have taken care of you. Once I have gone, everything I was giving you is also gone and what I had remains for my family. You cannot say because I took you in, gave you shelter, took care of you and paid your school fees for 10 years; now that I have gone, you still insist that my wife must take over and inherit you; my little sympathy and goodwill as well as other family members.

There is also a definition of dependants as the wife, wives, former wife or wives. In the Committee of the whole House, we will amend this. The issue of former wives does not arise here. This is because I believe when marriages break-up in our traditional set up, there is normally settlement. We still believe the settlement was enough and it takes care of the many years you have been together. We will amend this so that dependants will be your wife or wives as per the date of the death. Also, children, whether they were maintained or not, we should include the words ‘biological children’. These are children who have proven beyond reasonable doubt to be fathered by the deceased.

As we talk about slay queens, some of them have made this a business. They pretend they are hard to get, but only maintain a certain season which they know is right. I do not want to go into details, but you find several men being claimed to be fathers of one single child.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Order! What is your point of order, Member for Suba North?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Deputy Speaker, I do not wish to interrupt 001 when he is making his very passionate contribution. I am told he is 011 and I do not know whether he is 001 or 011. But that aside, is he in order to mislead the House that it is only slay queens who go after properties while we also have slay kings? Can he balance if we are defending the marriage institution from both slay queens and kings? Is he in order to be against a specific gender? The Constitution outlaws discrimination against one gender.

**Hon. Deputy Speaker:** Hon. Member for Suba North, you are bringing in the issue of slay kings and queens and you are not telling us about the slay princesses. The issue here is that these terms are not very common. I do not know where you get them. I had asked Hon. Sankok not to proceed using this term because it is not recognized in the National Assembly. Slay king is also not recognized anywhere else at all. So, we probably need to leave that line of slaying.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, you have taken a lot of my time. I hope you will add me one minute.

**Hon. Deputy Speaker:** Order, Hon. Sankok! Just for your information, all the time in the House is mine. I am basically donating some to you. By the way, I might deny you the time completely and send you out. Do not repeat that again because you will tempt me to deny you even this Sitting. So, proceed.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, I withdraw and apologize. It was a slip of the tongue. It is my time, let me use the terms slay queen and when it is Hon. Millie Odhiambo's time, she can have the liberty to use slay king. Before, Hon. Millie Odhiambo appeared in *Mzalendo* and she was no.1 while I was no.2. When she gets time, I know she wants to compete so as to maintain her no.1.

Before, I was rudely interrupted, I was saying sometimes a slay queen can have several men maintaining one single child and claiming it belongs to one at a particular time. Once you are told this is your child, you may not want that to go to the public. The same child can be said to be Mbui's, Mbadi's and Kaluma's, and all of them are sending upkeep money differently. In fact, you find Mbadi asking Kaluma to give him some little money on Mpesa. They do not know they are sending to the same slay queen.

This law is very important because it will try to mitigate some of these issues. It is good because it has exempted persons with disability from such maintenance according to the United Nations Convention of their rights...

**Hon. Robert Mbui** (Kathiani, WDM-K): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Well, your time is over. What is it Hon. Mbui?

**Hon. Robert Mbui** (Kathiani, WDM-K): Hon. Deputy Speaker, I would like you to put order in the House. Hon. 001 has just named me and the Leader of the Minority Party as possible woman eaters. We will be sharing and paying for one child because the woman is cheating on us. I think he has to withdraw, apologize to us and use an example without naming anyone.

**Hon. Deputy Speaker:** Well, if he said the word 'possibly', then this is a relative issue. I think you do not need to use some Members as reference on this particular one. Hon. Sankok, what do you have to say in terms of withdrawing? You had finished your time anyway.

**Hon. David ole Sankok** (Nominated, JP): Hon. Deputy Speaker, I was just using examples, but if this has made them feel guilty... You know when the truth is spoken, sometimes one feels a bit guilty. So, let me withdraw the truth.

**Hon. Deputy Speaker:** You are out of order there. Let us proceed and I give an opportunity to Hon. Nyikal, Member for Seme.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity. I rise to support this Bill. This Bill addresses the issue of succession which is at the heart of a lot of problems and disruptions in our social order. You know that marriage...

**Hon. Deputy Speaker:** Hon. (Dr.) Nyikal, as you proceed, there is something here. Hon. Oduol, your card has actually been scaled down. So, you will remind me, after I give the Leader of the Minority Party, to remember you again since there is something that happened and, therefore, interfered with your ranking.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Deputy Speaker. As I was saying, this is at the heart of succession which actually disrupts our culture and social set-up in a very major way. Marriage, children and family are the core of any society. So, any issue that touches them is extremely important and the issue of succession has been such an issue. Members have said here that it has tainted burials of many very prominent people. Bodies have been kept for years in the mortuary. Funerals have been disrupted and strangers have appeared when people should be mourning and it is just because of this. It is pitting spouses against each other, particularly where there are polygamous marriages whether legal or not legal. There have been many battles. It pits children against each other. We have had long cases particularly where you have children of various spouses. Sometimes, property stays in the banks while people are actually suffering because issues cannot be resolved.

So, this Bill has come at the appropriate time. I thank Hon. Kaluma. The whole essence of it has been around the definition of a spouse, marriage and dependants. This Bill actually addresses those adequately to my mind. In the definition of dependants, it has been assumed that husbands are not dependants of wives until proven otherwise. As you are fighting for the gender rule, time has come that we also have to accept the reality that many men are actually dependants of their wives and justifiably so. They sometimes support the wives in their pursuits. So, it is important that, that is taken into consideration.

When you look at polygamous marriages, again some wives have actually been deprived. Their children have been deprived of their livelihoods and again it is because of the definition. Other people who have been dependants of the deceased... Although other Members are saying that when I was supporting you in my lifetime and when I go, then you are now on your own, the reality in life is that there are some kinds of support and privileges that a way should be found of supporting such people when circumstances change such as the death of a person.

Therefore, this Bill has actually made very appropriate definitions of a spouse as a husband or a wife or wives and that has come out very clearly. It has also defined very clearly to my mind who the dependants are, although some of us are saying that we have put many dependants like brothers, half-brothers, grandparents and parents. However, in reality in our society, grandchildren and parents are dependants of people and when the person who they are dependent on dies, it is not fair that one person now decides that all these people who were dependants have to go and that it is mine alone. That is not fair and the recognition of this in this Bill is an important point.

Hon. Deputy Speaker, I also like this Bill because even those who may claim that they were dependants have been given a reasonable time. You have to prove fairly distinctly that over a period of time, you were a dependant. So, to some extent, nobody has actually been left out. Things have been made fairly clear and it is my hope that when this Bill is passed – and I urge colleagues to pass it – and it becomes an Act of Parliament, the court will find it useful in actually shortening the long periods and sufferings that people go through; the disruptions of very solemn moments in peoples' lives. It brings the enmities that come between families particularly offspring sometimes even resulting in death when people are fighting over property.

With that, I support this Bill.

**Hon. Deputy Speaker:** Leader of the Minority Party.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Deputy Speaker, for allowing me to also make my contribution to this Bill. I start by thanking Hon. Kaluma. I know a lot has been said about him in the media by people who feel he is so passionate about certain issues. That is very common with us. Each one of us has passion for something and I think Hon. Kaluma is not wrong to be passionate about succession issues and issues of family and family life. We know Hon. Millie Odhiambo is very passionate about issues of children and some of us are very passionate about issues of finance. So, each one of us has an area. I am not so sure what Hon. Sankok is passionate about, but he is passionate about almost everything.

First, I just want to urge that we need to encourage Kenyans not to die intestate. We should not die intestate and leave our dependants at the mercy of legal interpretations, court cases and lawyers eating the estate of those who have died. To me, that is the starting point.

The second thing is we need to start encouraging Kenyans to embrace the culture of hard work and not to rely on inheritance and wealth created by others to take after they have left. In fact, I was thinking of a very radical decision going forward. This country should come up with laws that, if you are dead, a portion of your estate should go to the Government so that just a portion is left to others to share. Other people should also fight. It would also discourage corruption

where people amass so much wealth. Even after 60 or 70 years, you find someone is very old and tired and walking with a stick and still stealing billions. You wonder the period such people have to eat or to consume that which they are accumulating. It is because they want to leave money for their children and grandchildren to make these people lazy to depend on what they have stolen from the State coffers. This may be discouraged by putting a law where a portion of your wealth once you die, should be devoted to the State because the State helped you to create that wealth for you in one way or the other.

I agree with Hon. Kaluma that we need to be very clear in defining. We have seen how these legal terminologies have been misused. I do not know where we were when this law was being passed. When you talk generally of a former wife or wives, this leaves the interpretation of who a wife is or who wives are to the judges and the lawyers to argue. You know how long the succession cases in this country take. You find someone dies and for 20 years, the children and grandchildren are languishing in poverty. Yet, the wealth of that person is a contest in court and it is the lawyers who are profiting from the same. They do not even want to conclude the cases because the longer the cases take, the more money they make. So, I agree that we need to remove this definition of former wife and wives. It is either you are a wife or not. The moment you are no longer my wife when I am still alive, we should agree when you are leaving me as my wife, to either go with your portion of my wealth or you leave it.

Once you leave anything with me, it then belongs to me and my current wife or wives that I have. So, I do not know where this thing of former wife or wives came from. Something that Hon. Kaluma, the promoter of the Bill needs to look at, is the amendment to Section 29 which has been repealed, and is here as Clause 3 (b). It talks about the deceased parents, step parents, grandparents, grand children, step children, children whom the deceased had taken into his family as his own. After saying that, it then goes ahead to brothers, sisters, half-brothers and half-sisters as were being maintained by the deceased immediately prior to his death. Either we define what maintaining means or we be very clear. Right now, I am paying school fees to so many of my nephews and that can be treated as maintenance because I even give them pocket money. Does it mean that when I die, they automatically have a say in my wealth? I do not think so.

*(Applause)*

If I was philanthropic to help many of my clansmen, family members and extended family members, it does not mean that my children will have to continue with that philanthropy. We need to leave some space for those who are remaining as my beneficiaries or dependants to make a decision whether they want to continue with the life of philanthropy or not. Probably, I was a Christian and believed in life after death. It does not have to be automatically true with my children. So we need to be clear and I am asking Hon. Kaluma because he has a better legal mind that I do not have, either he defines what maintaining means or...

**Hon. Deputy Speaker:** Now, you are saying you do not have a mind and he has a legal mind.

**Hon. John Mbadi** (Suba South, ODM): I do not have a legal mind. I have a financial mind. Not that I do not have a mind. You also know that I have a mind.

**Hon. Deputy Speaker:** I know all minds legally belong to the...

**Hon. John Mbadi** (Suba South, ODM): The bottom line is I am also a lawmaker and so, I have some legal mind. But he has a better legal mind.

**Hon. Deputy Speaker:** I thought so.

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**Hon. John Mbadi** (Suba South, ODM): He has a better one unless he has forgotten. The way I know Hon. Kaluma, he can think better in legal terms. So, I want him to go and define clearly what maintaining means for us.

**Hon. Deputy Speaker:** What is it Hon. Member for Gem?

**Hon. Elisha Odhiambo** (Gem, ODM): Hon. Deputy Speaker, thank you for this opportunity. He is now clearer. If you talk about cognitive dimension of a human being, it does not necessarily cluster the mind in reference to legal entity unless...

**Hon. Deputy Speaker:** You have brought more confusion than what was in existence.

**Hon. Elisha Odhiambo** (Gem, ODM): I am just clarifying.

**Hon. Deputy Speaker:** How do you clarify when there is...?

**Hon. Elisha Odhiambo** (Gem, ODM): A human has four facets. You have the psychomotor, the cognitive and the normative dimension of a human brain. It was important to educate my Chairman so that he uses derivatives...

**Hon. Deputy Speaker:** I know where you come from, Hon. Member. Gem is a place where there are some minds; those are the first people who probably went to school in serious terms, but you do not have to bring in the psychomotor and all the psychos here!

**Hon. Elisha Odhiambo** (Gem, ODM): Hon. Deputy Speaker, thank you, it was just for clarity.

**Hon. John Mbadi** (Suba South, ODM): I am not sure whether he has clarified. He has confused me more. However, I understand as you do, where Hon. Elisha Odhiambo comes from. That is Gem. You know what gem means in terms of academia, that is the citadel of elitism in that region. I think he was very good in biology. I was very good in sciences, but biology was my weakest science. Not that I was weak in biology, I know that probably I am better than majority of Members here. In absolute terms, with the other sciences, physics and chemistry, I would demonstrate that biology was ranking a little lower. If there are Members who would challenge me in physics and chemistry when I was in school, they would be very few and Hon. Sankok could be one of them. Of course, Millie cannot rank anywhere. I know where Millie's strength has been.

*(An Hon. Member spoke off-record)*

It depends on where you are best. You could have been best where the best was getting 25 per cent. I just want to conclude by saying that we need to be very clear on ...

**Hon. Deputy Speaker:** You mentioned the Member for Suba North who is your neighbour.

**Hon. John Mbadi** (Suba South, ODM): No, I did not mention her in bad light. Millie is the one of the best lawyers I know.

**Hon. Deputy Speaker:** Hon. Odhiambo Akoth, what is it?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Deputy Speaker, is the Leader of the Minority Party and my neighbour in Suba South, in order to mislead the House? Even though I am an excellent lawyer, I want Hon. Mbadi to know that in the National Exams in Form Four, I was one of the best in the country. One of the best not in my school, but in the country. You need to put that in mind and keep it for records. I was the best in Maths! I was the best in Physics and I was only not good in Chemistry because I was asking the teacher too many questions. Like when they said that let us test the litmus paper and then it turns red, I would ask: "So what after it turns red?" But I was the best, Hon. Deputy Speaker. I sat for exams the same year with you.

(Laughter)

**Hon. Deputy Speaker:** I think that is a real Suba academic exchange. Now we can proceed. We now realize that the Subas are very good in mathematics.

**Hon. John Mbadi** (Suba South, ODM): Actually, I wanted to say that I may not doubt that because Subas are very good in mathematics, especially where there are no many Subas. You are likely to be one of the best.

I just want to wind up by saying that I support this amendment fully and I think it should be looked into in the context that I said, without looking at Hon. Kaluma's history because he has had a history of two Bills that I did not like. This one was thought out and he just needs to help us. The one that I talked about on maintenance has just been uplifted from the Act as it is today. So, I am just asking Hon. Kaluma to take this opportunity to provide it for us and make very clear amendments so that once I depart... I realized that Hon. Deputy Speaker, you fear departing from this world. You must depart from this world. Once I depart, I would not want to imagine a situation where my children are fighting with people who ordinarily, if I was on this world, I would not want to see them anywhere close to my property or wealth.

Thank you, Hon. Deputy Speaker, I support.

**Hon. Deputy Speaker:** Now, Hon. Prof. Oduol, you will have to wait a little more because you know many Members have spoken from this direction. So, let me go to Hon. Ogutu then come back to you.

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Thank you, Hon. Deputy Speaker. I rise to support the Amendment that has been put forward with regard to inheritance. I want to make a few observations. One observation is what has been alluded to by Hon. Mbadi that, indeed, as we think about inheritance. We must also think about the dynamics that are going on in the society. It is not a privilege of many to inherit from their fathers anymore because within the African tradition, what was common to be inherited was land and wealth from the parents. This is not the case anymore. It is because of that, that we are now seeing what I could call moving wealth which include gains from education and gains from any sort of investment that people would have made as a family. I want to say also that even as we think about this amendment, let us also think about how we can induct discipline for work and the desire to generate resources. I am talking about discipline in terms of the desire to generate resources as individuals, so that it is not a question of looking at one person, namely, the husband or wife. You cannot be waiting for either to die so that you can inherit their property. Every child got through marriage or any form of inheritance... We do not want to see idlers hanging around when a key member of a family dies just to claim inheritance.

Hon. Deputy Speaker, I also agree with what was raised by one of our Members that we need to think about grading this inheritance. There are those who may have invested more than others and there are those who will have joined the family as life continues. Subdivision of wealth should be done on a pro rata basis. It should be on the basis of how much one has contributed to the acquisition of that property.

With those few remarks, I support this amendment. I thank you.

**Hon. Deputy Speaker:** Hon. (Prof) Jacqueline Oduol.

**Hon. (Prof) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Deputy Speaker, for an opportunity to speak on this amendment Bill. I want to start by thanking Hon. Peter Kaluma for enabling us to address this matter of great concern. I support the amendment Bill, but with some reservations and recommendations which I would like to present to him.

I support the amendment Bill because it seeks to ensure that we create greater protection for spouses, children and the extended family in succession matters in the event that somebody dies. Indeed, Members have demonstrated that there has been a lot of drama and untold pain whenever it is not clear who the dependants of the deceased are. As I support this amendment Bill, I would like us to look at the matter from the context of protecting the family.

Hon. Deputy Speaker, the Leader of the Minority Party, who I am sure has a passion metre somewhere, identified the different areas that we are passionate about. I declare that I am very passionate about issues that relate to gender equality and particularly, the manner in which in the family unit we ensure that both women and men act as adults, caregivers and duty bearers towards protecting children. It is in this regard that I draw the attention of Hon. Peter Kaluma on the following:

In the proposed amendment Bill, under Clause 3(2), we are saying that a person not named in this clause shall not be a dependant for the purposes of the Act unless the person proves maintenance by the deceased that was for a period of two years prior to the death of the deceased. This could be an open blanket that might create confusion and interfere with the fundamental unit of the family.

*[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]*

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

Hon. Temporary Deputy Speaker, Hon. Peter Kaluma indicated that we are looking at marriage as defined by the Marriage Act. It is clear that we can have a civil marriage, which can be conducted in church or could be held at the District Commissioner or the Attorney General. That means one man-one wife. In the case of customary marriage, you can have as many wives as you would want. There is the Islamic marriage where you can have up to four wives. There is also Hindu marriage where you are allowed one wife. There is also the cross of cohabitation which is then seen to be for those who choose to take that angle.

I would like, as we speak to this matter, to ensure that we do not burden children with a lot of complications. I want us to acknowledge that there is a sense in which Hon. Peter Kaluma, who as we have clearly indicated, understands what is happening not only in the Constitution, but also in our courts. We know that there are children who are born out of wedlock. The Constitution already provides that there would be absolutely no problem with a child being born out of wedlock. Therefore, as I speak about protection and care of children, I am aware that the Constitution has already handled this matter.

Hon. Temporary Deputy Speaker, what I know is that it is the courts that created this problem. On the Floor today, there has been a lot of emphasis on women and how they are the ones who create confusion. I do not support them. I do not support a woman who chooses not to take the responsibility of marriage. I do not support women who seek to interfere and then seek rewards. Equally, I do not support a man who has chosen that he is going to marry by Civil Marriage, that he is going to have one wife, and then somewhere along the line, he decides to have many wives all over the place.

It is clear the Constitution is presented to help us maintain our values.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Professor! What is out of order, Hon. David ole Sankok?

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, Professor is misleading the House. If the man did not want to see the extra wife in life, why should he see her in death? If I hated you in life, I should hate you in death. So, keep away from my family.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I am not sure where, Hon. David ole Sankok, that fits in. That was a contribution through the back door.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Hon. Temporary Deputy Speaker, today, indeed, is an important day because Hon. David ole Sankok has for a while made the entire country and the House think that he is Nominee 001. He is only 001 on the other side. Nominee 001, on this side where I am, is yours truly who is speaking right now. You can see from the kind of intervention he raised that, maybe, we need to revise and be sure that we know who 001 is in the House.

We need to take note that it is the courts that create confusion. I would like us not to come up with an amendment that supports or encourages the courts to cause confusion. If anyone has married from the perspective of Civil Marriage, then they have only one wife. In the interpretation, it would, therefore, mean that in the event we are dealing with succession, they really have one wife only. This situation occurring in the courts where there is somebody married under the Civil Marriage, where legitimately they only have one wife, but then for some reason, somebody else turns up claiming recognition, is something that should be discouraged.

As I support this amendment Bill, I request Hon. Kaluma that for the very reason that we would like to maintain clarity of values, we should also ensure that we not only protect our children, but we are also role models. Young girls and boys should grow up to know that they have a choice on whether or not to get married. They can also choose whether it is more preferable for them to have children out of wedlock. It would be very unfortunate that in a country where we talk about maintaining national values, moral values, protecting the family unit and encouraging both men and women to be responsible, we would give the same attention to those who choose to have children out of marriage and somebody who was in the marriage, and treat them in the same way.

As I conclude, I hope the angle that I have raised will be addressed. I support the Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Tobiko Peris.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

I thank Hon. Kaluma for addressing this very sensitive part of our law. It is sensitive in the community because of the dynamics in our society today. This law seeks to bring clarity to the Succession Act by properly defining who is a dependant and a spouse. We have seen a lot of court battles that have endangered families and put the lives of dependants of the deceased into a lot of problems. This is true particularly for the who is who in this country. Every time they pass on, the next thing that we expect is a lot of court battles.

We have also seen that ambiguity in law can cause chaos in families, bring confusion, disenfranchise and disinherit the legal dependants of a person. The Bill, as brought in by Hon. Kaluma, is clear. Just like Prof. Oduol said, we should take this opportunity to address all ambiguities.

Clause 3(2) states that a person not named in this section shall not be a dependant for the purposes of this Act, unless the person proves maintenance by the deceased for a period of two years prior to the deceased's death. Hon. Kaluma, because you are in the House, this still brings back the slay queens and the hangers-on around marriages. There are too many busybodies hanging around well-to-do men and women who have struggled in their lives with their families. Once they have become something in society, they get too many hangers-on. We should clarify this because

as long as you are not a spouse, a child, grandchild and a parent of the deceased, where then do you come in?

I am sure we all buy lunches out there. I am sure people are maintaining their constituents in one way or another. In a term of five years, I would have maintained a number of people, Hon. Kaluma. If those people now come to lay claim to my property because I maintained them for more than two years, it puts people into a lot of problems. We should clarify this one. I still feel that Clause 3(1)(b) needs to be upgraded so that the so-called “dependants” are clarified.

We have seen in this country that when men, in particular, reach the age of 60 or thereabouts, they get confused. You see them hanging around little girls.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Tobiko! What is the intervention from Hon. Odhiambo? Order, Hon. Tobiko. Hon. Ochieng is on a point of order.

**Hon. Elisha Odhiambo** (Gem, ODM): Hon. Temporary Deputy Speaker, I have listened to the Member and she has mentioned that men about 60 years of age get confused. This is because their spouses in the house are not performing. They move out to get others who can ensure that the marriage institution is protected. The marriage institution is for procreation. It is not a flower.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): No, Hon. Temporary Deputy Speaker!

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

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): Hon. Temporary Deputy Speaker, was that a point of order or a point of information?

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Tobiko! Order Members! Hon. Otiende wants to contribute. Before he does, Hon. Ochieng, you are not 60 years old yet. She raised an issue of interest. I am sure she will be kind enough to further explain about that 60 years. Hon. Otiende, what is it?

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Hon. Temporary Deputy Speaker, is it in order for Hon. Tobiko to perpetuate discrimination on grounds of age that it is only men above 60 years who get confused. Is that really in order?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Not only that, Hon. Otiende. The Member was not very clear on what type of confusion she is talking about. Why is Hon. Millie shouting loudest on a point of order? What is it, Hon. Millie? You look very agitated on that point.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this chance. When somebody makes a very discriminatory statement against me, I have to stand. Hon. Odhiambo said that marriage is for procreation. I do not have a child. Is he, therefore, suggesting that I am not married? That is a very grave and serious issue. You must be mindful of people who have no children. I am in this House to protect the rights of people with no children and the rights of children and women of all categories.

Having said that, there is something called mid-life crisis. All men should know that. Just take some Panadol to ease the mid-life crisis. Panadol *kidogo*.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order Members! That debate seems to be transitioning into one that we should have over tea, and not here. It is based on the point that Hon. Tobiko raised. Before Hon. Tobiko responds, Hon. Ndindi cannot allow you to talk. He is behind you.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): My time, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Tobiko, you will have your time. Hon. Ndindi, what is it?

**Hon. Ndindi Nyoro** (Kiharu, JP): Hon. Temporary Deputy Speaker, is it in order for Hon. Tobiko to impute improper motives, especially to Members who are above 60 years? The public might think that we are making confused laws in this House. The Member should apologise, especially to Hon. Members like Kaluma, who are approaching 60 years.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Tobiko, you can see what your statement about the confusion experienced by those who are above 60 years has caused.

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): Hon. Temporary Deputy Speaker, my statement was not targeting Members. In our Biology classes, we learnt that there are certain characteristics of teenagers. Men at the age of 60 are busy denying that they are going down. So, they want to prove it.

*(Loud consultations)*

This statement is not meant for the Members. However, the truth is that a lot of men hang around with very young girls which brings confusion into marriages. Marriage is not only meant for procreation, but also for companionship. I agree with Hon. Millie that it is not only meant for procreation, but also for companionship and all other values that make a family. I congratulate Hon. Kaluma for bringing this Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Hon. Tobiko, it is good that you have clarified that confusion. I can tell that Hon. Kaluma is extremely excited.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I am not 60 years old, Hon. Temporary Deputy Speaker.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ndindi Nyoro confirmed that you are approaching 60 years. Hon. Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Deputy Speaker, first, I would like to declare that I am over 60 years old. However, I am not confused.

*(Laughter)*

I stand to support this great Bill whose purpose is to avoid situations where opportunistic schemers claim a stake of a deceased person's estate successfully. It also gives clarity on who is a dependant. I am from the Islamic faith which is very clear on the issue of estate and who is a dependant. In the Islamic faith and law, we do not have any billionaire who leaves money for the

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cat, rat or cow. However, in the western world, so many people leave billions of shillings to the cat. They leave out the wife and children. This is one of the issues that this particular Bill is here to deal with. There are rules which determine what happens to a person's estate after his death.

The Bill clarifies who is a dependant. In the Islamic faith, anybody who is part of your blood is your dependant. You may be taken care of by a lady in the last throes of your life. She is not allowed to inherit everything because she took care of you in the last 10 or eight years of your life, whereas the whole family was there before. There are some *wazungus* who come here and are taken care of by the girlfriends in the last throes of their lives and they leave everything to them. This is what we are trying to say. We are a polygamous society. We have children. I have seven children. I am the only Member of Parliament who has quadruplets, who are one-year old.

*(Applause)*

That is why I have said that I have other children. I am on record. I do not know whether I am the only Member of Parliament in the history of the Kenyan Parliament who has quadruplets. I am 67 years old.

*(Laughter)*

I want to acknowledge the support that I have received from not only the Members of Parliament, but also my family. Let us go back to the issue of inheritance. Hon. Kaluma has hit the nail on the head. However, you should also look at Sharia Law to help you to understand the law of succession. It came thousands of years ago. There is also the traditional African law. What do the traditions say? They say that you try to maintain the assets within the clan or tribe. Those are the African traditions. Islamic law says that a will only covers one-third of your estate. The rest which is two-thirds is covered under the Sharia Law, unless you give it away in your lifetime. That means that under the law, when we are talking about dependants, you can have step sons and adopted children who must remain as good as your biological children. They are treated the same. This is what Hon. Kaluma has said. If I adopt a child today, even if he is 20 years old, he is my child. There is no need to go to western law to tell you who is your child and who is not. This is what Hon. Kaluma has come up with. He is protecting the family unit as defined under the African tradition. What is our unit? Where did the slay queens and slay kings come from? What happened?

The only concern that I have is Clause 3(2) which says that a person not named in this section shall not be a dependant for the purposes of this Act, unless the person proves maintained by the deceased for a period of two years prior to the deceased's death. That clause should be deleted. In respect of the rest of the things, I want to congratulate my brother, Hon. Kaluma, for bringing this Bill, so that the law of succession becomes sensible and we take away these rogue lawyers who extend cases for too long. At the end of the time, the actual dependant gets nothing and the lawyers give them huge bills. That is the point Hon. Kaluma has put across. Let us have a distinction between a dependant and who is not.

Thank you, Hon. Temporary Deputy Speaker.

*(Applause)*

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

**Hon. (Ms.) Charity Chepkwony** (Njoro, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to add to what Hon. Kaluma has brought to this House. Let me start by congratulating him for coming up with the Law of Succession (Amendment) Bill.

I wish to support it on the basis that it seeks to know the valid dependants in relation to inheritance. I am a bit worried when I go to Clause 3(b) which mentions dependants. This House gives us a platform to improve it. Let us take a possibility in this country. A woman can lose a husband like the way you saw here the other day in Mount Kenya Television when the wife of the late Hon. Murunga was brought up. She explained how the burial was stopped by someone from somewhere. When we bring all these people to be dependants, we will make this matter hard for the people who will lose their beloved ones. Therefore, let us improve this clause.

If the concept of dependants will be improved, it will bring integrity in families. As Members of Parliament, we attend many burials where we leave when we are traumatised. You reach there to attend a burial and as you try to sit down, you are told it was stopped because there was a court order. This leaves the children, parents of the deceased, widows and widowers traumatised. It leaves very many people in a chaotic scenario. In addition, what I am proposing to Hon. Kaluma, as Hon. (Prof.) Jacqueline mentioned, let us also revisit the matter on the other marriages we have in this country, like the Christian, customary and Islamic marriages. As has been said, let us know what is there so that we have a better platform to make it better.

I have heard most men talk about ‘slay queens’ but sometimes they also forget the ‘slay kings’ in this country. On that basis, it is advisable for men to be very responsible. We do not have the time for men to pretend that they love around ten women, putting them in different areas, but do not want to take responsibility. It is high time men took courage. If you love many women, please, do not wait until you die for them to come with their children to claim their inheritance.

It is also a platform to remind our fellow women and the girl child in this country that we have seen very many cases where innocent women are lied to by irresponsible men who tell them that they will marry them, then they have children with them. On this platform, we want to tell our girl child and our women that, please, for these men who tell you that they love you and keep you as *mpango wa kando* and they do not want to be noticed by their wives and families, push them to recognise you.

The reason we are also suffering so much is because we have forgotten our traditions. Most of us come from polygamous families, but we lived in peace. Traditionally, when men wanted to marry many wives, there were processes to be followed. This gives us a platform to remind our colleagues and other men in this country, that if you want a polygamous family, make it very clear to avoid frustrating women. Remember the women you are keeping calling them *mipango ya kando* and ‘slay queens’ are daughters and sisters to other people, and they are very important people in this country. Therefore, we do not have room for men to misuse women, trick them and use them like objects.

On the basis of what *Mhe.* Kaluma is coming up with in relation to succession, inheritance and the validity of knowing who dependants are, let us remind men to be responsible. You do not have to go giving birth outside your marriage and throwing away the women you have given birth with. Once they give birth to your children, you are now calling them ‘slay queens’. They are not ‘slay queens’, they were your sweethearts when you were making those children, so be responsible men. That is what we are saying.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): *Toboa!*

**Hon. (Ms.) Charity Chepkwony** (Njoro, JP): Yes. We are saying that even you men do not have to use the word ‘slay queens’ anymore. They are not ‘slay queens’ after they give birth. When you are having sweet times with them, they are your darlings and sweethearts.

*(Applause)*

Therefore, when we talk about succession, we also need to have responsible men. Even after they give birth, let them be your sweethearts and introduce them as part of your families. You may take the right legal action to make sure they are included as dependents in your wills.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order! Hon. (Ms.) Chepkwony address the Speaker. Do not address the men.

**Hon. (Ms.) Charity Chepkwony** (Njoro, JP): Hon. Temporary Deputy Speaker, thank you very much. Please, protect me because you are also a man. Protect me.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): No.

**Hon. (Ms.) Charity Chepkwony** (Njoro, JP): On that, I will conclude by saying that it has been very traumatising when we see burials being stopped by court orders; when we see families, children and those who have lost their family members crying. This Bill is going to bring a lot of respect and integrity to families. To our girl child and our women, please, push the men who put you somewhere and call you *mipango ya kando* to recognise you before God takes them away.

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Wow! That was quite sobering. Before I give, Hon. Millie, let me give Hon. Muli Fabian first.

**Hon. Fabian Muli** (Kangundo, Muungano): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to add my voice to the Succession (Amendment) Bill. The Law of Succession Act came in 1972 and up to now we have been having a lot of conflict of law, especially in matters of religions, beliefs, traditional laws and also societal norms. We have had a lot of challenges in terms of implementing the Succession Law.

Hon. Temporary Deputy Speaker, if you look at the notes on the Law of Succession Act, there are very few, but the cases are very many. I will not forget to thank Hon. Kaluma for proving to us that he is a family man and he loves the family, and for showing us point blank that it is very important to recognise wives. Saying that does not mean that we are in support of or not in support of polygamous marriages, but we support reality. In many cases, where our brothers and sisters pass on, a lot of family unity is broken because of constrain of cases. Many people living near the families are not there in good faith, but to be opportunists. I thank Hon. Kaluma for recognising that there are opportunists living near families and they can break the families any time.

Hon. Temporary Deputy Speaker, I am of the school of thought that the best way to deal in terms of property is to make sure your estates are tested. This Bill is not going to solve the issues of families as a whole, but it just gives the interpretations for the courts. For example, there are too many cases pending on this because in 1990’s, judges and magistrates were not able to point which law to use in the cases. So, this Bill by Hon. Kaluma is going to give the specified way to make rulings in courts. However, this is not going to solve the cases in the society. I am urging the society to have tested estates and to forget about untested estates. If we work with wills, we are

going to leave our families... I know you cannot tell when you will die, but let us work with wills for us to solve these cases. This way, we will relieve families of any constraints.

The other thing we need to see in terms of property and respect in the society is men and women recognising good morals in life. If you have a partner, live openly by declaring whether you are a one-man-one-wife or if you are one-woman-two-men kind of person. This will make sure that everything is mentioned in your will.

I will not forget to congratulate the Sharia Law. If you look at the many cases in 1980's and 1990's, it is not easy to get Islamic faith having succession cases. When implementing this Bill, and in concluding this Bill at the Third Reading, we need to know what happens in Islamic law that they do not have many cases compared to other corners. This Bill is very important for the Kenyan society. Also, we should not see people as being opportunists. Nobody will become an opportunist unless you open the doors for them to come near you. This Bill is going to save families.

Thank you very much, Hon. Kaluma and I support the Bill.

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

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. Even as I support Hon. Kaluma in this Bill, I want to quote something I saw on social media by a person called Emmanuel Swaka. He defined persons who are deceased as follows: *hayati* is a dead person who has left behind a lot of wealth and assets; *marehemu* is a dead person who has left behind lots of bills and is also listed by the Credit Reference Bureau (CRB) as loan defaulting, and *mwenda zake*, has little to write about him, *alizaliwa*, *akazururazurura*, *akagongwa na gari akafa*.

(Laughter)

When you look at the issues Hon. Kaluma is trying to deal with, a lot of issues arise when we deal especially with *hayati*. We do not see a lot of issues when dealing with cases of *mwenda zake* and *marehemu*. So, in order to help us deal with these categories, the proposed amendment by Hon. Kaluma is very apt. As a Christian, let me quote the Book of Proverbs, Chapter 30, verse 19 on some of the things that used to perplex King Solomon. We know that King Solomon was one of the wisest people on earth yet some of the things that confused King Solomon were the way of an eagle in the air, the way of a serpent upon a rock, the way of a ship in the midst of the sea and the way of a man and a maid.

These issues that perplexed the most brilliant man on earth or the most brilliant man recorded on earth still perplexes us today. You would be surprised and amazed that everyone is supporting Hon. Kaluma yet we still seem to be taking gendered lines such that women are moving in one direction and men in one direction. Why is that the case? It is because of the way we are made. There is a retired judge who challenged us as women and said in a 60-page ruling that one of the reasons women went to Beijing was as a basis of rebellion against men. We did not go to Beijing as a basis of rebellion against men, but because the issues of equality have always persisted in the society even in biblical times. Let me quote the Book of Numbers, Chapter 27 where we have the amazing five daughters of Zelophehad, who fought for the rights of inheritance because they were being excluded. They went before a man of God and they were allowed. They changed the law of Israel so that even women who were not married in their community were then able to inherit. However, Hon. Kaluma is bringing a very difficult one and the difficult one should actually be difficult for us as women. It is difficult because we are the ones who have been calling for

equality yet when it comes to where the rubber meets the tarmac, sometimes we are not very true and genuine about the equality we talk about. We seem to think that equality is only when it applies to us, but is not equality when it favours the men. What Hon. Kaluma is trying to do is to bring equality for men and I truly support. As women, when we talk about equality, it should be equality both ways because what is good for the goose is good for the gander. Therefore, if as a woman I should inherit from my husband when he is dead, then my husband should inherit under the same terms. My husband should not go and prove in court that he was depended on me for him to inherit, if the woman should not be doing the same. If we want to show dependence, then it should be both ways. As women, if we want equality, we must be ready to partake of what comes with it. Equality must protect women as much as it protects men. I challenge Hon. Kaluma that in this case, he has done very well to protect the men. Hon. Kaluma is my uncle because he comes from where my mother comes from. Please, protect women the same way I am protecting men today, so that he does not only bring laws that support men, but when it comes to laws supporting women, we get excuses.

Like men after Zelophehad's daughters went and sought for inheritance, then came and said "what about if our daughters got to marry men from other areas? Our land will go to those areas." So, they were forced to change the law to say: "Let your daughters marry from within." What I did was use the Zelophehad standards. My husband is from within. Let me not say the details. As women, we must also be smart so that if I am inheriting, I am able to do so now because my husband also comes from Lambwe. Because Lambwe is a settlement scheme, he comes from Zimbabwe and settled in Lambwe. So he is also one of us. So I can inherit and I have inherited leadership because Zelophehad's daughters gave me that in the Book of Numbers.

Having said that, when I am going to the specificity of the law, I agree with the issue of spouse and the definition of spouse. It is very good because it should be as per the Marriage Act. I agree with Hon. (Prof.) Jacqueline Oduol when she says that the challenge we actually have are the judges who have been confusing us. It is because they are trying to bring equity where there should be no equity. There should not be a case of equity where the law is clear. The Marriage Act is clear that we have different systems of marriage. If you marry under the civil system, you marry one man and one wife to death. If you married under the Hindu system, it is one man and one wife to death. If you are a man who is disciplined and your temperature is not high, please, marry under the civil marriage or the Hindu system.

However, if you think your temperature rises a little bit, then go and marry under Islamic Law where you are allowed to marry up to four wives. The customary system is not "up to". The Islamic system is up to four wives. If you think that your temperatures rises beyond the Corona limits, go for customary marriage where you can compete with Akuku Danger, who married over 60 wives. Once you marry under customary marriage, me, Millie Odhiambo, because I do not want a co-wife, please, do not come when my husband is dead saying: "excuse me. I want to be recognised." If you wanted to be recognised, go and look for a man who has married under the customary system. If I am talking about equality, if I am not given a right as a woman to marry other husbands, let the man also not marry for us other wives when I do not want.

*(Applause)*

Otherwise, we should change the marriage law and say that women should also be allowed to marry as many husbands as possible. Where the law is very clear, I am encouraging the judges to use the law as the law is. The law is also clear and I am the one who brought that amendment in

the Constitution, that we can protect children born out of wedlock. I can assure you that I know what to do if upon the death of my husband, God forbid, many children suddenly come up. I know because I am the one who brought the law. If it is proven they are his children, I will take care of them because that is what the law says.

*(Applause)*

However, if you are a woman who pops up from nowhere and I am married in church, please, *jipange mapema*. Otherwise, go and look for a man who has married under customary law. We want to tell the men, as I have told you and I can see the Member is jittery because he is of the ilk of marrying many women...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order. What is it, Hon. Nyoro Ndindi? You are the one to speak next. What is out of order now?

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker. I do not think it is wise for us to perpetuate name-calling in this House. We have had men and even women going through customary marriage even before Corona. Therefore, I do not think Hon. Millie is in order to claim that people only go through customary marriage when they experience Corona temperatures.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I am not sure whether Millie raised Corona temperatures. Maybe she did.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Speaker, I know my brother probably did not do literature. Can you, please, add me time because he swallowed up my minute? Because I wanted to raise some certain issues about how wide the Bill is, there are some amendments that I seek to bring on dependence, because like for me, I do not have a child. I am clear in my mind that...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You have the one minute that was taken up by Hon. Ndindi Nyoro who speaks next.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker for indulging me. I am clear because I have no children. In terms of ranking and by law, there will be my husband, my sisters and brothers, my nieces and nephews that I take care of, and my grand nieces and nephews that I take care of. I also take care of several other people that depend on me. If we leave it too wide, it will be subject to abuse. I want to ask us that we bring an amendment that is clear where that reaches.

Also, I want to bring an amendment that will be clear that inheritance and succession is not done at a burial, so that we do not have drama. My own sister went through burial theatrics recently. One of my nephews, people do not know how terrible this is, – experienced what I am saying. They refused to bury her father because of that. For example, when your father is dead and you are trying to deal with it, people suddenly pop up and tell you that they are your nephews and your I-do-not-know-what. Please, let families bury in peace. Let us bring an amendment to say that when you want succession, go and do it elsewhere. Burials are not the place.

*(Applause)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Ndindi Nyoro

**Hon. Member:** on a point of information.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Member for Nyando, what information and to who?

**Hon. Jared Okelo** (Nyando, ODM): To Hon. Millie.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): She is done with her contribution. Member for Nyando, it is done. Maybe you inform, Hon. Ndindi Nyoro.

*(Laughter)*

Let him speak first. Maybe you will appreciate whether he needs the information or not.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill by my brother, Hon. Kaluma. Therefore, it is evident that when Hon. Kaluma is not consumed by the handshake *manenos*, he thinks.

*(Laughter)*

When he legislates for himself, he legislates for many people like him. Therefore, I support this Bill in its entirety. The issue of succession is complex in Kenya. We need to simplify it. When we see the unclaimed assets portfolio growing by the day, it is not because of the fact that people do not know they own those assets. Most of them have already gone. The complex nature of our succession laws has led to this quagmire we are in.

Recently, the Unclaimed Financial Assets Authority was formed and we now have billions of money lying in that Fund because of the complex nature of our succession laws. This Bill simplifies the same. The inheritance of yesteryears is not the inheritance of the current day. In the previous years, you could not talk about inheritance without land. But as we grow in terms of numbers, land continues to shrink in terms of per capita land that we enjoy as citizens and descendants in reference to this Bill.

Therefore, because of the timeliness of this Bill, it behooves all of us, as citizens of Kenya, especially men, to know that the most important thing that we can bequeath our descendants is to make them stand on their feet. One of the best ways to do that is to give them education. That is the only thing that will never be taken to courts of law with claims that it belongs to one person or the other. As we continue to evolve as a generation, the nature of our inheritance continues to do the same. It is apt for us to continue moving with the times.

There is also the economic angle of this Bill on succession and inheritance. In developing countries like Kenya, and poor countries, inheritance is an important topic. We have more dependents than people who can...

Hon. Temporary Deputy Speaker, when we see an economy where the rate of investment of assets is higher than the GDP growth or the rate of growth in terms of the economy, Gini Coefficient, is usually very high, it measures inequalities within our societies.

If we have an economy where you can just buy an asset or you can be bequeathed an asset by your parents and then you lazy around, and the rate of investment returns from that asset is higher than the rate of economic growth, it means people with basic assets and means of production like land can sleep and earn more than people working in factories and offices.

We, therefore, need to ask ourselves why this topic is heated in our country. It is because the people who have inherited continue to gain more without working because the rate of

investment of what they have been bequeathed is much higher than the general production of the economy.

This is a wakeup call for us and the nation as a whole. We need to create many production avenues so that the people being protected by this Bill sponsored by Hon. Kaluma do not rely so much on inheritance because they will have opportunity to create their own wealth without necessarily relying on those who have already gone ahead of them.

With those remarks, I support.

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

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to the Law of Succession (Amendment) Bill (National Assembly No.75 of 2019).

I must commend Hon. Kaluma for bringing this Bill, which is probably informed by his experience and history. That is why we need Members who have experience and interest. When the Bill was published and read the First Time in this House, I subjected it to public participation to the people of Funyula Constituency. I regret to inform the House that majority of them, whom I represent in this august House, have difficulties in accepting the contents of this Bill for the simple reason that it does not address the malady or shortcomings of the existing laws on inheritance, especially Section 29 of the Succession Act.

Two issues are re-emerging. When you go to Clause 2, where he seeks to amend Section 3, it has a bit of challenges. First, it defines “spouse” as “husband”, “wife” or “wives” recognised under the Marriage Act. The Marriage Act (No.4 of 2014), in the interpretation section, makes reference to “cohabiting”, which is defined “an arrangement in which an unmarried couple lives together in a long-term relationship that resembles a marriage”. The question that people are asking is what happens to that kind of arrangement yet in this Bill “spouse” means “wife” or “wives” and “husband?” It falls short of expectation.

Secondly, where I come from, a man is never considered great until there is drama on the date of his burial. If you go to the history of the community, at the time of burial, when they start giving out eulogies, they normally ask if there is anybody who wants to say anything. That is the time you will see women coming out from different corners with children who resemble the deceased. That burial will then go down in history as extremely wonderful and successful. So, the proposed amendments in this Bill do not address the core challenges experienced on the ground. An important question that again arises is the definition of dependents. Under Clause 3 of his amendment, he defines a dependent as:

“A spouse and children of the deceased whether or not maintained by the deceased immediately prior to his - it actually should be to his or her death.”

That is an amendment we have to make. Many of us know that men can perform biological acts of reproduction up to the very last time whichever age he is. How do you determine the number of children you have until after nine months after your burial? How do you determine? People are asking that question. I have died today. I did an act that resulted in pregnancy. How do you determine that these are my children until after nine months? Therefore, in any case, you can never know. A man can never tell the number of children he has because we do not know. A man is just like when you go to plant, when you pick your seeds and scatter them, you do not know where they will grow. You do not know which ones will grow and which ones will not grow. Therefore, we request that at the Committee of the Whole House we need...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order! Order Hon. Oundo! There is a point of order from Hon. Martin.

**Hon. Martin Owino** (Ndhiwa, ODM): On a point of information, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Information to who?

**Hon. Martin Owino** (Ndhiwa, ODM): To him; I think he has accepted that.

**Hon. Dr. Wilberforce Oundo** (Funyula, ODM): No, Hon. Temporary Deputy Speaker. Allow me to finish. I do not want to be informed.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is out of order, Hon. Ochieng, the Member for Migori.

**Hon. Dr. Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Speaker, allow me to conclude my presentation.

Those are the challenges that we must address. Second or third, is Clause 3(b). It is too wide and impractically impossible. I want to echo the sentiments of my party chair. Many of us as either politicians or ordinary human beings support too many children. We support too many families out of philanthropy and generosity. We have no intentions at all of them becoming family members or fall into the description of truly a dependant. Personally, since I got a job, I have paid school fees for too many children. Until now, we remain friends. I have done very many things for the vulnerable families and I still do it today. That is my personal decision. My wife or my children do not share it. Why should you force my children and my wife when I am gone that they must continue to support these people because they were my dependants?

We must re-state this and clearly only limit to those blood relatives. In addition, I would even suggest we expand to include mother in-laws, father in-laws, and all those kinds of things because we are so limiting in the definition. It is something he has tried, but he needs to go further and cure the shortcomings of the particular Act. Indeed, as we say, every woman and every man deserves companionship of whichever definition and of whichever nature. Putting a straight jacket about who can be a participant in any form is extremely unfair.

As I conclude, we need to avoid this obsession with succession. We need to avoid this obsession with inheritance. A reasonable man, a reasonable woman, an able-bodied person should work for himself and earn their own assets to live on their own instead of hoping to depend. Even in this House, there are very many Members whose parents died and left them with nothing. It has never stopped them from succeeding in life and building their own class of assets. That is why I want to urge all people - men, women, and whoever it is - before you die or as you go along, please have a will to clearly state your dependants.

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

**Hon. Jared Okelo** (Nyando, ODM): Thank you, Hon. Temporary Deputy Speaker for the opportunity. Some of us who profess the Christian faith amidst imperfections of men, are at pains to reconcile this idea of seeds scattering business.

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

**Hon. Jared Okelo** (Nyando, ODM): What is out of order, Hon. Temporary Deputy Speaker is this: Can the debater substantiate that he is talking for himself and not for the general public or for men?

I thank you.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Speaker, the Constitution of Kenya states that there is no State religion for the Republic of Kenya. So, do not

pontificate about religion. I am a practising Catholic, but I represent the people of Samia and Kenya generally. Therefore, I have a right to speak for them irrespective of my own status.

I have a family, my children are known and there is no doubt about it. There will be no drama. That is why probably I may never enter the list of great people of Samia.

With those few remarks, I oppose the proposed amendment until we make the necessary changes to reflect the reality on the ground.

I thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo, I found it quite something when you said that a man would not know his children. That is a very serious statement. You however sounded very convinced about it.

I would like to encourage the Members to have their masks on. Hon. Nzamba, I can tell you have it on, Hon. Kasalu, you have it on and Hon. Bunyasi is going to be putting it on.

Very Well. Let us have Hon. Catherine.

**Hon. (Ms.) Catherine Waruguru** (Laikipia, CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I am a very proud woman and for avoidance of doubt, I am never afraid of being called a slay queen. On behalf of the many Kenyan women here who are married as first, second or third wives and some who do not even know who the fathers of their children are or the public would try to interpret who fathered their children... Therefore, allow me to congratulate Hon. Kaluma because he has been a champion for women, girls and children in the Republic of Kenya. Recently when we had the issue of the two-thirds gender rule in this Parliament, Hon. Kaluma never shied away from advocating for women rights in this country.

Therefore, I stand tall to speak for a majority of our women, particularly from where I come from in the Mt. Kenya Region who are not lucky to find spouses, but have a right to give birth and with whoever they want because children are a gift from God. I thank our women because we strongly stand tall even when we are called single mothers and we bring up our children most of who do better than those who enjoy both parents.

Therefore, let nobody stand on the Floor of this House to attempt to label women slay queens and talk of women who give birth to children and they want to assume that we gave birth through osmosis. It is men who give us children and it is men who are the fathers of our children.

Therefore, I have consulted with Hon. Kaluma seeking clarification on a number of issues and he is a very friendly legislator. He is working with our women. We want at the Committee of the whole House to introduce amendments in this Bill. Number one amendment as was stated by Hon. Millie Odhiambo is that we want under Clause 3 to split item 29 (i)(a) for the purpose of this part "dependant", (a) to read thus:

"On issues of the spouse, the children of the descendant whether they are maintained by the deceased immediately or prior to his death."

ii) That is on such of the deceased parents.

We introduce Part (c) which is going to read thus:

"The step children, the grandparents, grandchildren and every other person who was a beneficiary and was being maintained by the said person."

Why am I saying this? In situations where we have large families, there are people who never work for as long as their brother or sister is a business person or they have anything they can be proud about. So, they will always sit back and pray when this person will die, whether it is Corona or whatever, so that they get a stake of his estate. So, for the protection of our husbands, wives and children, we need to introduce an amendment, Hon. Kaluma, that it is only in the

absence of Part (a) where the spouses and the children are, that your step brothers and sisters and grandparents can inherit your estate.

*(Applause)*

It must come out very clearly that if they will benefit from your estate, it is to a certain percentage and at the will of the owner. But if you want to introduce an unscrupulous clause here to make your brothers in the village to be lazy, waiting for you to die, they will throw your wife out of the window and declare she was not married legally. We are going to pass the burden to our wives.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Catherine by resolution of this House, this Bill had a maximum of two hours. I know quite a number of Members lined up here wanted to speak to this. I am afraid I am unable to break that resolution of the House of two hours. In that case, Hon. Catherine, you still have a chance to speak in the Committee of the whole House.

So, in the circumstances, the Members who have not spoken to this may not do so at this time by the resolution of this House. Therefore, it is time for the Mover to reply. Your time has been eaten a bit by the Members. You are the one who was championing them to speak. Hon. Kaluma, you do not have many minutes, just a maximum of six or less.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker. I wish to donate.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Well, Hon. Kaluma, what we will do so that we are fair is that we shall not limit your allocation as the Mover to six minutes. Let us give you the entitled 10 minutes and you can allocate as you wish.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, most sincerely, Hon. Temporary Deputy Speaker. Mine was to set the agenda and I am happy with the contributions coming because they will lead to improvement of the Bill. With your leave, may I, therefore, allow Hon. Cate Waruguru to have two minutes to conclude. Then Hon. Martha was requesting for two minutes.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I am advised that Hon. Catherine having spoken, if she stands to speak again, it will be counted as a second time.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker. May we allow Hon. Martha Wangari. She has been engaging on this matter.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): For how many minutes?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): For only two minutes, then we allow Hon. Pamela and Hon. Nzambia.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Two minutes each.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Two minutes each and then I conclude in the last three or four.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Okay, very well. Hon. Catherine is consulting with Hon. Wangari.

**Hon. (Ms.) Martha Wangari** (Gilgil, JP): Thank you, Hon. Temporary Deputy Speaker. I also thank the Mover for being gracious to donate the two minutes. I will go straight to some of the issues I have with this Bill. One issue is ensuring this law is also aligned with Article 53 of the Constitution on the rights of the children whether in a marriage or not.

I will specifically speak on the issue of Christian and Hindu marriages where you have one wife by law. But if you have sowed your seeds outside, that child is entitled to be a beneficiary of

your estate. I say this because Article 53 of the Constitution is very clear on the rights of the children and specifically part (e) which states:

“(e) to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not;”

This issue has to come out clearly in this Bill, so that we do not make people suffer. If you do not like the woman you slept with my friend, use a condom. If there is a child out of it, ensure you take responsibility of that child. I say this because we have to speak clearly about this. There is a person who died last year called Ken Walibora. He was a very prolific writer for those of us who did *fasihi* in school. I have talked about him because he said very clearly, *hakuna mtoto wa haramu, kitendo ndicho cha haramu*.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very good. Hon. Pamela Odiambo for two minutes.

**Hon. (Ms.) Pamela Ochieng** (Migori (CWR), ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the chance, and Hon. Kaluma for thinking about the issues we go through when somebody dies, especially men. I wanted to re-emphasise the bit that Hon. Waruguru talked about, that Section (b) of this amendment and the proposed introduction of Section (c) should only take place in the event one does not have a wife or wives and children. I just want to challenge Hon. Oundo. It is shameful that you can stand in this honourable House to say that men give birth carelessly all over the place even with animals without knowing who their children are. We demand, as women, that whenever you give birth, you should keep record and take care of those children! It is because we are tired of children we call fatherless when in reality their fathers are alive and kicking. It is high time men took responsibility and did that which is right. Otherwise, all the women deserve to be respected.

Hon. Kaluma, you will note the insertion of the word “her” because it is me who dies. It is not just “his”. I think that is a small error, but we can correct it. Thank you. We stand to protect women, men and children.

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

**Hon. Thuddeus Nzambia** (Kilome, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I will be very brief because of time. I rise to support this Bill by Hon. Kaluma. I appreciate him for donating one or two minutes to me. I want to make it very clear that we need to protect our women. In this case, where a man is married to a woman and after they stay for some time the man decides to marry another woman or women, the law should protect the wealth of this hardworking woman who was married initially. We have very hardworking women who know even how to create their own wealth. In case the man dies, that wealth which has been acquired by the first woman should be protected. I encourage Kenyans to work hard and not wait for somebody to die to inherit whatever is available. Men and women should also be very responsible. Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kaluma, you have the balance of the time.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I thank you, Hon. Temporary Deputy Speaker. Let me thank the Members who have contributed. I know several Members require time to debate. Colleagues, I am told there are only a few minutes remaining. Let us engage more at the Committee stage of the Bill.

Hon. Members, I brought this Bill, but I am not saying it must be passed in its form. Throughout your presentations, I have noted very many issues that we can bring on board. Some Members have suggested that we need to break down sub-paragraph (b) so that we cater for those

others in the absence of the surviving spouse, children, and parents. We need to stagger them with clarity. It may look very broad, but you must have also heard of cases where, for instance, there is an accident involving a family including the extended family. However, I think the wisdom that you are suggesting, more so Hon. Cate Waruguru, that we structure them is something we can bring on board. You all can bring amendments which I can assure you I will support.

I am enriched by what Hon. Martha Wangari has said. You know some people think that when we say children, we are not alive to the fact of all children. When we talk about the children, please, go and look at what Article 53 of the Constitution says. When I talk about a spouse under the Marriage Act, go and look at what the Marriage Act says. It is very widely defined there. When you are bothered about property and former wife and whether they can inherit, go and look at the Matrimonial Properties Act and you will see how it is treated even in a polygamous situation. People do not know that when you are in a polygamous setup and then you marry another wife, the property you have with the first wife up to the time you are marrying can only be shared between you and your first wife. So, you start that way. These things are already broken down.

Hon. Members, I am bringing this Bill out of my experience partly as a lawyer and partly from what I have seen. I told you when I was moving the Bill I was involved a bit in the Ambrose Adeya's estate.

I did not tell you that I also intervened in the matter for Hon. Mellitus Mugabe Were, if you can remember, where a person who was among the best maids and you could see the photos, came upon his death to say that she was now a wife, for purposes of succession. By the time we were successful to get the family back, Hon. Nangabo, whom I knew through that case, will tell you, Hon. Members, that that lady had taken the flats of Hon. Mellitus Mugabe Were, and his mother and siblings were suffering. I am not suggesting that this is final. I request you to support this Bill to go through Second Reading, so that we can bring clarity. People have spoken to what the Islamic law of inheritance is. By the way, if you look at the Quran, it is so clear and crisp, and that is why among our Islam brothers, you will never see these things. This is what I am requesting we think about, so that it is certain how we will proceed if any of us or any Kenyan dies.

I beg to move and I thank you, Hon. Temporary Deputy Speaker.

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

**Hon. Peter Kaluma** (Homa Bay Town, ODM): I beg to reply. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, we shall pend putting the Question on that Order to a subsequent time. Next Order.

## BILL

### THE CONSTITUTION OF KENYA (AMENDMENT) BILL

*(Hon. (Ms.) Florence Mutua on 18.3.2021)*

*(Resumption of Debate interrupted on 18.3.2021)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the debate on this had actually commenced, the Mover had done her part. The one who was on the Floor was Hon. Mishi who was seconding. Hon. Mishi, you have a balance of five minutes starting now.

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Thank you, Hon. Temporary Deputy Speaker. This is just a continuation from where I was in seconding the Constitution of Kenya (Amendment) Bill. I just want to wrap up with the reason we are doing amendments in this Bill. The main aim is to ensure we have well-qualified Members who are going to be nominated especially after the results of general elections.

In most scenarios, you see resourceful and stronger members losing during a general election. When you do the nominations, after the results, this should be the right moment where you are going to know strong members who are resourceful and who can be considered through nomination.

If you want to have well qualified Members through nomination, we need to do it after the election because this is the time when the temperatures of the elections are down. We can have a sober process where we will have qualified people who are going to represent the balance in terms of affirmative groups. In the Constitution, there is what we call representation of the people, where we need to ensure that we have women in leadership, youths, people with disability and representation of the minority. If you do it before the elections, you might not balance all the affirmative groups, but if you do it afterwards, you will make correct decisions.

We also need to understand that we need a regional balance in terms of leadership positions. After the results, you will also know which area /region in our country lacks some representation in terms of women, people with disability and the youths. So, if we do it afterwards, we will know from where we will nominate to ensure that we, at least, have regional balance. If you do nominations after the elections, you will ensure that the people who are going to be nominated are qualified, have worked hard and have been loyal to the party for the whole period and even after. So, I do not want to talk much because the Mover of this Bill, Hon. Florence, has given a lot of reasons why we are having this kind of amendment. I also added a lot in regard to this.

I also want to urge the Members that this will not affect the issue of the Building Bridges Initiative (BBI). Even in the BBI, there is what we call top list. The top list is moreover the same as nomination of Members after elections. So, this will not interfere with what is being talked about in the BBI.

I beg to second this amendment Bill by Hon. (Ms.) Florence Mutua. I also appreciate her for coming up with such a Bill. This is the only way we will ensure that the right, qualified and resourceful people, who did not make it in the general election, come to this Parliament and add value. They will be in the leadership to ensure that we make changes in terms of law, and spearhead the development of this country.

I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. (Dr.) Christin Ombaka.

**Hon. (Dr.) Christine Ombaka** (Siaya (CWR), ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Actually, I had requested to speak on Hon. Peter Kaluma's Bill. Still, this is very important. The Bill that Hon. Florence Mutua has raised is still very important. It is an amendment that will help many people who want to come to Parliament and are part of our parties, but do not have good opportunity.

Since I have not read it very well and I have not prepared myself, I wish to be given a chance immediately I sit down. Just give me about ten minutes, if that is possible, I will appreciate.

Otherwise, I support the Bill, the little that I have heard, and would wish to be given an opportunity to contribute properly.

I thank you.

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

**Hon. Vincent Tuwei** (Mosop, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity. I join hands with my colleagues, especially on the matter before us, that we want to have Members of Parliament drawn from that list, that we find through the party and also participation to be very important, and have them here. It is good for us to join our lady Members of Parliament in this view, especially to satisfy the concerns that we have in our Constitution.

We know that as we go debating the issue of the BBI, the issue of getting female Members of Parliament will be very critical. I am very happy to thank my colleague who has brought this Bill before us so that we can contribute and lay a foundation for tomorrow, in order for us to take a step in the right direction in trying to ensure equity and representation in this House as was envisaged by those who came up with our noble Constitution, that we must have all genders representation in Parliament.

Hon. Temporary Deputy Speaker, women representation is very critical. They form a very important sector in our population. We have 51 per cent of Kenyans being women. To me, a Bill of this nature will enrich and enhance the responsibility and ways and means of us achieving what has been running away from many of the past leadership, in trying to get women to parliament.

I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Hon. Members, this business will have a bit of time when it is next scheduled by the House Business Committee. So, Members will have an opportunity to engage and contribute on this. I would like to encourage Members to get the Bill - obviously from the place we pick - so that then they can familiarise themselves on the contents of the Bill in readiness for when next it is scheduled.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 1:00 p.m., this House stands adjourned until this afternoon at 2:30 p.m.

The House rose at 1:00 p.m.