

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 18th February, 2014

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

PRESENCE OF DELEGATION FROM PARLIAMENT OF SIERRA LEONE

Hon. Speaker: Hon. Members, I wish to introduce to you a Parliamentary delegation from the Parliament of Sierra Leone which is seated at the Speaker's Row. The delegation comprises of the following Honourable Members:-

The Hon. Claude Kamanda, MP	-	Majority Whip APC Party/Leader of the Delegation
The Hon. Gladys Brima, MP	-	The SLPP Party
The Hon. Thomas M. Turey, MP	-	The APC Party
Mr. Ibrahim Sesay	-	Clerk to Parliament

They are accompanied by Mr. Cyril F. King, Director of Legislative Department and Mr. Karmoh Konte, Project Officer. The delegation is in the country to learn and share experiences with Members of this House on the legislative process in the new Constitution, as well as the establishment and management of the Constituencies Development Fund. They will be with us till Thursday, 20th February 2014.

On my behalf and that of the hon. Members, I wish to welcome them to Parliament and wish them a fruitful engagement.

Thank you.

PAPERS LAID

Hon. A.B. Duale: I beg to lay the following Papers on the Table of the House today, Tuesday, 18th February, 2014:-

- (i) The Medium-Term Debt Management Strategy, 2014 from the National Treasury
- (ii) The Medium-Term Budget Policy Statement from the National Treasury.

COMMUNICATION FROM THE CHAIR

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LATE SUBMISSION OF BUDGET POLICY STATEMENT/
DEBT MANAGEMENT STRATEGY

Hon. Speaker: Hon. Members, those walking into the Chamber please, note that you can undertake the short exercise at the entrance at any time in the course of the proceedings until the House rises. The machines will be available there. So, you do not have to crowd that place all the time. We have to transact business.

Hon. Members, I would like to draw your attention to the fact that the Leader of Majority Party has just tabled the Medium-Term Debt Management Strategy Paper, 2014, and the Medium-Term Budget Policy Statement from the National Treasury. As we are all aware, as per our Standing Orders, the Cabinet Secretary is required to submit those documents not later than 15th February each year. It is important to draw your attention to the fact that the documents were received by the Clerk's Office on Friday, 14th February, at 5.00 p.m. This is obviously disgusting! The National Treasury had all the time to submit the documents. Late delivery of documents from the National Government only makes the National Assembly appear bad. I am aware that several Committees had to schedule meetings urgently yesterday, and some today; in order to try and comply with the directive issued here.

I want to say very clearly, warning the National Treasury and other Government officials, the National Assembly will not play rubberstamp roles. This is deliberate in order not to give the House sufficient time to comb through, with a toothcomb, the various documents and proposals raised in the Budget Policy Statement as well as in the Medium-Term Debt Management Strategy Paper. I want to direct that the National Treasury takes note that this House expects the Division of Revenue Bill, 2014/2015 to be laid on the Table of this House not later than 10th March, 2014 but in any event, nothing prevents them from submitting it even 10 days before that deadline.

Similarly, the Estimates, which are required to be laid on the Table of this House not later than 30th April, 2014, must be submitted within those timelines. Our own rules say that once they are submitted, they must be tabled in the House within three days and then they will be deemed to have been committed to the Departmental Committee without any Question put. If they bring the Budget Estimates on 30th April, 2014, which is scheduled in our calendar to be the last sitting day, it means that there will be no time for hon. Members and, indeed, for the various Committees to go through those Estimates. This is, therefore, a warning to the National Treasury particularly; that we will look with disfavour this mode of delivering documents which are meant to kick-off the Budget-making process in the country. We are no longer a rubberstamping Parliament.

Next Order!

REQUESTS FOR STATEMENTS

POLICY GUIDELINES ON SCHOOL FEES FOR SECONDARY SCHOOLS

Hon. Bowen: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Education,

Research and Technology regarding the increase of school fees in public secondary schools in Kenya.

As we all know, education is a basic need for this country. It empowers our citizens, who in turn develop the ability to participate in national development. The increase in school fees for the different categories of secondary schools in the country has attracted a public outcry from parents and guardians as well as orphans, who have been left with no option but to drop out of school. The trend will increase poverty in the country, if it is not checked. In the Statement the Chairperson should inquire into and report on:-

(i) the legal and policy guidelines on school fees for secondary schools in Kenya, indicating the specific amounts of school fees chargeable by national schools, county schools and other public secondary schools;

(ii) disciplinary measures taken against principals, head teachers and boards of management that have increased school fees, contrary to the existing policy; and,

(iii) the existing discrepancies in fees charged by different public schools in Kenya, with special reference to national schools.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Bowen, it sounds like it could be a very good subject of a Motion.

Let us hear the Departmental Committee Chairperson, hon. Sabina Chege, or any other Member of the Committee.

Yes, hon. Keter.

Hon. E. Keter: Thank you, hon. Speaker. On behalf of the Chairperson of the Committee, I undertake that we will respond to the request within a period of three weeks from now.

Hon. Speaker: Yes, hon. Bowen.

Hon. Bowen: Hon. Speaker, this is a very serious issue. If possible, the reply should come even by the end of today because as we speak, there are so many students who are at home because they are unable to pay school fees. If it should delay, it should be brought tomorrow.

Hon. Speaker: Hon. Bowen, did you say that the response should be brought here by the end of today?

Hon. Bowen: Yes, hon. Speaker.

Hon. Speaker: As you know, hon. Keter is not the Cabinet Secretary in charge of education. So, I do not know how he is going to go about this matter. He is elected by the people of Belgut to represent them here. Expecting him to give you that kind of answer within a day, surely, it is tall order.

Hon. E. Keter: Hon. Speaker, one day is too short. I plead with him that the period of time I have requested is not long as such because we need to get some guidance, and the Chairperson is not here. So, I am just speaking on behalf of the Chairperson.

Hon. Speaker: Hon. Bowen, hon. Keter is unlikely to give you that response within a day.

Hon. Bowen: Hon. Speaker, we believe that he is an able Member of the Committee, and that he will convey the message to the Committee Chairperson. This is a

serious national issue. You have seen the public outcry across the country regarding the increase of fees by public schools. We have very many students at home. We have the same national schools charging different fees. We do not know exactly what the ceilings are for those schools. What is the ceiling in terms of school fees chargeable by the various categories of public schools? We need the answer by tomorrow. If you ask hon. Members, you will appreciate that this is a concern of all Members.

Hon. Speaker: Yes, hon. Keter.

Hon. E. Keter: Hon. Speaker, I do not want to contest very much on this matter. I want to assure the hon. Member that we shall avail it within that time.

Hon. Speaker: You shall do what, hon. Keter?

Hon. E. Keter: Hon. Speaker, we shall avail the Report.

Hon. Speaker: When?

Hon. E. Keter: Hon. Speaker, I asked for three weeks.

Hon. Speaker: Hon. Bowen said that three weeks is a long time. He thinks that you can give him the response tomorrow. Is it humanly possible?

Hon. Members, hon. Keter is not in possession of the information. He would have to seek it from the Cabinet Secretary. It is not possible for him to get it today or even tomorrow. Remember that even during the old system, there was something called “Ordinary Questions” and “Private Members’ Questions”.

(Some hon. Members raised their hands)

Those hon. Members who are raising their hands are in the wrong House!

So, hon. Kangongo, you will have to wait for the Member to access the information. It is not a debate anyway. It is a system that we have in place. He cannot give you the information tomorrow. It is not in his possession. It is not even in his power to command the Cabinet Secretary to avail the information. Even if they were to invite the Cabinet Secretary, our own rules demand that you give the Cabinet Secretary at least seven days.

Hon. Bowen: Hon. Speaker, I am obliged if it is seven days. Three weeks is too long. There are students who are at home.

Hon. Speaker: There is a remedy for those who are at home. They will go to school.

Next Statement request, hon. Nassir Abdulswamad Sheriff!

POLICE RAID IN MASJID MUSA MOSQUE

Hon. Nassir: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to once again request a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the police raid in Masjid Musa Mosque in Mombasa County.

On 2nd February, 2014, police officers raided the Masjid Musa Mosque and attacked worshippers all in the name of fighting terrorism. Noting that places of worship should be accorded the respect that they deserve, officers attacked the worshippers after they had concluded their afternoon prayers. During the raid, eight innocent people who

had no inclination whatsoever to any terror organization were killed. A number of them have been injured and out of those by the time we were presenting this request, two people had been missing but we are now aware that one of them is unaccounted for and all evidence shows that the person was arrested by the police. He has not been presented in any court of law and he is nowhere to be seen in police cells. Fifty five of those people were minors. Some of them were insane. So, in the Statement, the Chairperson should report on why the police saw it fit to go and attack a place of worship without taking necessary restraint; the action the Government is taking against the police officers who raided and killed innocent Kenyans and the fate of the missing person who till today is unknown.

If I may add because this is something that I had mentioned to the Chairperson, we have taken the liberty of collecting evidence on our own as a constituency and we would prefer that when the Committee is deliberating on these issues, we should be called in to present it so that we can shorten the timeframe of investigation.

Hon. Abongotum: Hon. Speaker, the issue of Masjid Musa Mosque is an issue that is so weighty in this country and especially among the Muslim leaders. So, we want to undertake to give a response in a week's time considering the gravity of the matter and also promise that we will invite the Member of Parliament for Mvita to come and shed light on the issues that he wants to raise. We will also demand that the person who is not accounted for, even before we meet, the police should produce him. We will take this matter seriously and in a week's time we will give a response.

(Hon. Nassir banged his table in applause)

Hon. Speaker: Hon. Nassir, the way to applaud is not to bang tables. People go to mosques and churches to be reminded about things they were taught when they were very young and so I know it is necessary even with regard to our own Standing Orders to keep reminding ourselves. So, it is not in bad faith that that is not the way we acknowledge the sentiments by the Chair.

Hon. Nassir: Yes, hon. Speaker, my apologies for breaking the Standing Orders. It was out of excitement. The Chairperson has committed himself that his Committee will undertake this and he has confirmed that we will be invited in the deliberations so that we can present exactly what transpired.

INADEQUATE FACILITIES TO ACCOMMODATE
DOUBLE INTAKE IN UNIVERSITIES

Hon. Mohamed Diriye: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I hereby request for a Statement from the Chairperson of the Departmental Committee on Education, Research and Technology concerning double intake in public universities nationally. In the recent past, the Ministry of Education, Science and Technology introduced double intake to accommodate more students in public universities. This was a noble idea but it cannot be successfully implemented due to inadequate facilities to accommodate the increased number of students. The Chairperson should inquire into and report on the measures being put in place to ensure quality of education is not affected by

the double intake and the measures the Government is putting in place to adequately equip the existing universities and increase the number of public universities.

Hon. E. Keter: Hon. Speaker, the issue of education in universities is very touchy and I will plead for, at least, three weeks because I need to go consult the officers concerned in the Ministry. Three weeks should be fair.

Hon. Mohamed Diriye: Hon. Speaker, that is okay. However, I have a second Statement which I would like to request.

I hereby request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security concerning discrimination and difficulties experienced in acquiring national identity cards and passports by Kenyans of Somali origin.

Hon. Speaker: Order! I think it is on account that you have taken undue advantage. That is not on the Order Paper. Approach the Clerk's Department to get it listed.

STATUS OF ECONOMIC STIMULUS PROGRAMME

Hon. H.K. Njuguna: Hon. Speaker, I am reading this Statement on behalf of hon. Mwangangi who is attending an urgent matter in his constituency. Pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Finance, Planning and Trade regarding the Economic Stimulus Programme (ESP) that was introduced in 2009/2010 to boost Kenya's economic growth. The main aim of the ESP was to jumpstart the Kenyan economy towards the long term growth and development after the 2007/2008 post election violence and the effects of 2008/2009 global economic crisis. In the Statement, the Chairperson should inquire into and report on:-

- (i) the economic and tangible benefits of the ESP and the current status of the ESP programme;
- (ii) when incomplete or stalled projects are likely to be completed; and,
- (iii) whether the Government will compensate small traders who were affected by evictions done to allow for construction of these projects.

(Hon. Gaicuhie stood up in his place)

Hon. Speaker: You are not on the screen!

Hon. Gaicuhie: Hon. Speaker, I have misplaced my card but I have asked for replacement. I have asked the Member to give us three weeks because when it comes to these ESP projects, they cut across very many ministries. We will ask the Ministry of Finance to liaise with their counterparts and give us a comprehensive answer. So, that is why I want to request for three weeks knowing that the Ministry of Finance is also now busy with the Supplementary Budget and also the Budget Policy Statement (BPS).

Hon. H.K. Njuguna: Hon. Speaker, in view of the complexity of the subject, I accept three weeks.

Hon. Speaker: It is okay!

Hon. Ochieng, I give you this chance to seek your Statement. Hon. Members before, I allow hon. David Ochieng I want to make an observation. When you look at your Order Paper, you will see that Statement No.5 is by hon. Chris Wamalwa. He wrote to me stating that he will not attend Parliament today and sought permission to be absent.

COMMUNICATION FROM THE CHAIR

LEAVE OF ABSENCE BY MEMBERS

Hon. Members, I made this communication last week and many of you were absent. I just want to draw your attention to Article 103(1)(b), of the Constitution of the Republic of Kenya, promulgated on 27th August, 2010. It requires that when a member is unable to attend Parliament for whatever reason, including the one who is just walking in, you must seek permission from the Speaker of either this House or the Senate for leave of absence. Otherwise, missing eight sittings in a session may become ground for a member to lose their seat.

I am making this communication so that you can know many people are out their looking for all manner of excuses to put Members into trouble. It is good that I protect my turf also, please do not make it difficult for me to protect you. As you have seen in numerous occasions, I have stated that Members can be absent because of all manner of reasons, such as attending to constituency work and their constituents, and I appreciate that. Please, if for one reason or another you find yourself in that kind of a situation, just make sure I know because we do not want to give excuses to idlers to start harassing Members.

Thank you.

(Applause)

REQUEST FOR STATEMENT

GOVERNMENT PLAN ON *BODA BODA* BUSINESS

Hon. Ochieng: Thank you, hon. Speaker for that clarification. My Statement is addressed to the Leader of Majority Party. Pursuant to Standing Order No.44(2)(b), I wish to request for a Statement from the Leader of Majority Party regarding the status of commercial motorcyclists commonly known as *boda boda*. In his Statement, the Leader of Majority Party should inform the House on the following:-

(i) how many motorcyclists or *boda boda* operators have been licensed as public transport providers in the country;

(ii) the level of contribution of the *boda boda* sub-sector to the Kenyan economy;

(iii) any plans, immediate or otherwise, to ensure all the youth or indeed Kenyans whose livelihoods depend on the *boda boda* business are able to acquire the necessary riding licences to operate;

(iv) what the Government is doing to eliminate the insistent harassment of *boda boda* operators by the police in the name of enforcement of the law; and

(v) the plans being taken by the Government of Kenya to ensure that travel using the means of *boda boda* is safe.

Hon. Speaker, I request that the response be brought earlier because this will help in discussing a Motion that I have filed in your office on *boda boda* business in this country.

Thank you.

Hon. Speaker: It was addressed to the Chair of which committee?

Hon. Ochieng: It was addressed to the Leader of Majority Party.

Hon. Speaker: The Leader of Majority Party, the question is directed to you.

Hon. A.B. Duale: It is a heavily loaded question. I will bring a comprehensive answer in two weeks' time.

Hon. Speaker: The Leader of Majority Party knows that it is on *boda bodas*?

Hon. Ochieng: This is because the Leader of Majority Party was talking when I was raising my Statement. I hope he got the question and will deliver a good answer in two weeks' time.

Hon Speaker: He will also get it from the Clerk's Office. Indeed, in the past, I am sure hon. Nyikal will tell you that he never used to sit in the Chamber, but he would always get the questions which were raised here.

The Member who is in an advanced stage of kneeling--- Hon. Kimani Ichung'wah, you have a habit of doing some funny things around there always.

COMMUNICATION FROM THE CHAIR

PROCEDURE TO APPLY WHEN CONSIDERING THE SENATE AMENDMENTS

Hon. Members, I wish to make this guidance before the Leader of Majority Party moves the Motion under this Order. I would like to guide the House on the procedure which I shall apply on the consideration of the Senate Amendments to the Public Finance Management (Uwezo Fund) Regulations, 2013.

As you will recall, hon. Members, the regulations were considered and passed by this House on 19th November, 2013. Thereafter, the regulations were sent to the Senate for approval as is required by Sections 24, 25 and 205 of the Public Finance Management Act, 2012. The Senate considered the regulations and returned them to this House on the last day of the last Session, after which I referred the Senate Amendments to the Committee on Delegated Legislation for consideration.

Hon. Members, Standing Order Nos.145 to 148, outline the procedures to be followed in considering the amendments by the Senate. The regulations will be considered in three stages. First, the Leader of Majority Party will move the Motion, which is:-

THAT, the Senate Amendments to the Public Finance Management (Uwezo Fund) Regulations, 2013, be now considered.

The purpose of this Motion is to initiate general debate on policy and principal of the Regulations. This debate should take a maximum of 45 minutes and should be confined to the Senate Amendments, since the House had generally debated the Regulations in the last Session. Upon conclusion of that debate, the House will resolve

into Committee of the whole House to examine the amendments proposed by the Senate. The Senate proposals are contained in today's Order Paper, this is the second stage. The amendments have also been incorporated in the regulations as circulated by the Clerk's office and highlighted.

The third and final stage will be reporting by the Chair of the Committee of the whole House to the House. This is similar to the procedure of reporting on a Bill committed to the Committee of the whole House. However, there will be no Third Reading since the Regulations are not a Bill. Instead, the resolution of the House on the Motion that the House doth agree with the Committee in the said report will suffice.

Hon. Members, it is my hope that the Leader of Majority Party and the Chair of the Committee on Delegated Legislation have given proper guidance to Members to enable them consider the amendments appropriately and ensure that they are passed without any further delay.

Thank you.

For the same reason, we will give the Leader of Majority Party 10 minutes in moving and the Seconder, similarly, the Chair of the Committee on Delegated Legislation 10 minutes. Other Members contributing, three minutes each. Leader of Majority Party, take the Floor.

MOTION

SENATE AMENDMENTS TO UWEZO FUND REGULATIONS

Hon. A.B. Duale: Thank you, hon. Speaker. I beg to move the following Motion:- THAT, the Senate Amendments to the Public Finance Management (Uwezo Fund) Regulations, 2013 now be considered.

I want from the outset to urge my colleagues to support the Senate Amendments to Uwezo Fund Regulations, 2013, as contained in today's Order Paper.

This is setting a precedent in terms of regulations considered by both Houses. This will be the first precedent that we are setting as House where regulations that came to the National Assembly from the Senate are considered. Therefore, today we are discussing the Uwezo Fund Regulations and also debating the amendments made by our honourable colleagues in the Senate.

I wish to bring forward three key points. The first point is the totality of the amendments made to these Regulations by both Houses. Without attempting to flex muscles, I want to pose the question, which House actually made these regulations? The answer is the National Assembly of the Republic of Kenya, the Eleventh Parliament. We made most of the amendments when they were here in November, and the Senate upheld most of what we amended as House; the amendments are intact in this fundamental infrastructure.

Secondly, the Senate amendments do not fundamentally vary the regulations. As per the Order Paper, the Senate proposes to amend the title of Regulations and Regulations Nos. 4, 5, 15, 16 and 18. I can term these amendments as a common ground. Therefore, these Regulations, by and large, contain the wishes of the hon. Members of the National Assembly as expressed almost three months ago.

Thirdly, we are not making these Regulations for ourselves, but for the benefit of our people. However, between the memberships of the two Houses, those who need these regulations most are the hon. Members of the National Assembly. This is because they will be implemented at the constituency level. The youth and the women will access these funds at the constituency level, not at the county level.

Hon. Speaker, I think Members of the National Assembly have more roles in terms of the structures set up by Uwezo Fund. Our people have waited for Uwezo Fund for too long. I want to give an example; when His Excellency the President was launching the social assistance for the old, the disabled and orphans in this country, a group of youths and women addressed him as he was entering the venue, thus, “You are giving money for the old, the orphans and the disabled, where is the money that you promised the youth and women?”

Hon. Speaker, we have a timeline; there is Kshs6 billion lying idle and the end of the financial year is around the corner. At the stage of implementation, which is a process--- Even when we implement the Uwezo Fund in collaboration with the Ministry of Devolution, we might encounter many challenges. We expect to come back to the House and amend the same regulations. Therefore, what we are doing is not infinite; it is not the end. When we go to implement these Uwezo Fund Regulations in the Muslim areas, where I come from, in the other parts of the country and in our own diverse constituencies, we might face problems and we might come back here. Even if there are issues, let us first launch the Fund and our people get the money and then we will see as we go on, because this is a long-term process.

Therefore, this House should prepare itself for the next Budget and know how much money we are going to allocate to this Fund.

In conclusion, allow me to end with these words: The overall purpose of bicameralism should be finding a common ground for the benefit of the masses. This should ultimately serve to remove wars and misunderstanding which unduly separate us as Houses, one from the other. I think this is a good spirit. Both Houses have agreed in principle without injuring one another, or even the recipients of the Fund.

Hon. Speaker today is one of those days that we in the National Assembly should stand hand-in-hand with the Senate for the common good. The variation in the version of the Regulations passed here on 20th November, 2013, and the version passed by the Senate on 4th December, 2013 are almost the same. There are fewer than six amendments. I urge my colleagues to set an example today by accepting the negotiated document.

I beg to move and ask the Chair of the Committee on Delegated Legislation, hon. Cheptumo, to second the Motion.

Thank you.

Hon. Cheptumo: Hon. Speaker, I wish to second the Motion. As I do so, I wish to thank his Excellency the President for honouring the promise he gave to the youth and the women of Kenya during the campaigns. He promised that the Kshs6 billion which was set aside for the presidential run-off would be given to the women and the youth of this country.

I also wish to thank this House for approving this allocation in the 2013/2014 Financial Year. That is why it is now possible to discuss this Fund. I wish to say that the objectives of the Fund are well set out in Regulation 4. The biggest challenge we have

today is the unemployment of young people. I believe in every constituency in this country that is the challenge facing these hon. Members. Having Kshs6 billion available to enable our young people and women access credit will lessen burden on our youth and women.

Hon. Speaker, I also want to thank this House for passing these Regulations in November, 2013. Having passed the Regulations, it became necessary for the Senate to look at them, as per the requirements of the law. I just want to add my voice to what the Leader of Majority Party said as he was moving the Motion. The amendments proposed by the Senate are not fundamental. They do not alter the spirit of the Fund. That is the point I would like to stress. As we debate these amendments, or as we consider them, we should have in mind that Senate's amendments do not take away the original spirit of the Fund. They do not even affect the operations of this Fund at the constituency level; the rules are very clear on the role of Members of Parliament and the committees to be established therein. Therefore, the amendments do not really substantially alter the spirit of the Regulations.

Hon. Speaker, the Committee on the Delegated Legislation, which I chair; had a chance to go through these amendments yesterday and this morning.

Hon. Speaker, having applied our minds to the contents of the proposed amendments, we came up with a considered opinion that we do proceed with amendments because they do not substantially alter the spirit of the Constitution. That is why you do not see any amendments proposed by the Departmental Committee on Delegated Legislation.

Hon. Speaker, let me also mention this: It is this House which approved the application of the Kshs6 billion. This same House should not frustrate its own resolutions by delaying the rolling out of the programme. This money should be applied in this Financial Year, 2013/2014, that is, by June this year. If we do not move with speed and have these regulations passed, we may have a problem of not being able to apply these resources.

I have taken time to go through these regulations and I realize that there are many procedural issues to be done. After passing these regulations, the relevant Cabinet Secretary will have to constitute the national oversight board of the Fund. Secondly, these Members will have, again, to go to the constituencies and constitute the Constituency Uwezo Fund Committee; this will take time. We also have to identify the beneficiaries; this will also take time. The board is supposed to develop the regulations and guidelines to enable us operate this Fund. All those go together and they will have the effect of delaying.

This House and Parliament have done very well. My desire is this: This is the time we need to balance between regulations and the public mood. What is the expectation of our young people and our mothers? As we go to our constituencies every weekend the first question, second question and the third question is: Where is Uwezo Fund? In fact, even the issue of Senate is not known. The people who are known to be holding the money are the Members of this House.

Hon. Speaker, because of those reasons I would like to urge my colleagues and state that if we pass these regulations we will be having at least Kshs19 million in our

constituencies. We need that money to begin helping our youth and women so that they participate in the development of our country.

Hon. Speaker, with those remarks, my appeal to my colleagues is that we accept the amendments by the Senate so that we move forward and have the Fund rolling for the betterment and benefit of the young people and the mothers of Kenya.

Thank you, hon. Speaker.

(Question proposed)

Hon. (Eng.) Gumbo: Hon. Speaker, I thank you for giving me the opportunity to contribute to this Motion. As I do so, I want to agree with the sentiments expressed by colleagues who spoke before me. Both the Senate and the National Assembly derive their legislative authority from the people of Kenya. It is important that when it comes to the interest of our people, we rise above petty partisan considerations and unnecessary supremacy wars. I think that the amendments that have been proposed by the Senate, in my view, do not materially or structurally alter the purpose of this Fund. It will be in our interest that the people of Kenya start to get the benefits of this Fund.

Hon. Speaker, you will recall that at Independence this nation had a focus. The focus was simple and straightforward. We had very noble, simple, achievable and realizable goals which were to fight poverty, ignorance and disease. These goals have been elusive for our country for a number of reasons which I do not want to get into now. However, I think that this effort by Uwezo Fund is aimed at tackling the problems of poverty in the rural areas. I think it is a good and noble imitative which we need to rally behind and support so that our people can get the benefits of the Fund.

It is a known fact both in Kenya and outside this country that when you put money in the hands of women and youth and it is utilized in the manner suggested in the Uwezo Fund, we are going to achieve rapid development in the rural areas in the countryside. It is a good thing and I urge my colleagues that we support and pass these amendments that had been proposed so that our people can start to benefit from this Fund.

Hon. (Dr.) Shaban: Ahsante sana Bwana Spika kwa kunipa fursa hii ya kuongea juu ya suala hili la Hazina ya Uwezo. Ni kweli kwamba Wakenya wamengojea kwa muda mrefu. Nasimama kumuunga mkono kiongozi ya walio wengi hamu Bungeni. Wakati umefika; chelewa chelewa utakuta mtoto si wako.

Bwana Spika, tumengoja kwa muda mrefu sana. Wakati tumengojea hivi kuna umuhimu tukubali kwamba Kenya imebadilika na katika Bunge hili hatuko peke yetu bali tuna wenzetu. Yale ambayo wametaka tubadilishe ni machache tu. Mimi nimeyapendelea hayo mabadiliko kwa sababu kuna umuhimu Serikali kuu ihusishwe wakati tunafanya hizi kazi. Nimependa pale walipotaja kuwa mwenye kusimamia masuala ya maendeleo ambaye ni mfanyikazi wa Serikali kuu na Msimamizi wa Pesa ambaye pia ni mfanyikazi wa Serikali kuu wataweza kuileza Serikali kuu yale yanayoendelea.

Kina mama, vijana na wazee ambao wamejiunga kwenye vikundi hivyo wataweza kufanya kazi kutumia pesa hizi taslimu Ksh6 bilioni ambazo zinatakikana kutumika humu nchini ili kuleta maendeleo. Muda unakwenda na kwa vile mwaka uko karibu kuisha, naomba wenzangu wamuunge mkono kiongozi wa walio wengi humu Bungeni ili

tupitische hii mara moja na tufanye kazi pamoja na wananchi kuhakikisha kuwa maendeleo mashinani yamewawezesha watu wetu kuishi na kukabili matatizo yaliyoko. Hii ni kwa sababu kutafuta hela kwenye mabenki inahitaji kuwa na vyeti vya kumilki ardhi na mambo mengi ambayo Wakenya wengi hawana, hasa akina mama na vijana.

Ahsante sana Bwana Spika. Naunga mkono.

Hon. (Ms.) Nyasuna: Hon. Speaker, I want to support this Motion. The youth and women of this county have been waiting for a long time for the Uwezo Fund. This Fund was actually launched last year and people have just been sitting, waiting and asking, "When will money from this Fund get to us?" It is about time that this Fund got to the women and youth of this country because they continue to hurt as they access very expensive credit. A lot of them have been burdened by the yoke of this expensive credit and they end up being auctioned very unnecessarily. This Fund will come in handy to sort that out.

Hon. Speaker, it is needless to say that the Financial Year 2013/2014 is about to come to an end. Therefore, if we do not release these funds as soon as they should--- We would hate to be the barrier between this money and the youth and women of this country that are waiting for it.

If today we were to amend these regulations, I would have suggested the inclusion of the Women Enterprise Development Fund (WEDF) and the Youth Enterprise Development Fund (YEDF) into this Committee so that we are able to really harmonize and synchronize so that we do not have groups which have benefited and are, maybe, defaulting with regard to the WEDF and the YEDF and then coming over to get money from the Uwezo Fund. We are not amending the law today and we know the consequences of amendments, what I would recommend really is that as these committees are formed they need to work closely with the WEDF and YEDF officers.

One of the amendments I have seen is that the two persons, one of whom should be a male youth in the Uwezo Oversight Board--- This was to be done by the National Youth Council, but now the two persons will be appointed by the Cabinet Secretary. I would like to say that the Cabinet Secretary in appointing since the regulations now do not specify that these people must be youth, should ensure in the spirit of the regulations that this person is actually a youth, rather than just leaving it open.

Hon. Speaker, I agree with the amendments on capacity building because it is important that we have uniform capacity building instruments across the country.

Hon. Speaker, finally, I would like to urge now that we have brought a lot more sub-county---

Hon. Speaker: Hon. Kanini Kega

Hon. Kanini Kega: Thank you, hon. Speaker for giving me this opportunity to contribute to this very important Motion. As I rise, I support this Motion from the deep of my heart because I have information that today as we deliberate this Motion the youth and women of this country are glued to their television sets in order to see how we are going to treat it.

Hon. Speaker, I would also like to take this opportunity to thank His Excellency the President and the Deputy President and the ruling coalition which is Jubilee for fulfilling one of the pledges that they made when we were campaigning. I would also like

to thank our colleagues from the other side for joining us in fulfilling some of these pledges that we made.

Hon. Speaker, I would want to concur with the Senate that this is the beginning of working together. I fully concur with all the amendments that were made by our sister House, the Senate and I think this is the beginning of the good things that we are going to see.

Hon. Speaker, I would also want to thank my very good friend, hon. Sakaja who is the chairman of the most popular party in Kenya, The National Alliance (TNA) for coming up with the amendments to the Public Procurement Act which of course will give the youth and the women 30 per cent. We would want that to trickle down to the local level. We also want to see our county assemblies effecting the same Bill so that at least our youths down there are able to access credit facilities.

Hon. Speaker, some of us who are in urban areas are lucky to access funds from our banks but our youth and women down there do not have that capacity. Some of us have had a very hard time when we go back to our constituencies because the first question we are asked is: "Where is Uwezo?" I am very happy that next weekend I will be heading to my constituency ready and willing to disburse this money.

Hon. Speaker, I again support it fully. Thank you.

Hon. Speaker: Hon. Mulu.

Hon. Mulu: Thank you, hon. Speaker. Before I say what I want to say, I want to acknowledge some students from my constituency who are just walking out of this Chamber and tell them: "*Karibu sana.*"

Hon. Speaker, I want to support these amendments from the Senate but as I do so I need to go on record with my contributions on these amendments. When you look at these amendments, I think they are not in good faith and the only reason I am supporting them is actually because of the public mood and the hard questions I am always asked when I go to my constituency.

Hon. Speaker, for example it is very surprising to see that the Senate could not see the need to have the National Youth Council making a contribution in appointing the national oversight board. No wonder we call them the House of retirees because the youth should have actually been given the chance to offer one or two of their own to the national oversight board.

Hon. Speaker, the other thing is when you look at the members of this board, almost three quarters are civil servants and I can say without any fear of contradiction that this committee is likely to suffer what we call bureaucratic capture as it continues with implementation.

Hon. Speaker, last but not least is the issue of capacity building. As a House we had done it very well. We had allowed the Ministry of Youth to develop the curriculum, its contents and even standards but we were saying that it makes sense that after they have done the curriculum and set the standards for them to consult the committees we have at the local level for purposes of execution of the training. Look at what has happened; they have removed all that and it is the headquarters which will now do the setting of the standards, development of the curriculum and execution. They can now do whatever they want to do and I think this is really unfair to Kenyans.

So, hon. Speaker, with those observations which I think are very serious I very sparingly support these amendments. Thank you.

Hon. Speaker: Hon. Katoo ole Metito.

(Technical hitch)

Hon. Katoo: Thank you, hon. Speaker. Sometimes this technology here lets us down and even the one of checking in does the same thing because there is a very long queue. I think it will be prudent to have that checking in machine on every desk so that you use it to check in and also to log in when you want to speak.

Hon. Speaker, I stand to support this Motion and I actually want to urge my colleagues especially my good friend hon. Mulu that these amendments are very good. Actually, I want to say that we have been bashing the Senate for so long and we have been saying that it is a House of old aged Senators but old age is gold and wisdom. This is because if I look at the amendments that they have proposed, they are really very good for the execution of this Uwezo Fund.

I want to particularly draw the attention of the House to the amendment to Regulations 5, 14, 16 and 15. On Regulation 5 what has been proposed by the Senate is that they have upheld what the Ministry had proposed earlier. On the issue of nominating two youths to the National Youth Council and that is the contestation by two Members who have already spoken, I believe it is good to give the Cabinet Secretary as proposed by the Senate to do those appointments. This is because as we all know at the moment the National Youth Council is going through a transition period and it is actually grappling with issues of legitimacy and it may become very difficult for them to reach consensus on the two nominees. I would like to urge that as the Cabinet Secretary does this nomination and in support of what Gladys Wanga has said, he or she should also have a broad look at the regional representation.

Hon. Speaker, the proposed amendment by the Senate to Regulation 14 and Regulation 5 is letting the Cabinet Secretary nominate a woman instead of giving it to the National Gender and Equality Commission. I think the rationale behind this is that this Commission is an oversight body and so it may be very difficult for them to nominate people to committees that they are supposed to oversee, like the Uwezo Fund. It is good that this Commission be left to play oversight role and the Cabinet Secretary does the nomination.

Hon. Speaker: Hon. Mungaro.

(Applause)

Hon. Mungaro: Asante Bw. Spika. Ningetaka kuwashukuru wenzangu kwa kunirudishia kibarua. Ninaona ndio maana wanashangilia sana. Pia, ninakushukuru kwa kunipatia nafasi hii. Ninaunga mkono Hoja hii. Kile ambacho ningetaka kuonya katika marekebisho ya Senate ni kwamba tunatumaini kwamba wale watu wawili ambao waziri atachagua katika jopo hili hawatakuja kuwa kikwazo lakini watashirikiana na Kamati ambayo itaundwa katika maeneo ya Bunge, ili kuwarahisishia akina mama na vijana kuweza kupata pesa hizi. Vile vile, ninashukuru kwamba tunaweza kumaliza Hoja hii

kwa haraka kwa sababu kama alivyosema mwenzangu hapo mbeleni, siku hizi afisi zote za wabunge huwa zimejaa vijana na akina mama wakifikiri kwamba pesa za Uwezo Fund zimefika.

Kitu kingine ambacho ningependa kuchangia pia katika Hoja hii ni kwamba pesa nyingi zisitumiwe katika mafunzo. Ninajua ni desturi ya Wizara nyingi kuwa wakipata kiwango fulani kinaweza kutumika katika mafunzo, wao hutumia kiasi kikubwa kushinda kile ambacho kitawafikia vijana na akina mama mashinani. Kwa hivyo, tunaomba watumie pesa kidogo kwa mafunzo na nyingi zienda mashinani. Vile vile, ningependa pia kuwauliza wenzangu tujaribu hasa kuchagua vijana na akina mama katika kamati hii ili isije ikawa pesa ni za akina mama na vijana lakini kamati ni ya wazee.

Mwisho, tulisema mbeleni na tungependa kuuliza tena kama ingeweza kufikiriwa na Serikali, mfuko huu uwe kama CDF ili kila mwaka pesa hizi ziweze kuongezwa na vijana waweze kufaidika katika mfuko wa Uwezo Fund.

Hon. Limo: Thank you, hon. Speaker. I rise to contribute to this Uwezo Fund and I thank the House Business Committee for prioritizing this. In the wake of this Session, we indicated that we need to change and prioritize what we need to do in this country which affects our people. If you look at the amendments done by the Senate, they are actually not very significant. We can consider them as a house keeping procedure because it does not change significantly.

However, it is worth noting the key issue which was brought in by the Senate was to bring in standardization in terms of capacity building. We know capacity building can be distorted if it is not done by one body. If you look at the appointments, they are more or less the same as what was there in the initial regulation where the Cabinet Secretary will play a key role, especially in appointing the representatives of the youth. It is only unfortunate that when it comes to the representation of the youth and women, it is not clear whether the representative will be a youth or a woman. So, even if we are not going to change this regulation, we urge the Cabinet Secretary to ensure that in the spirit of representation, the people who are appointed are of those groups, so that for the youth, it will be a youth and for the women, it will be a woman.

It is worth noting that this country will never grow if we do not empower our people. Empowerment is the key thing and we have to support this as soon as we pass these Regulations. We want this money to reach the constituencies as fast as possible. I urge this House to pass these Regulations without further delay. We know the repercussions of changing the amendments done by the Senate and this will actually delay further the process. Nothing will be supported by the public because the mood is that the money should reach them as fast as possible.

I beg to support.

Hon. Injendi : Thank you, hon. Speaker. I rise to support this Motion because what is out there is that most of the youth and the women have been so enthusiastic about this. However, with time, because this Fund was not coming forth, this enthusiasm was going down. I rise to support and even urge the House that even though we have some amendments that are not very good for us, we go on and approve this for the sake of releasing these funds.

In particular, I want to look at Article 5(2), where we have the Cabinet Secretary choosing two persons. This is a real challenge to us because we are the people who know

the youth who are supposed to come for these funds. However, this has been removed and it will be a challenge. My request would be that before the Cabinet Secretary can do this appointment, he should consult with the sitting Member of Parliament to ensure that there is equity and fairness in choosing this youth. Otherwise, I want to ask my fellow Members that even when the Deputy President was going round, he was urging us, the House, to approve these guidelines. So, out there, the youth and the women know that it is us who are yet to approve these guidelines. Therefore, we should take this chance to approve so as to disburse these funds to our youth and women who are the target of the Fund, and who have been so happy with this Fund.

Hon. (Ms.) Ombaka: Thank you, hon. Speaker for giving me this opportunity to contribute to these amendments. First, I would like to make a comment on the structure of the Uwezo Fund especially at the county level where the appointments to committees are made. Most of the recommended officers are civil servants. I want to take you through so that you can see the challenge that we are going to face because they are all going to be men. If we do not watch out, the one-third gender rule may never be realized. We have a Sub-county Commissioner and most of these Commissioners are men in most of the counties. There is also the Sub-county Development Officer. Again, that is likely to be a man. Then you have an accountant; that is likely to be a man. Then the sub-county representative of the National Government, Ministry responsible for youth and women affairs and this is likely to be a man.

Then we have representative for each ward in the constituency nominated by the constituency Member of Parliament and that is also likely to be a man. The worst are the last two. We have two representatives from the constituency, one of whom shall be a male youth. The whole list is dominated by those who are likely to be men. My fear is that we are not likely to get the one-third gender rule in the appointment of committee members. That must be looked into very clearly and we perhaps need a rider on this particular section that the one-third gender rule should be observed. We need a rider here.

My last comment is that there are certain hidden regulations that may not be here. The youth are already complaining that they are forming groups and registering them, but the requirement for the Uwezo Fund is that they will qualify for the funds after they have registered six months down the line. A lot of them are worried that they may not get the funds because they are new groups. They have just been registered and they will not be able to have been in the system for six months. This needs to be looked into because so many youths are going to miss out on this particular Fund.

The very last one is that the Ministry responsible for youth and women affairs in this Government is not very clear. It is being mentioned here, but it is not very clear. We need to clarify which Ministry is responsible for youth and women affairs.

Hon. Speaker: Well, let us hear one youth; hon. Korir. Unfortunately, he happens to be male. So, hon. Christine Ombaka, you might be right. You have a point.

Hon. Korir: Thank you hon. Speaker for giving me for giving me this chance to speak on behalf of the youth, I am a youth who is 30 years old. This is a milestone that our country is embarking on today, to help the most important group of this nation –the youth. For us to move forward in this country and achieve Vision 2030, we need to give our youth a chance to empower themselves and become self-sufficient. This will make sure that our country moves forward. I support the amendments and, as Members of

Parliament, let us go and do our duty. Our duty as patrons has been clearly stated there. We should go back home today or this weekend and provide the linkage between the Fund and the public at the constituency and county level. We should mobilize the target beneficiaries to benefit from the Fund. That should be our motivation; to go and motivate those youths and prepare them. They are not prepared. Many of our youths are thinking that things are the same as they used to be. But it is our duty as Members of Parliament to leave politics aside, go and mobilize them to make sure that they benefit from this. I want to thank our President and the Deputy President for thinking about the youth and fulfilling the promises that they made. The youth will be empowered so that in 2017, they will not come to us to ask for *kitu kidogo*. The youths will be supporting us with money in our campaigns. That is what we will be looking for, because we have empowered them. We are going to empower them to become rich and be our next leaders. Thank you, hon. Speaker.

Hon. Speaker: We will still have one contribution from another youth. Hon. Okoth, Member for Kibra

Hon. Okoth: Thank you hon. Speaker. I rise to support the *Uwezo* Fund Regulations and welcome some of the wise amendments from the Senate. I am also very concerned, however, that the amendments that have been put here propose to limit the role of the National Youth Council in proposing representatives to serve in the Oversight Committee of the National *Uwezo* Fund Committee. So, that is my key concern. We cannot move forward. Even the President just last month in Ethiopia, talked about the role of the youth in this country and the importance of the National Youth Council and pledged his full support for it. We cannot, at the same time as Parliament, the Senate and the National Assembly, be making regulations that are taking away the voice, the participation and the active role of the National Youth Council as a duly elected and constituted organ of our country that speaks for the youth to participate on such an important matter. I will, therefore, plead with Members of the House when we go to the Committee Stage, to find a way to reinstate an active and clear participation role for the National Youth Council.

Otherwise, Members of the House, it has been long coming since 2013. Our constituents are very eager to find out when the money will reach them, so that they can use it as affordable capital to boost their businesses. I hope that very soon, this money will be in their accounts and the committees will be working at all levels to help our youths and our women to access the *Uwezo* Fund. May I compliment the Members of the Committee on Delegated Legislation - which I am a Member - for the good work we did to consider the interests and the concerns of the 47 County MPs who asked for a very important role in this Committee, and the consideration that we gave to make sure that the 47 county MPs will also be included in a clear manner in the constitution of the constituency committees, so that there is an inclusive process where political voices are heard, where all interests, women, young people are heard and included. Thank you for the opportunity to speak. I support.

Hon. Speaker: Very well. Hon. Members, those withdrawing--- The Member who does not know where she is, we expect that you should be facing this way when you are in the Chamber.

(Laughter)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

(Hon. Speaker left the Chair)

IN THE COMMITTEE

(The Temporary Deputy Chairman (Hon. Cheboi) took the Chair)

SENATE AMENDMENTS TO THE PUBLIC FINANCE
MANAGEMENT (UWEZO FUND) REGULATIONS, 2013

The Temporary Deputy Chairman (Hon. Cheboi): Order Members! Those who are withdrawing should withdraw quickly to enable us to proceed with the Committee of the whole House. The purpose of this Committee of the whole House is to consider the amendments of the Senate to the Public Finance (Uwezo Fund) Regulations of 2013. I would like to remind Members as we get to the work that we are going to do now, of the consequences of us rejecting or adopting the amendments. That is contained in our Standing Order No. 147. If we adopt the Regulations, the Speaker will pass them to the President for assent within seven days. If we reject them, we will go to the Mediation Committee. So, hon. Members, I am sure you have familiarized yourself with amendments as contained on page 10 of the Order Paper.

Regulation 5

The Temporary Deputy Chairman (Hon. Cheboi): Leader of Majority Party. I am sure you want to move the amendment.

Hon. A.B. Duale: Yes. I beg to move: -

THAT, Regulation 5 of the Regulations be amended in paragraph (2) by –

- a) deleting sub-paragraph (d) and substituting thereof the following new sub-paragraph- (d) two persons appointed by the Cabinet Secretary;
- b) deleting sub-paragraph (e) and substituting therefore the following new sub- paragraph –(e) one person representing women appointed by the Cabinet Secretary;

The Temporary Deputy Chairman (Hon. Cheboi): Any Member who wants to speak to it? We will give very limited opportunity because we have already discussed it at length.

Hon. Members: Put the Question.

(Question of the amendment proposed)

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

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

(Regulation 5 as amended agreed to)

Regulation 14

The Temporary Deputy Chairman (Hon. Cheboi): Leader of the Majority Party.

Hon. A. B Duale: I beg to move:-

THAT, Regulation 14 of the Regulations be amended –

- (a) in sub-paragraph (c), by deleting the words “ and in consultation with Constituency *Uwezo* Fund Management Committee” appearing immediately after the words “local offices”;
- (b) in sub-paragraph (d), by deleting the words “in consultation with Constituency *Uwezo* Fund Management Committee’ appearing immediately before the words “ be responsible”;

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Angwenyi, do you want to speak to it?

Hon. Angwenyi: Yes.

The Temporary Deputy Chairman (Hon. Cheboi): Yes. Then do it briefly and to the point. We will only give two Members per every amendment.

Hon. Angwenyi: I am audible, am I not?

The Temporary Deputy Chairman (Hon. Cheboi): Proceed.

Hon. Angwenyi: I am just wondering about the voice because the Speaker always asks for the voice of a lady, a youth or a young turk. He never asks for a voice of a wise man.

(Laughter)

So I am giving the voice of a wise man.

The Temporary Deputy Chairman (Hon. Cheboi): I had been informed that the voice of a wise man had been taken by the Senate but, proceed anyway.

(Laughter)

Hon. Angwenyi: This is a very good amendment and we should accept it, Temporary Deputy Chairman. Thank you.

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

(Regulation 14 as amended agreed to)

Regulation 15

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Regulation 15 of the Regulations be amended in paragraph (2)-

(a) by deleting the words “who shall be an *ex-officio* member” appearing immediately after the words “his representative”, in sub-paragraph (a);

(b) by inserting the following new sub-paragraphs immediately after sub-paragraph (a)-

(aa) the sub-county development officer or his representative;

(ab) a sub-county accountant responsible for national government operations within that constituency;

(Question of the amendment proposed)

Hon. Gichigi: Thank you, hon. Temporary Deputy Chairman. Although I support the proposed amendment, I would like to ask the Committee and especially the Members of the Committee that come from the constituency to be on the lookout. My experience with the social assistance fund or the cash transfers is that some officers who work for the Government but are not representatives of the people do not care about what happens. They are not interested as to whether or not the money will assist the targeted groups. So, it is important that the Committee and the patrons make sure that, that money will assist the people rather than get wasted.

Hon. Temporary Deputy Chairman, I support.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Wanga, I thought you had spoken but in the interest of what hon. Ombaka had indicated, I think I will give you a chance.

Proceed, hon. Wanga.

Hon. (Ms.) Nyasuna: Hon. Temporary Deputy Chairman, my contribution is in relation to the fact that earlier on, we had said that the sub-county commissioner will be an *ex-officio* member but that has now been removed. All the other members are substantive; that is the sub-county commissioner, the sub-county development officer and the sub-county accountant. But the sub-county representative in charge of youth and women now remains the only *ex-officio* member in that Committee.

That is the paradox that even when we look at these Regulations again, we need to review and harmonise them. This will ensure that if it is *ex-officio*, it is *ex-officio* and if it is not, it is not.

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

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

(Regulation 15 as amended agreed to)

Regulation 16

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Regulation 16 of the Regulations be amended by deleting Sub-paragraph
(k).

(Question of the amendment proposed)

Hon. (Ms.) Muhia: Hon. Temporary Deputy Chairman, I want to support the amendment but with a rider on it. Initially, we had put the Committee to be responsible for capacity building. If Sub-paragraph (k) is deleted, it means that capacity building will go to the Ministry and yet, the Committee is the one on the ground. Our people are on the ground. However, I support the amendment but this is one thing what we should look at after six months or whatever the time.

I beg to support.

The Temporary Deputy Chairman (Hon. Cheboi): There are very many requests. Hon. Members are asked to withdraw their cards, especially those ones who do not wish to contribute. We are having some difficulties here.

Bishop Mutua: Thank you, hon. Temporary Deputy Chairman. As much as I would like to support this amendment, I would like to raise a concern. The issue of capacity building has remained the ground for misappropriation. Therefore, I have concern when we are not very clear on who will do the capacity building, given the fact that we have already removed the National Youth Council from the Committee. However, I support this Regulation for the simple reason of moving forward. But I would like to see us revisit the capacity building issue very soon.

Hon. (Dr.) Pukose: Thank you, hon. Temporary Deputy Chairman, for allowing me to contribute to this Regulation. The issue of capacity building became contentious when these Regulations came to the House. We need to be on the watch out when the Ministry implements this. However, we hope that it will be standardized all over the country so that capacity building, in the next stage, becomes a function that can be able to--- We would have done what is called “training of trainers” who can continuously train others within the various constituencies.

We ask all Members of Parliament and the County Women Representatives - because they will be the patrons of the Fund – to be very closely involved in this exercise because the youth and women are anxiously waiting.

Thank you, hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Cheboi): For the benefit of time, I think I will give one more chance to David Ochieng of Ugenya because I believe that he must be a youth.

Hon. Ochieng: Thank you, hon. Temporary Deputy Chairman. I think the major issue about capacity building that we need to talk about is this: The term has been used very many times to a point where every time someone holds a small meeting, he or she says it is capacity building. We want to ensure as a House that whenever resources are put aside for capacity building, they are used to train the youth; they are used to ensure that the youth benefit and do what they know.

Hon. Temporary Deputy Chairman, imagine that, that money will be used by the youth to do farming and yet, most of them do not have information. If that is done, then let it be done through expertise and not through the mechanism that was being proposed. That is why I support the Senate in their proposal to do this.

(Hon. (Dr.) Pukose consulted with other Members)

The Temporary Deputy Chairman (Hon. Cheboi): Order, hon. Members! Hon. (Dr.) Pukose, you have just had an opportunity to speak and you are still consulting very loudly.

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

(Regulation 16 as amended agreed to)

Regulation 18

Hon. A.B. Duale: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Regulation 18 of the Regulations be amended by deleting sub-paragraph (b) of paragraph (1) and substituting therefor the following new sub-paragraph-

(b) an amount not exceeding eight per cent shall be earmarked for capacity building of the Fund beneficiaries and target groups.

(Question of the amendment proposed)

Hon. (Ms.) Kanyua: Hon. Temporary Deputy Chairman, I am also very happy to contribute to that amendment in terms of capacity building. I think the country has to understand that this is easy and cheap access to credit. This is not free money and it is what we call *mkopo rahisi*. So, I am hoping that the capacity building aspect of it by the National Government is done in a way that our people understand. This is not money

meant for sharing. This is money meant to be used for business funds. While I am on it, I also want to confirm that in Nyeri County, the County Women Representative and the Member of Parliament are going to work together in a way that we will no longer have gender-based violence. *Uwezo* is going to rescue our image in Nyeri County. Our women have suffered an image problem. They have been told that they beat their husbands. After *Uwezo*, there will be no more violence. Men and women in that county are going to work together. As a Jubilee Member, I thank the President and the Deputy President for starting this Fund. I also want to pray that this country will have no runoff during general elections. All the money that is supposed to be used for the runoff should be used for such purposes. That every time we go for an election, we make a clear decision; we elect leaders like the ones we elected, the President and the Deputy in round one and use the money for women and youth.

I support!

The Temporary Deputy Chairman (Hon. Cheboi): That is very reassuring, especially after coming from Nyeri. We have heard from the youth and from the other gender. Let me now look at the independent candidates.

Hon. Kinoti: Hon. Temporary Deputy Chairman, I rise to support this amendment and observe that I personally have been a beneficiary of the youth fund. I believe that one thing that helps the youth so much is not just the money, but the empowerment itself. I was a participant of the “Believe, Become” when the youth fund was launched in 2007. I believe that capacity building, as much as a few Members of Parliament may suspect that it may be going to the wrong pockets, helps in empowering the youth. So, I rise to support this and say that, as much as we are giving the young people and the women of this country money, we must give them the empowerment to ensure that they are putting it in the right use. However, I am very alarmed that going forward, we must look critically at the amendments that have been brought forward by the Senate. For instance, the amendment they have made to weaken the commitments of the committee. In the previous amendment that we looked at, Regulation 14, the constituency committee had little input on where the capacity building should go to. In the previous amendment before that, there was another amendment whereby the constituency committee would not be consulted. That is in Regulation 15.

I rise to support Regulation 18 on capacity building; the 8 per cent of it.

The Temporary Deputy Chairman (Hon. Cheboi): Let us always move forward. I will give a chance to the Minority here; hon. Mbadi.

Hon. Ng’ongo: Hon. Temporary Deputy Chairman, even though it may be difficult to oppose this amendment because even if you oppose it there will be no implication or effect, I am a bit concerned first that the money for capacity building is going to be “eaten”. In fact, what I have heard is that the reason why the Ministry went and lobbied the Senate to make this amendment is because they have already tendered for capacity building and have consultants. This is money that is going to be “eaten”. This Kshs480 million - I tell you - is money that is going to be “eaten”. It is not going to be used. But finally, I have heard many of us talk about money which was meant for a runoff and that, that is the money that has been used to establish the *Uwezo* Fund. That is a big lie! The money for the runoff was in another Budget for the year 2012/2013. That is money that we have voted afresh. Let us not mislead Kenyans. We have voted this money

afresh in 2013/2014. If you do not understand how finance works, that is when you can stand like my friend hon. (Ms.) Kanyua, who I know her intellectual capacity is very high, and get it wrong. That is because on this one, she has got it wrong. I was surprised but she can come to me for tutorials in finance. As a matter of fact, it is this Parliament that provided the youth and the women of Kenya with the money. It is not be issue---

Hon. Members: From where?

Hon. Ng'ongo: From the Budget this year! The money that was meant for runoff went with the last Parliament and Budget. We should not mislead Kenyans.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, hon. Mbadi had the Floor. So, whenever we give hon. Members the opportunity, let us give them time.

Hon. Members: Put the Question!

The Temporary Deputy Chairman (Hon. Cheboi): No! I am not going to put the Question now. Although we do not recognize party leadership here, I am going to consider not hon. Arati this time, but the Chairman of TNA.

Hon. Sakaja: Hon. Temporary Deputy Chairman, thank you for recognizing party leadership. I rise to support this amendment but, even as I do so, I would like to correct hon. Mbadi. Many times, he considers himself the high priest of financial matters. This is the money that was earmarked for the runoff. When the runoff did not happen, the money went back to the Treasury and this House re-voted it. Money does not grow on trees and we know that, that is the fact. Even as I support this amendment---

The Temporary Deputy Chairman (Hon. Cheboi): That is enough of party issues. Let us go to Regulation 18.

Hon. Sakaja: I support this Regulation even as I thank the people who voted nicely and ensured that this money was provided. When we provide this money for capacity building for our young people, we will ensure that we do not just give people money to solve their problems. The Jubilee Government believes that we must ensure that our young people have the right capacity for entrepreneurship. I am very glad that this has come back because the standards and curriculum content is set by the National Government so that it is uniform in the country. We must build those skills in our young people to make sure that they can be good entrepreneurs; they must know book-keeping and to cost the items that they produce in those businesses. I also want to link this Regulation and the entire *Uwezo* Fund to the amendment that I brought to the Procurement Act which will come for Second Reading tomorrow. On one hand, we are giving young people the opportunity to set up businesses and to work in those groups. But once they have set up the businesses, the amendment of the Procurement Act provides that the Government shall have to procure from the same young people. That is the best way to go and so, I support.

Hon. (Ms.) Ng'ang'a: Hon. Temporary Deputy Chairman, I stand to support the amendment and I want to say that *Uwezo* Fund is long overdue. Since the President launched it, people have been visiting our offices and we have been promising them that the money is on the way. It has taken long but it is finally here. Women and youth have given their groups and so we will not waste a month. The money will already be where it was intended to go and training will take place. So, I support.

The Temporary Deputy Chairman (Hon. Cheboi): I see a new Member; that must be hon. Joel Onyancha Omagwa. Let us give him a minute.

Hon. Omagwa: Hon. Temporary Deputy Chairman, thank you for giving me this opportunity. I have no doubt how the Kshs6 billion came into being to the *Uwezo* Fund. I am absolutely clear that people voted very well and that is why we could not go for the runoff. Therefore, our youth and women will be enjoying and I want to support this amendment on Regulation 18 and generally, all the amendments that have been brought here by the Senate. That is because we want to, for once, work together as this House and the Senate. The money that has been allocated here is for training and capacity building. Until we are able to provide for the women and the youth in terms of training, we will be cheating ourselves that they will be getting the credit facility to use it. So, I want to support this amendment and say that we are all happy.

I was in the elections the other day and the youth and women were inquiring about the *Uwezo* Fund. So, let us not go back to the elections without approving the Fund.

Thank you and I support.

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

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

(Regulation 18 as amended agreed to)

Title

Hon. A.B. Duale: Hon. Chair, I beg to move:-

THAT, the Title to the Regulations be amended by inserting the words “and section 205” immediately after the words “section 24(4) and (11)”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I want a Member from each side of the House. Yes, hon. (Ms.) Tobiko.

Hon. (Ms.) Tobiko: Thank you, hon. Temporary Deputy Chairman. I rise to support the amendment by the Senate on the *Uwezo* Fund Regulations. Really, the women and youth of this country have been waiting for the *Uwezo* Fund to be rolled out. I have made an observation on what is happening in our various Ministries, particularly when they advertise for tenders. Ministries are still prohibiting companies run by women and youth from participating in tendering. As we roll out the *Uwezo* Fund, we want to---

The Temporary Deputy Chairman (Hon. Cheboi): Hon. (Ms.) Tobiko, are you speaking to the Title or generally?

Hon. (Ms.) Tobiko: No! No! I have supported the amendment that has been brought by the Senate to the Title, but I was making an observation.

As we roll out this Fund which, of course, is going to be used for businesses to generate money by the young people and women, Government Ministries must really take note and make the environment enabling for the youth and women. When they do tendering - and we have been seeing this in the daily newspapers - they still insist on companies having been established two to five years ago. Many companies that have been established by women and young people are recent because of the encouragement from the President. We would want that requirement to be waived. Let them make the environment enabling for the young people to do business.

The Temporary Deputy Chairman (Hon. Cheboi): That should suffice. Yes, hon. (Ms.) Chae.

Hon. (Ms.) Chae: Thank you, hon. Temporary Deputy Chairman, for giving me this opportunity to support the Senate amendment and welcome what has taken place this afternoon in this August House. We are now going to see Uwezo Fund in our constituencies, and see the women and youth who have been waiting for it for a long time improve their livelihood.

Capacity building should be done in a different way. We have to be very careful and ensure that all the groups that are going to benefit from Uwezo Fund are empowered effectively, so that they can use the money in the best way possible, so that they are able to return the money for others to also borrow. The way we are going to see the Uwezo Fund being rolled out in our constituencies must be different. We have been having the women and youth enterprise funds, but they have not been effective. I know that with Uwezo Fund and the way we are going to constitute the committees, we will ensure that there is a good change in our constituencies, and people are not going to be as poor as they have been. Since it is going to be a credit fund, borrowers will be involved in adding value to the crops that we are growing in our counties. We will see cottage industries coming up. All of us should be involved. I support.

The Temporary Deputy Chairman (Hon. Cheboi): Let us have the Member for Kwanza.

Hon. F.K. Wanyonyi: Thank you, hon. Temporary Deputy Chairman. I rise to support this amendment to the Title of the Regulations. Having just come from the constituency, I found the mood there very expectant. We should not delay any more. I am just hoping that after this amendment, in the next few days, we will see the Uwezo Fund through to the beneficiaries. Capacity building, which is an issue, will be done very soon. Now that it is centralized within the Ministry, it will be much easier and faster, so that the funds can be disbursed because the youth out there are waiting for them.

This Fund will empower the youth who are idle out there and, once we empower them, insecurity out there will be reduced.

I support. Thank you.

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

(Title as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Members, we are through with the amendments and so, I will call the Leader of Majority Party, or the Deputy, to report.

Hon. (Dr.) Shaban: Hon. Temporary Deputy Chairman, I beg to move that the Committee do now report to the House its consideration of the Senate Amendments to the Public Finance Management (*Uwezo* Fund) Regulations, 2013 and its approval thereof with amendments.

The Temporary Deputy Chairman (Hon. Cheboi): Very Well.

(Question proposed)

(Question put and agreed to)

(The House resumed)

(Hon. Deputy Speaker in the Chair)

REPORT

THE SENATE AMENDMENTS TO THE PUBLIC FINANCE MANAGEMENT (UWEZO FUND) REGULATIONS, 2013

Hon. Deputy Speaker: Can we have the Chair to the Committee.

Hon. Cheboi: Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Senate Amendments to the Public Finance Management (*Uwezo* Fund) Regulations, 2013 and approved the same with amendments.

Hon. Deputy Speaker: The Mover of the Bill.

Hon. (Dr. Shaban): Hon. Deputy Speaker, I beg to move that the House do now agree with the Committee in the said Report.

Hon. F. K. Wanyonyi seconded.

(Question proposed)

Hon. Gikaria: Thank you, hon. Deputy Speaker. I wish you could be sitting on that seat more frequently. First of all, just for the record to hon. Ng'ongo, who is my friend and has given me a lot of insights about issues, I agree with him on what he was talking about. But I just want to ask him to look at the opinion polls and see the score that the President has been getting. It does not matter whether it was money for last year or this year. I can assure him that after this, the President will be moving up with over ten points.

Hon. Deputy Speaker: Remember these are very short comments. We are not debating any more.

Hon. Gikaria: Yes. I also support the amendments from the Senate and I think they have woken up now. What they did the other day shows us that it is a House which is seriously doing its work and trying to bring devolution to form.

Lastly, I want to say that people have been asking about this Fund, especially the women and youth. It is high time that once we are done, we will ask and urge the President to assent to this legislation as quickly as possible so that, hopefully, within the coming week or two, the money will be available.

Thank you and I support.

Hon. Ochieng: Thank you, hon. Deputy Speaker. I want to add my voice to thank the Senate for doing a good job. The proposals they have made are quite okay and this Fund is long overdue. The President has talked about it and the youth and women have been nagging us at the constituency level and we hope the implementation can start as soon as these Regulations are passed this afternoon.

I have a brief and important issue that I want to raise before this House today. On 23rd August, 2013, there was an advertisement in the local dailies calling for proposals for selections of firms for Uwezo Fund capacity building programme service providers. Those advertisements were done as early as August last year. We had not even contemplated about these Regulations. But the Minister had already contemplated that there will be service providers who will be selected to provide service. From August 2013 to now, I would not be surprised if we already have service providers selected and waiting to receive this money.

Hon. Deputy Chairman, I want the Leader of Majority Party to assure this House and warn the Minister concerned that this House will not tolerate the idea of using the Uwezo Fund as a cash cow for some firms that she pre-selected.

Hon. Deputy Speaker, if you got that advert, it read as follows:-

“This tender will be available for companies owned by the youth.”

By the time this tender was advertised, there was no process of accrediting youth companies. It was not there! We just had this process coming around September and November last year, but the advert was done in August. It says the following:

“Local firms----“

Hon. Deputy Speaker: Okay. I think your point has been made, hon. Ochieng. We will give an opportunity to the Leader of Majority Party to say a word on it after some hon. Members have contributed.

Let us hear from hon. Chanzu. Remember this is just the Third Reading and you are expected to give very brief comments.

Hon. Chanzu: Thank you so much, hon. Deputy Speaker for giving me the opportunity to make a few comments about the Uwezo Fund. It is a milestone and it has taken quite a lot of ideas and a lot of time for us to finally come up with the Uwezo Fund.

We started off with the Youth Enterprise Development Fund and the Women Enterprise Development Fund. But finally, all this has been brought together so that we can have sufficient funds to run the affairs of women and youth in the constituencies and counties.

Hon. Deputy Speaker: Hon. Chanzu, I hope you are not suggesting that there is no longer the Women Enterprise Development Fund and Youth Enterprise Development Fund. All of them are there. This Fund is not bringing anything together.

Hon. Chanzu: Hon. Deputy Speaker, I have not said that they are not there, but there is an improvement on that. The others remain. They are just like the mother who

gave birth to us. She is still there, but we are also here. Therefore, it is an improvement and the amount of money involved is good for a start.

Hon. Deputy Speaker, we were talking about capacity building. I think it is also a very good starting point because in most of the projects that we have done, people are just doing them blindly. But here, at least, there is a provision for that.

On what hon. Members have said here about the embezzlement of funds, we should be alert because we have seen what is happening with the governors. The issues concerning the governors should be followed thoroughly because they are spending a lot of money without accounting for it.

Hon. Deputy Speaker: Hon. Chanzu, I am not going to allow you to keep talking for long. I said that you make a brief comment.

Hon. Chanzu: I am saying it is a noble idea and all of us must support it.
Thank you.

Hon. Kajwang': Thank you, hon. Deputy Chairman. First of all, we welcome you back. We have missed you in the Chamber for a long time.

I want to make two comments. One is that credit for this legislation should really go to the National Assembly. Hon. Members will remember that we spent many hours going up to midnight to structure these Regulations. Although the Senate brought them back with amendments, hon. Members have once again showed a lot of maturity in discussing the Senate amendments. We have shown that it is not everything that the National Assembly and the Senate clash on. In fact, it should never happen at all. We must always develop a consensual approach to debates within our two Houses, so that we can make Regulations that are good and that makes us deliver the services we promised to our people. Therefore, hon. Members of the National Assembly have looked at the bigger picture. In spite of hon. Members having difficulties with the Senate amendments, they still decided that they will pass them so that *wananchi* can benefit.

Hon. Deputy Chairman, the last comment I want to make is that, next time we have Regulations in this House it is important that the Cabinet Secretaries in charge of those Regulations should consult with the National Assembly as much as possible, so that we do not get into the difficulties that we had. That is because this House had structured the entire Regulations. If the Cabinet Secretary would have cross-checked with the Leader of Majority Party and the Clerk's office; I am sure that we would have had Regulations nearer to what hon. Members were feeling rather than how we went through them.

Therefore, I want to thank hon. Members of this National Assembly for the work well done and having shown maturity in the manner in which they have debated this Bill.

Thank you.

Hon. (Ms.) Kajuju: Thank you, hon. Deputy Speaker. I support this Bill because I realize that as we grew up, we were being told that our future was tomorrow. With the Uwezo Fund, the youth are going to have their future in their hands because we are going to empower them. They will access the funds. We know that a young person does not have any collateral to get a bank loan. But with this money, the Jubilee Government found it fit - in their dream as they campaigned - to give it out to the women and youth of Kenya so that they can access loans and actualize their dreams.

Hon. Deputy Speaker, most importantly, this is a community driven process and, therefore, the money will trickle down to the grassroots. I congratulate His Excellency the President for finding it fit to set aside this money for our people. We are there to ensure that the process works and I can assure you that this is a process which should revolve so that we move forward and ensure that we empower our people.

Hon. Mbuï: Thank you, hon. Deputy Speaker. I think I am having mixed feelings considering that I spoke in this House many months ago and, coincidentally, you were on the Chair. Therefore, I am quite happy about it.

Recently and from yesterday, we have had major issues happening in our county and, therefore, we are worried that Government funds seem to be used in ways they are not supposed to. I have been in support of the Uwezo Fund and I think it is long overdue. As we make these final comments on the Uwezo Fund, we should remember that these were promises that were made early in 2013. Basically, all of us need to support the Fund because just like the laptops project, we need to ensure that the projects and proposals given by the Government are supported up to the end.

Finally, when I look at the amendments and the changes that have been brought by the Senate, they are not major. Somehow, I came to feel that some of them might just be a way of flexing muscles. That is because we had issues last year. When we passed things in the House and were sent to the Senate, the Senators felt that they needed to make changes on them. I, however, support and I am happy with the attitude of the Members of this House today because we have decided that we are going to support the changes irrespective of whether they are good for us or not.

The Senate, as we speak, needs to understand that we have agreed to work together. As we move on, the support for the two Houses has to be taken into consideration. Thank you, hon. Deputy Speaker.

Hon. Wambugu: Thank you, hon. Deputy Speaker for giving me this opportunity to briefly contribute on these very important Regulations, and also the amendments which we have already passed.

I think this is the happiest day for the youth in this country. We have been waiting for this Fund. I am also a youth – an experienced youth. I would plainly like to talk on a few issues.

Hon. Deputy Speaker: Hon. Wambugu, this is not a debate. Please, just make a brief comment.

Hon. Wambugu: Yes, hon. Deputy Speaker. I would like to make a comment on Kshs6 billion. As Members of Parliament, we need to think of raising this initial Fund from Kshs6 billion to about Kshs12 billion. Next, is the issue of capacity building. We need to be very careful and also advise our youth on how to get into it.

The other time, when we were dealing with YEDF, there were so many issues. There were concerns about who was doing what and a lot of money went in the wrong direction. However, I believe that with the participation of Members of Parliament in this one, we are going to do something good.

Lastly, hon. Deputy Speaker, there is always this issue of supporting the youth up to when they are 35 years old but, thereafter, they are left un-attended. Many of them indulge in alcohol and engage in other bad habits. I propose - and I will be asking hon. Members to look at this age limit of 18 years to 35 years--- That is because it is the men

who are actually affected. We need to see whether we can do something for the men when they get out of the 35 years age bracket.

Hon. Bitok: Thank you, hon. Deputy Speaker, for giving me this opportunity to comment on these Regulations. This is a milestone in this country because it will go a long way in alleviating unemployment and creating economic growth in rural areas; especially for the youth and women. These are the principles that the Jubilee Alliance came up with. The Jubilee Government should be given accolades because the country will realize that we are actually pursuing the path to economic recovery and, at the same time, alleviating problems in the country-side.

I support.

Hon. Deputy Speaker: Lastly, hon. (Prof.) James Nyikal, former Permanent Secretary in charge of Women Enterprise Development Fund (WEDF).

Hon. (Prof.) Nyikal: Thank you, hon. Deputy Speaker. This is a good thing that has happened. However, I just want to point out that if you look at the amendments that were made - in my mind - they all actually tended to be a bit retrogressive and not in line with the spirit of the Constitution. The amendments removed the participation of the youth through the council. They removed the consultations with the Committee and the capacity building and so on going to the centre without the provision of equity. Despite all that, I think this is a great thing that has happened.

Let me say this: A good thing can come out of a very bad thing. This is because, I think, this is probably the best thing that came out of the rigging of the elections, so that we did not go for a re-run.

(Loud consultations)

Hon. Deputy Speaker: Order, Nyikal! Order!

Hon. (Prof.) Nyikal: Thank you.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Nyikal! You are out of order. I was giving you respect, but you are out of order. Hon. Dennis Waweru, I will give you the last chance. He is a Member from Nairobi County.

Hon. Waweru: Thank you, hon. Deputy Speaker for giving me this opportunity to contribute---

(Loud consultations)

Hon. Deputy Speaker: He is out of order. I ruled hon. (Prof.) Nyikal totally out of order. Please, just finish your contribution.

Hon. Sakaja: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Order! What is your point of order? Are you on a point of order even? I do not see your--- You do not have--- Hold on, Naomi.

Hon. Sakaja: Hon. Deputy Speaker, we are sick and tired of people reminding us all the time, when they lack content, of the ideas in their minds that this election was

rigged. We have had closure of this issue. The Supreme Court gave the position on it and we have moved on. We cannot allow that statement by hon. (Prof.) Nyikal to stay on record. He must withdraw that statement. We are sick and tired of it! We must get closure on this issue! You cannot keep on saying that! No, you cannot!

Hon. Deputy Speaker: Order, hon. Sakaja! I did say that hon. (Prof.) Nyikal, you were really out of order. I gave you the respect. I clearly said that you have been a Permanent Secretary (PS) and you were in charge of WEDF. I was giving you that respect but that last statement was totally uncalled for, and I would like you to apologize to this meeting so that we can continue.

(Loud consultations)

You are capable--- Order! I am addressing hon. (Prof.) Nyikal.

Hon. (Prof.) Nyikal: Hon. Deputy Speaker, this is a situation in the country where people have held very many views. I do not see why my personal view should be taken so seriously. That is a personal view, hon. Deputy Speaker.

(Loud consultations)

Hon. Deputy Speaker: Hon. (Prof.) Nyikal, please, leave the precincts of this Chamber for the remainder of the day. That is because that was not the point that was being discussed here. For the remainder of the day, out! Out, hon. (Prof.) Nyikal! We are through with that.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Deputy Speaker!

Hon. Deputy Speaker: Order! We are waiting for hon. (Prof.) Nyikal to exit the Chamber before we can continue.

(Hon. (Prof.) Nyikal withdrew from the Chamber)

Hon. Members: Shame! Shame! Shame!

Hon. Members: Hero! Hero! Hero!

Hon. Deputy Speaker: Okay. I said hon. Dennis Waweru is the last one before I put the Question.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Deputy Speaker!

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members. Hon. Waweru, please, finish your contribution.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Deputy Speaker.

Hon. Waweru: Okay. Thank you. I think I have the microphone. I need your protection from hon. (Ms.) Odhiambo-Mabona.

Thank you very much for giving me this opportunity to contribute to this important Bill even though, unfortunately, we have had some few incidents. First of all, I

would like to thank His Excellency the President Uhuru Kenyatta for winning in round one and providing---

(Applause)

(Hon. (Ms) Odhiambo-Mabona pointed a finger at hon. Deputy Speaker)

Hon. Deputy Speaker: Hon. Millie Odhiambo, please leave the Chamber for the remainder of the day.

(Applause)

Hon. (Ms.) Odhiambo-Mabona: You need to know that I am leaving with pleasure.

Hon. Members: Shame! Shame!

Hon. (Ms.) Odhiambo-Mabona: And you are breaking the Standing Orders.

Hon. Deputy Speaker: Hon. (Ms.) Odhiambo-Mabona, can you, please, exit?

(Hon. (Ms.) Odhiambo-Mabona withdrew from the Chamber)

Hon. Deputy Speaker: Okay. Hon. Dennis Waweru, you can continue.

Hon. Waweru: Okay. Thank you, hon. Deputy Speaker, for the protection. We hope that in the next four years, we are going to win again in round one and give the youth of this country the Uwezo money. The current situation of a Kenyan youth today is that of unemployment and lack of access to finance. So, I take this opportunity to say that this is a great day for Kenyans because the youth of this country will be able to access funding, join groups and engage in empowerment projects. They can start fish ponds even in hon. Mbadi and hon. (Ms.) Odhiambo-Mabona's constituencies.

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Order. Please, hon. Waweru can you finish?

Hon. Waweru: So, I fully support this Bill and I hope---

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Order, hon. Mbadi.

Hon. Waweru: Hon. Deputy Speaker, I need protection. I want to say that Kenyan financial institutions have been exploiting our people. They have not been giving our youth cheap money but, finally, we are going to get money channeled through the Constituencies Development Fund (CDF).

Thank you very much. I wish we can increase the amount in the coming financial year. Shame on them!

Hon. Deputy Speaker: Thank you. Hon. Members, I will then put the Question which is that the House doth agree with the Committee in the said Report.

(Question put and agreed to)

Hon. Deputy Speaker: Order. Now that the Uwezo Fund Regulations have been approved by both Houses, the Office of the Speaker will forward the Regulations to the Cabinet Secretary in charge of Devolution for publication and immediate implementation.

Thank you.

(Applause)

Hon. A.B. Duale: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Leader of the Majority Party?

Hon. A.B. Duale: Hon. Deputy Speaker, this is a very sad afternoon. Let me say it like that. You have seen the conduct of the hon. Member for Mbita, hon. (Ms.) Millie Odhiambo - a Member I have a lot of respect for. I think there was a communication which was made in this House and Members have gone through a lot of induction. However, that is an abuse of the privileges a Member of Parliament is accorded.

Hon. Deputy Speaker, that is not what we should show. I want that to go on record. That Member should be named for gross violation. That is because we have no problem if the Member challenges another colleague in the House, but I think you saw what she did. I am sure the cameras of this House captured that behaviour too. That is because tomorrow, another person will do the same. It is a serious breach of the Standing Orders.

Hon. Speaker, I had the privilege to serve in the last Parliament and I never saw that behaviour. Unless the Member is under the influence of something, I do not know! But I have never seen a Member behaving to the Chair and more so, to the substantive Deputy Speaker of the Eleventh Parliament in that way. I am so shocked, I even do not know what to say. The people are watching; our kids are watching us. The people of this country are watching. The dignity of this House is in question and I want to tell my colleagues that what has happened today is bad. That is because hon. (Prof.) Nyikal had left the Chamber like many other hon. Members, including my good friend hon. Jakoyo Midiwo.

Hon. Deputy Speaker, you have seen that after your directive, what happened was an insult to the Chair and a breach of the Standing Orders. I want to say it on record that I am going to raise this in the House Business Committee (HBC), and it also must be raised in the Powers and Privileges Committee. This should be a deterrent to other Members. That is because I am sure my good friends, hon. Mbadi, Junet and other Members will not behave that way, including even those of the *Kalausi* community. They will not behave that way.

(Laughter)

Hon. Deputy Speaker: Order. Hon. Mbadi, one comment.

Hon. Ng'ongo: Hon. Deputy Speaker, I have two things. First of all, much as I would not agree definitely with the behaviour of my neighbour the hon. Member of Parliament for Mbita, but I just want to remind the Leader of Majority Party that by the time she was speaking, she was actually a stranger in the House. So, naming her could not arise.

Hon. Deputy Speaker, I wanted to add that the only place where you can take a case is through the Powers and Privileges Committee because that behaviour is outside Parliament. She had already been sent out and we were not listening to whatever she was saying. We were not party to it. However, I wanted to add that the Leader of Majority Party in trying to correct the wrong done, he has also gone ahead, just like hon. Sakaja before him, who even referred to a Member as lacking content--- That is what I wanted to raise at that time.

However, because it has passed I want to raise the issue that hon. A.B. Duale either explains what he knows about the *Kalaus* - which I find strange- or he withdraws and apologises. That is because he referred to me like I am a member of that community. He has referred to hon. Mbadi and another Member of knowing *Kalaus* which I am not aware of. Could he tell us what this *Kalaus* is? If he cannot explain what it is, then I think he should withdraw and apologise to me for linking me to an association and a grouping that I am not aware of, and that I would not be party to. I am a very loyal member of the Orange Democratic Movement (ODM) and the Coalition of Reforms and Democracy (CORD).

Hon. Deputy Speaker: Yes, I think that should have been with a light touch.

Hon. A.B. Duale: Hon. Deputy Speaker, first for clarity, "*Kalaus*" means wild winds in a language in one of the most important communities of our country. However, I am ready to withdraw and apologise but, maybe, one day, I might be a member of *Kalaus*; if time allows.

(Laughter)

Hon. Deputy Speaker: Order, hon. Members. I think we can bring this matter to an end and my order is that the behaviour of hon. Millie Odhiambo be taken before the Powers and Privileges Committee. We will get a report from them.

(Applause)

Next Order.

BILLS

Second Reading

THE LAW SOCIETY OF KENYA BILL

(Hon. Chepkonga on 13.2.2014)

(Resumption of Debate interrupted on 13.2.2014)

Hon. Deputy Speaker: Is hon. Neto around? He had a balance of five minutes on this debate. If he is not there, hon. Waititu, do you want to contribute on this?

Hon. Waititu: No.

Hon. Deputy Speaker: It was the one before?

Hon. Waititu: Yes.

Hon. Deputy Speaker: Members, if you want to contribute on this debate, then you can put in your request. Hon. Kamama. He is not even there. Hon. Naomi Shaban, are you contributing on this?

Hon. (Dr.) Shaban: Hon. Deputy Speaker, I was going to actually reply at the end after the others have spoken.

Hon. Deputy Speaker: Okay. Let us see if there are any other Members who would like to make any contributions to this debate.

Hon. Nuh: Hon. Deputy Speaker, I wish to support the Bill concerning the Law Society of Kenya. It is a very important Bill for this country. It is going to guide one of the most important professions in our country.

This is a profession that is growing in big numbers at the moment and it is very important for it to be regulated. As you are aware, the profession has the good side of it and the bad side of it. It has the good side that it defends justice for Kenyans who have been faced by injustices and also it has the bad side where clients have had problems with the lawyers. This is a law that is going to guide people in a manner that is going to make everybody benefit from that service of advocacy.

This Bill is timely and should have been brought earlier than now, but I am very grateful that it has been brought now. It is going to guide this profession. I would like to thank the lawyers for the good elections that they conducted recently, where they elected a good speaker, a vice-speaker and a new representative to the Judicial Service Commission. I congratulate my friend, Ahmednassir for accepting defeat honourably and not complaining that he was not defeated in a good way. That shows maturity in that profession. It shows that people have grown up and are not like politicians. That is a part of life. There are people who accept defeat when elections are conducted fairly. This law is going to help in many ways.

With those few remarks, I support.

Hon. Chea: Thank you, hon. Deputy Speaker for giving me this opportunity. I rise to support this Bill. LSK from time immemorial has played a very important role in the administration of justice and the promotion of rule of law.

This Bill intends to basically restore order in the profession, it being a noble profession. Of importance in this Bill is Clause 4 that provides for the functions and objects of the society. If you look at Clause 4(f) and (g) where the issue of training has been articulated, training is crucial for the members of the legal profession. But as we look at this, there are issues of concern relating to training and in particular at the Kenya School of Law. The Council, upon the enactment of this Bill, will look at the issues of training at the Kenya School of Law, particularly, the issue of fees. As it is, for those who went to this particular law school some years ago like me, we did not pay so much to achieve that training. However, it has been extremely difficult for one to secure an

admission to the Kenya School of Law and, more so, because of exorbitant fees that are currently being charged.

Now that the primary objective of this Bill is to look at issues of training for the members of the legal profession, then it is my belief that the Council will seriously look at this issue so that people can access training at that level. I also wish to proceed further and say that the Bill is progressive. If you look at Clause 22(2), you will realize that it embraces the principle of natural justice. The removal of an officer from this society calls for one being given an opportunity to defend himself or herself. This is quite important. This is a country where we have seen people being dismissed just like that. There is need for a situation that for any decision to be passed against an individual, then an opportunity must be given to that individual to ventilate his or her case.

With those very many remarks, I wish to support the Bill.

Hon. (Ms.) Gathecha: Thank you, hon. Deputy Speaker. I rise to support the Law Society of Kenya Bill. When we take a look at the majority of the laws that we have in this country, they are outdated. Many of them are from 1906 and 1946, way before many of us in this House were born. We cannot continue to operate with some of those outdated laws. The new LSK Bill that is being introduced will provide many opportunities for training. As has been eloquently put by the previous speaker, when we look at the training opportunities and the recognition for the performance of social work within the county, we find that it will be an important aspect for people who provide community service to the public of Kenya to be recognized. In this country, performing Public Service is deemed as some sort of disease or you are looked at as a pariah for performing duties that are selfless. This recognition within this Bill will come in very handy. Not only that, it will also support a lot of activities within our counties especially those who have been elected and who have performed their work previously within the legal profession and provided community service.

With those remarks, I support this Bill and encourage the Members to do so.

Hon. Deputy Speaker: Hon. Gikaria. Two more and then we will call upon the Mover to reply.

Hon. Gikaria: Hon. Deputy Speaker, I rise to support this Bill. First of all, I wish to thank LSK for conducting very credible elections and, more so, for electing one of my constituents namely, Prof. Tom Ojienda, to represent the LSK at Judicial Service Commission (JSC).

Secondly, if you look at Clause 4, it talks about the LSK assisting to set, maintain and continuously improve the standards of learning within the line of the lawyers. However, what the LSK needs to do in addition to improving the standards of learning is to check on the Kenya School of Law. It is becoming very expensive for poor students from our constituencies to join the Kenya School of Law because of the fees. So, we are pleading with LSK, as much as they want to improve the standards of learning, not to bring hindrances or barriers to children from poor families.

If you look at Clause 6, the LSK has come out in the open in the past to protect public interest. I want to thank the LSK for coming out loudly and opposing anything that is unconstitutional or any office that is not doing the right thing. I want to say big congratulations to the LSK for coming to protect the interests of the common *mwananchi* who might not have the knowledge or the money to voice their interests. As regards

admission, we have seen that you do not even have to be a lawyer because there is inclusion of honorary membership. You do not need to have gone through the LLB profession, but you still have an opportunity of joining and giving your contribution towards this society.

The LSK has come out in the open, where it does not support any of its members who go contrary to the requirement and objective of LSK. The LSK in the past has actually suspended some of these people within the legal fraternity. This shows that they are non-partisan and they have issues that they are able to protect, even within their own membership. If you look at the aspect of elections, like the one they had recently, I wish political parties would borrow a leaf from them. The supervision of the election was done in a very sober and credible way and other institutions can borrow that. They can allow IEBC to conduct elections, especially within the political parties. This has gone down very well. Lastly, and this we plead with LSK, we have seen in the past that sometimes they put their foot and arms on issues that do not belong to LSK, especially where they think they are going to antagonize the common *mwananchi* by supporting issues on political matters. We would want, much as they have a right to give their views, to follow due process. They should have membership from all sides of political divide and from different tribes and they should stick to their objectives. That way, LSK will be seen. If you look at the last elections, when a member, elected within the LSK family, gives a comment you cannot differentiate whether he is doing it as a person or he is saying it on behalf of LSK. This brought a lot of issues in the last elections. We would want, if it is a personal opinion and you are an elected official of LSK, you state that clearly.

With those few remarks, I support.

Hon. Deputy Speaker: Hon. Onyura

Hon. Onyura: Thank you very much hon. Deputy Speaker. I also rise to support this Bill. Having looked at it, I think it is very well intentioned and it is something that will definitely enhance the professional outlook and the professional efficiency of lawyers. As my colleagues have mentioned, we want to commend LSK. If you look at the historical perspective and the contribution that LSK has made to this country, right from those days of fighting for democratic space and human rights, LSK has been in the forefront. Anything that they are doing to make it more professional and more efficient, I think we, in this August House should support and encourage them.

In the same breath, it is just to commend the reforms that are going on in the Judiciary. I think we have seen a lot of improvement, the very good customer-focused approach in some of the courts when you visit them. Of course, there is still a lot of room for improvement. I think part of it may not be the fault of the judicial staff; magistrates and judges, I think that there are some places where the numbers are still low. They need to beef up their staff. But I am quite happy looking at the way the vetting process is going on and making sure that those who will occupy these positions - these are positions of great influence and consequence - will be people whom we have confidence in. We are sure that they are there for the good of this country. I do support the process that is going on. A little further, I think this is a good example to other professions. They need to put

their act together and develop their guidelines so that in this country every profession can have proper guidelines.

With those comments, I support this Bill.

Hon. Deputy Speaker: I now give the chance to the Mover of the Motion.

Hon. (Dr.) Shaban: Thank hon. Deputy Speaker. I want to thank all the Members who have contributed to this very important Bill. Over the years, we know that the LSK, although it was there through different CAPs, has had major issues because they were not able to control their membership and follow it up after registration. We have had instances where some people have called themselves lawyers but they are not registered. They have appeared in court and purported to be representing people. This Bill, once it comes into place, is going to correct this situation and make sure that members of the LSK are actually more organized and they can represent their clients properly. It is important for clients to be protected by the people who represent them, more so, in line with the new constitutional dispensation and with the judicial reforms which are going on.

I beg to move.

Hon. Deputy Speaker: Hon. Members, I will defer putting Question to this Bill to a later date and I will then move to the next Order.

Second Reading

THE MARRIAGE BILL

Hon. Chepkong'a: I rise to move that the Marriage Bill, 2013 be now read a Second Time.

This Bill is very important. I am surprised that we do not have as many Members as I would have wished to see in the House, because this has a direct impact on their relationship in their houses and in various other places that they may choose to visit from time to time. The Marriage Bill, 2013 was submitted to Parliament by the Attorney General, it was then committed to the Justice and Legal Affairs Committee. We have had a number of stakeholders meetings and we have consulted with them. All the interested parties have given us their input and we have made various amendments to the proposed Bill. The substance of this Bill seeks to consolidate the various existing marriage laws as they are applicable at the moment in Kenya into one Act of Parliament.

This Bill proposes to repeal seven pieces of legislation that were enacted at various times in the last century. Why do I say in the last century? These are laws which were enacted during the colonial time. It is, in fact, shameful that we have continued to visit our marriages with colonial laws and have them binding on our marriages and yet they had little input from the indigenous Africans living in this country.

As a way of example, these laws have caused a number of difficulties in terms of implementation. Multiplicity has been very difficult in terms of legal practise in this country. You have to search from the various Acts of Parliament; what law applies to your circumstance, when instructed by a client. These are very outdated laws, archaic and ought not to be part of our laws in this country.

For instance, it is now 50 years since we attained Independence and yet there are some legislation that deal with our marriages or govern marriages, divorce, separation and maintenances. These laws were passed in the last century. For instance, the Marriage Act was passed in 1902 and it is still applicable in this country up to today. It is shameful that we have not been able to come up with a new law to be able to manage our marriages except that which is colonial.

Hon. Temporary Deputy Speaker, I know you are a very good lawyer because you have been practising. Hon. Kaluma who not only claims but I can confirm is a good family lawyer knows that the colonial courts declared African marriages as not marriages. They said that if we paid dowry it amounted to wife purchase. This is because as far as they were concerned, there was no love that was being exchanged between a man and a woman from an African descent. They said that was wife purchase and it did not amount to marriage. They also said that it was purely a co-habitation. That law is still applicable in this country up to today. That law was passed in 1902.

The second law that we are seeking to repeal today is the Subordinate Courts (Separation and Maintenance) Act which was passed in 1929. This is still part of our records in terms of legislation in this country. The Mohammedan Marriage and Divorce Registration Act was passed in 1906. This is another outdated piece of legislation. The fourth one is the Matrimonial Causes Act which was passed in 1941 and yet it is still part of our legal system. The fifth one is the Hindu Marriage and Divorce Act. It is a bit recent because it was passed as early as 1960. That was before we got Independence. Lastly, we have the African Christian Marriage and Divorce Act of 1931. I do not know why they call it “African Christian Marriage and Divorce Act” because it was passed during the colonial period. However, the whites who live in this country arbitrate their own disputes and marriage pursuant to this. I think it should have been changed at some point and called “The Whites and African Christian Marriage and Divorce Act”. Fortunately, we are today passing one codified piece of legislation that deals with all these legislations that have been proposed as The Marriage Bill, 2013.

These laws were largely debated in a chamber that was purely or mainly composed of whites at that time. So, there was no input from the indigenous Kenyans. What we see in these laws is what the white man thought was good for an African. So, the laws that we have in this country are what somebody else thought were good for us and we have continued to maintain them. We thank God that today the Eleventh Parliament has had the courage to repeal all these laws and come up with one codified law in the name of “The Marriage Bill, 2013” to encapsulate all the values and cultures of Kenyans as they live in this country.

Hon. Temporary Deputy Speaker, we need laws that provide certainty and consistence. As it is at the moment, there is a lot of application of Common Law in the laws that we have. This deals especially with laws that we inherited from the United Kingdom. Those laws are within the Commonwealth countries. This means that when we lack something in these laws we import those precedents from countries that we think have had better laws than ourselves. This is a historical opportunity for the Eleventh Parliament to pass a legislation that deals with the cultures of all the 42 tribes in this country.

This is the first time that the customary law has been codified. This law has always been found on precedents so that you do not know what you are expected as a man that is married or as a woman who has been married under the customary law. For instance, you do not know at what point you expect your marriage which is a Christian Marriage or Hindu Marriage converted into customary law where someone comes and---

Many times men celebrate marriage with an intention of converting them into polygamous marriages. However, the Marriage Bill as it is proposed at the moment provides an opportunity for those who seek to celebrate their marriages purely as monogamous and those who seek to celebrate their marriage potentially as polygamous. So, as a woman if you celebrate your marriage under the customary law, you expect another wife to come into the house without notice being given to you.

The Departmental Committee on Justice and Legal Affairs looked at Clause 44(4) which proposes that under customary law in a marriage that is celebrated under the customary law, a wife will be expected to give approval or consent to the husband to bring a second, third and fourth wife. We thought that was very uncustomary as far as we were concerned. They were seeking to codify civil marriages under customary law. So, we proposed that---

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Chairman, your time is up! However, this is a very important legislation. You are speaking to this country and I am sure that you are speaking to every single home in this nation. Although your time is up, I will give you ten more minutes.

Hon. Chepkong'a: My time is not yet up!

The Temporary Deputy Speaker (Hon. Kajwang'): Then it seems there is something wrong with our system. Please get into those key issues that help the Kenyan family that is listening to this legislation understand where the National Assembly is coming from.

Hon. Chepkong'a: Thank you, hon. Temporary Deputy Speaker. That was purely introduction because I was just introducing the Bill so that we are on one page as to what has been done by the Departmental Committee on Justice and Legal Affairs.

This Bill sets out the various marriages that may be contracted or celebrated in Kenya. It also provides or accords an opportunity to a Kenyan who wishes to celebrate his or her marriage outside Kenya to do that in the High Commissions or embassies outside this country. A person will be appointed by the Registrar of Marriages to celebrate those marriages in embassies or in our High Commissions outside this country. Those marriages will be recognized in this country as marriages celebrated under the Marriage Act once this Bill is passed.

Hon. Temporary Deputy Speaker, this Bill also provides for the minimum age for one to be married. You know we have had a lot of contention in this country as to the age of consent for one to be married off. We have particularly seen minors being married off at the age of 13 and some at the age of 10. This denies them a chance to go to school.

This Bill sets out the minimum age of marriage and provides for circumstances under which a marriage may be declared void. This Bill also provides preliminaries that should be complied with before a marriage is celebrated. It provides for the manner and the time, so that marriages are not celebrated at midnight or at 6.00 a.m. It provides for

the time within which marriages will be celebrated as well as for the place and the procedure to be followed in contracting a marriage.

Secondly, this Bill has dedicated particular parts to various kinds of marriages. Part III of this Bill deals with the celebration of Christian marriages. The place of celebration of Christian marriages is also indicated as the place of worship or any other place that has been registered or appointed by the Minister for celebration of such marriages. The Bill provides for procedures of objection in the event that there is a party or parties who are seeking to object to two persons getting married, including even the persons who are seeking to get married.

Those who are married know that one is first asked whether the man knows of any reason as to why he should not get married, even at the altar. So, the pastor gives an opportunity to the man to even refuse to get married at that very last hour. When we received memoranda from the Christian community, they objected to marriages being dealt with in the manner in which civil marriages are dealt with. They told us that Christian marriages have their own processes and procedures of dealing with issues that would cause separation or divorce in Christian marriages. So, that amendment has been proposed in the Report that the Committee has tabled in this House.

Hon. Temporary Deputy Speaker, in Part IV, the Bill deals with celebration of civil marriages. It also provides for civil marriages that can be celebrated outside this country, their gazettement and the areas where they can be celebrated. As I have just mentioned, the Bill provides for the diplomatic countries or houses or places where marriages can be celebrated outside this country. In this regard, emphasis has been given to High Commissions of our country.

Part V of the Bill provides for celebration of customary marriages. As I have just mentioned, this is the first time we are codifying customary marriages. It provides for the contents of notice of customary marriages and what amounts to a customary marriage. The Bill seeks to harmonise, as much as possible, the customs of the 42 tribes of this country, by looking at what is generally acceptable. Marriages in various other tribes that have different methods and manners of celebrating their marriages can be dealt with within our legal system.

Part VI of the Bill deals with celebration of Hindu marriages, and sets out the conditions of Hindu marriages. It specifies that a Hindu marriage must be solemnised by a Hindu minister, so that if that marriage is celebrated even by the Registrar of Marriages himself it becomes void. It must be celebrated in accordance with the Hindu customary law.

Part VII deals with celebration of Islamic marriages. It provides for the application of Islamic law in officiating of Islamic marriages, and specifies that the Cabinet Secretary may make such other regulations as may be necessary to ensure that Islamic marriages are in conformity with the Islamic jurisprudence. One of the things that we noted when presentations were made and memoranda presented to the Committee is that there are different sects within the Islamic jurisprudence. There are those who practise polygamy and those who practise monogamy. So, an amendment will be introduced to take into account the various sects within the Islamic faith.

Part VIII of the Bill provides for the appointment of persons to celebrate marriages and their registration thereof. It also provides for the appointment of the

Registrar of Marriages. Although the Bill talks of Director of Marriages, we are proposing that this be amended to read “Registrar of Marriages” instead of “Director of Marriages”. The Committee felt that it was not right for persons to direct people’s marriages. We felt that people should only register marriages. That would be the most appropriate word that could be used. The Bill also provides for registration of marriages and evidence of marriages.

Hon. Temporary Deputy Speaker, in Part X, the Bill provides for matrimonial disputes and matrimonial proceedings, and sets out general principles for dealing with matrimonial disputes. This part provides for divorce, under Christian marriages---

The Temporary Deputy Speaker (Hon. Kajwang): Hon. Cheboi, you must be winding up. You have under two minutes.

Hon. Cheboi: Hon. Temporary Deputy Speaker, I am winding up.

The last part of the Bill, Part XI deals with maintenance of spouses and other reliefs. The part sets out the powers of the court on division of matrimonial assets. This is also aligned with the Matrimonial Property Act that we passed. Without the passage of this Bill, the Matrimonial Property Act would be a stand-alone legislation. It would have no relations with the archaic laws that have been in existence for the last one century. So, we need a law of the 21st Century.

Hon. Temporary Deputy Speaker, I would like to thank you very much for the opportunity that you have given. I hereby move and request the Deputy Leader of Majority Party to second the Bill.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, Deputy Leader of Majority Party.

Hon. (Dr.) Shaban: Thank you, hon. Temporary Deputy Speaker, for allowing me the opportunity to second this very important Bill, which has had a lot of hiccups over the years. This Bill has been such a big issue that it has been discussed time and again. It has been to Cabinet several times, thrown out and taken back to the stakeholders. Sometimes it took years for people to sit again and discuss the contents of the Marriage Bill. If this Bill goes through, it will give rise to a very important legislation for this country. The legislation seeks to put the marriage institution in order.

In supporting the Bill, I would want to point out several issues. We have had too many destitute children in this country simply because there was no order in this sector. We have had issues of people committing bigamy simply because there was no order in the marriage sector. Once this Bill becomes law, the undesirable actions that have been taken by some irresponsible people over the years will be put to rest once and for all.

Hon. Temporary Deputy Speaker, we know very well that come-we-stay has been the order of the day in our African society not only in Kenya but all over the world and more so in the African situation. We know that there will be presumption of marriage. Once people have lived together for three years and they have been assumed to be husband and wife, it will give security to either the man or the woman knowing that after three years of staying together, they are presumed to be married.

Another issue that has been worrying is the fact that a person would get married under Christian law but subsequently take the Islamic faith and become polygamous. It is

now known clearly that if you are in a monogamous union you stay in a monogamous union without jumping from place to place.

Hon. Temporary Deputy Speaker, in most families spouses do disagree having worked so hard over the years. It has been problematic especially when they have property, because some feel that they have quite a bit of money in their pockets and they tend to change their statuses by becoming polygamous.

Hon. Temporary Deputy Speaker, because we passed the Matrimonial Property Bill during the Eleventh Parliament, people do not have any reason to get worried when their spouses come to inform them that they are going to get another wife. It is easier and more acceptable because they know that their matrimonial property is protected.

The Chairperson, in moving this particular Bill, has been very clear on the different aspects of this Bill. I believe, for the first time, that we will all agree that the Marriage Bill has been long overdue, given the fact that the Matrimonial Property Bill was passed. We should be able to put our marriage and family institutions in order and be able to manage our families without having too much to worry about.

Hon. Temporary Deputy Speaker, most of the times, people commit adultery because they do not have a way of bringing their relationships out in the open to discuss them with their spouses. So, they are forced to go and commit sins out there. Now this Bill brings us out of those sins so that Kenya can be amongst the countries where the family takes centre stage. People should not hide children coming from another marriage. They can also be recognized and get the same privileges that the first marriage will be getting.

With those remarks, I beg to second.

(Question proposed)

Hon. F.K. Wanyonyi: Thank you, hon. Temporary Deputy Speaker. This is a very important piece of legislation which has been created by collapsing several legislations into one; recognizing marriages, including customary marriage under this Bill.

Hon. Temporary Deputy Speaker, there are several sections in this Bill that must be re-looked at a fresh. For example, what the Chairman pointed out in Section 44(3)(d); where second or subsequent marriages will need consent of the other spouse. I do not think this is practical because many a times the modern woman will not consent to this and that is why you will find that in most cases men are defined as potentially polygamous. This is a very hot issue and it will not be an issue that can be debated or agreed to. The most contentious issue in this case is property. You will not bring a second person into that marriage because it will bring issues. Therefore, this particular section must be looked into again because that is not practical and it will not work.

Hon. Temporary Deputy Speaker, when we look at Section 23(4), the kind of penalty that has been proposed there is rather excessive. If somebody raises an objection to a marriage they may be having very good reasons, but it may come to a time when they might withdraw the objection. If the Registrar goes ahead and punishes them, I find it rather excessive because marriage is a sacred institution that must be protected. We must always know why somebody is raising an objection. He might be having valid

reasons and maybe other times he has no facts. Therefore, we should look into that and reduce that penalty into something less, like six months, but not five years.

Hon. Temporary Deputy Speaker, I feel that this Marriage Bill - I am sure the Deputy Leader of Majority Party has talked about come-we-stay - should help us protect the institution of marriage at all costs. If we start creating side shows, we will be diluting the institution of marriage which must be protected at all costs.

Hon. Deputy Speaker, something that has not been properly defined is the "register". Which register and where are we keeping the marriage register and how is it kept? That must also be looked into so that it is properly defined and kept in a particular place. We need to know where records are kept.

Hon. Temporary Deputy Speaker, I support this Bill. I think there are a few errors that we must clean so that we do not end up with some sections that are not properly defined or are practical.

Hon. (Ms.) Gathecha: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill which is not only timely but has come of age. Most of the laws on marriage we are using have been there since 1900. Surely, as hon. Members, we need to review some of these laws. The institution of marriage has come under pressure and there have been significant changes over the years. It is imperative for this House to rise and protect this particular institution.

Hon. Temporary Deputy Speaker, when we look at the number of abused and neglected children, especially those within marriage; we find that we need to have a just society with responsible individuals in this country. We need people who are going to accept their obligations as members of this society, to provide for their families and to pay their taxes. They need to be honest and upright citizens.

We must protect them within the institutions in which we raise them. We know and understand that the family is the basic unit of society. Without it, we are not a society. What are we going to do then if we continue at this rate whereby we are not looking out for the protection of this institution? The husband and wife or parents within marriage are under threat. In fact, they are almost like the threatened boy child of Kiambu.

When a woman and a man contract a marriage--- We expect as women that you are getting into a monogamous situation when you have a marriage in a church, but many times you find that when the husbands are six feet under, we have five or six different parallel families. Now, other than your three or four children, five other families come forward with children the same age as your own that were secret and kept away and we did not know about them. However, they are the children of your spouse and issues come up mainly with regard to matrimonial property sharing.

In terms of recognition, I am sure there will be no male hon. Member who will oppose this Bill because it finally gives men what they have always wanted, that is, an opportunity to have more than one wife if that is their choice. Many of them say that they want to get consent---

(Loud consultations)

Hon. (Ms.) Gathecha: Thank you, hon. Member. You see, we know what it is that you want. Therefore, we are here and we want to ensure that, at least, those particular unions outside the recognized one and those other families and the children are taken care of. It is contentious, I know, but it is a Bill that has come of age. If we were to look around, and we will not ask to dig into everybody's history here, we might be surprised. However, I am sure that we will find that many of our esteemed colleagues have more than one family. Be that as it may---

The Temporary Deputy Speaker (Hon. Kajwang'): Be careful not to impute improper intention to some of the hon. Members who are Catholic and so very devout in monogamous unions.

Hon. (Ms.) Gathecha: Absolutely. Actually, hon. Temporary Deputy Speaker, I am a Catholic myself and that institution of marriage we need to protect it. That is why I have said that when we contract a relationship and go into a monogamous marriage, as a couple we expect that our marriages will remain monogamous up to the end and not to be hijacked halfway where we end up with polygamous situations.

I am seeking your support hon. Members that we protect the institution of marriage and that we protect the families that we have so that we are able to raise responsible citizens and families in this country.

Hon. Temporary Deputy Speaker, I support. I know that we have less resistance within this House because all hon. Members understand the importance of protecting the institution of marriage and families.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Homa Bay, I understand that this Bill is to give the men what they have always wanted. Do you agree?

Hon. Kaluma: Thank you, hon. Temporary Deputy Speaker. I cannot agree more, but it is for both gender. What this Bill seeks to do is to qualify in no uncertain terms what relationship qualifies for a marriage and it is critical.

Hon. Temporary Deputy Speaker, in legal practice I have had to deal with so many matters, particularly in the area of succession where you get the truly married spouse is marrying a deceased spouse, but in Nairobi in the High Court another woman, mainly female gender, is petitioning for administration of the estate. Of course, this is something which has wrecked so many families. So, I am happy and I agree with the hon. Member that for once we are developing a law for this country which does not just codify all laws which treat the issue of marriage, but which is clearly defining who qualifies to claim benefits which can only come from a marital institutions in either succession or in maintenance.

Hon. Temporary Deputy Speaker, in the area of maintenance we have so many people, particularly members of the female gender, now seeking maintenance in the pretext of seeking maintenance for their children. Of course, it has been terrible. So, for once we are doing a law as Parliament which tells people that if you want to go into the institution of marriage, this is the way to go. If you are out of it, you are out of it and keep off all those benefits.

The marriage laws in this country are so many. It is currently difficult for a person seeking to know under what system of law they should fall into to deal with the issue of marriage, to know where to go. I am happy that for once we are seeking to codify one single law. In fact, I was reading the memorandum to the Bill and I realized that we are

repealing seven statutes that deal with the issue of marriage. We can have one legal text that any Kenyan who seeks to marry can put his hands on and really determine the regime of law under which they want to marry.

What pleases more from this Bill is that, for once, all forms of marriages are registrable. Currently, only people who wed in church and the people who marry within the context of the civil marriages in the Attorney-General's Chambers have a Marriage Certificate. We, therefore, have a situation where the decent women of this country married to very good Kenyans, at the point of seeking to confirm marriage for statutory or other purposes, have to get some lawyer somewhere to do an affidavit reciting how they have been in a customary marriage with another Kenyan for 15 or 20 years. It is something that I believe has given lawyers money, but really it is not a good thing.

For once we are saying that every form of marriage, for as long as you transact it within the parameters of law that are defined in this Bill, will qualify for marriage---

Hon. Wamunyinyi: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Let me hear what is out of order. I thought you described yourself as a staunch Catholic, or is it advocacy?

Hon. Wamunyinyi: Yes, hon. Temporary Deputy Speaker, but you heard--- I am not sure I got the Member clearly and I have no intention of interrupting him. He said that all marriages are registrable. We have had instances where some men want to marry other men---

The Temporary Deputy Speaker (Hon. Kajwang'): Well, do not introduce subjects that will be really---

Hon. Wamunyinyi: Of course, hon. Temporary Deputy Speaker that cannot be registered!

The Temporary Deputy Speaker (Hon. Kajwang'): Order, Member for Kanduyi! When you will be given the Floor to debate, you surely will bring that subject and debate it very openly, but I heard the Member for Homa Bay to be saying that the Bill is a consolidation of all the marriage laws that we have had in this country into one text so that using just one piece of law all the marriages can be registered.

Hon. Wamunyinyi: Thank you for the clarification, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwan'g): Member for Lugari, are you speaking on the same subject? Where are you? What is out of order?

Hon. Angatia: I was just trying to catch your attention.

The Temporary Deputy Speaker (Hon. Kajwang'): Then you caught my attention, but it will come later on.

Hon. Kaluma: Thank you for the clarification, hon. Temporary Deputy Speaker. You remember, just to give my honourable colleague peace, I started by saying that the Bill qualifies relationships which can be termed as marriages. Indeed, in our Constitution we do not recognize relationships between two people who are of the same gender as marriages. This is something that the Bill emphasizes.

Hon. Temporary Deputy Speaker, I love the provisions running from what currently are Clauses 87, 88 and 89 of the Bill and what those provisions are saying now is that marriage will be a social contract between persons who are willing, who have consented and who are capable really of entering into that social contract.

Hon. Temporary Deputy Speaker, we have cultures across this country which are really repugnant to the idea of marriage as the creator of the family and as a cornerstone of indeed the society. In some cultures in this country in this day and age we still have something called child betrothal. This is bonding a child before he or she is capable of forming intent or being mentally capable of deciding that they can go into that institution. You are bonding such a person or individual to in future marry somebody he or she has freely not consented to. I am happy with the Bill because it is saying that if you purport to celebrate something you call a marriage with that child really it is not just something prohibited but it is a criminal offence.

Hon. Temporary Deputy Speaker, a short while ago there was a television programme called *Beads of Bondage* and really let us agree that month by month you put a bead on the neck of a girl and as she grows and after some age before she even reaches 16 years of age, you start introducing her into those things which would amount really to defilement. Then through that process you make that child your wife. This Bill is saying such is prohibited and really, to me it gives a good opportunity for the children of this country in societies which practise such repugnant cultures to be the people we want them to be.

Hon. Temporary Deputy Speaker, but even important I like what is proposed in what currently is Clause 88 of this Bill and this is pretended marriages within the prohibited range of relationship. About three years ago, I saw a mother mourn and I think she was from the former Kikuyu Constituency across here - I do not know whether the constituency still exists. The lady was saying: "My daughter has taken over my husband." The lady was so helpless. For once we have a Bill saying you cannot purport to marry your father. A father cannot purport to marry their child and it is not just prohibited but it is telling a father who purports to go into that relationship or a daughter who purports to disenfranchise their parents of their marriages that they are committing a criminal offence and you can be properly punished for it.

So, hon. Temporary Deputy Speaker, I wanted to say that really this is the way to go. I see the light warning me but there is something I wanted to mention.

The Temporary Deputy Speaker (Hon. Kajwang’): You have one and a half minutes to do it.

Hon. Kaluma: Thank you, hon. Temporary Deputy Speaker. For once when I was in college and as a practitioner I thought all Islamic marriages are polygamous. In the context of public participation while doing this Bill I was surprised the Ismaili Muslims are strictly monogamous. I wanted to thank that section of the community and indeed other Kenyans who, when Parliament is dealing with such matters take time to think with Parliament and, of course, come to make presentations and offer their memoranda.

Hon. Temporary Deputy Speaker, with those many remarks, I am happy with this Bill. I fully support it. We will be proposing amendments which can better it but really this is something to support. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much. The hon. Member for Makadara.

Hon. Kangara: Thank you, hon. Temporary Deputy Speaker. Well, I want to say that I am also a member of this Departmental Committee on Justice and Legal Affairs and I think we did a good job. The key word here is being "consultative". We made

several consultations with various stakeholders who we believe gave their input and we have no dispute at all with them. So, with the input I know we will not have any other issues arising from other stakeholders.

However, the key issue here is that we need to safeguard the family. It is the foundation of our society and we can see our neighbouring country about to pass a Bill banning same sex marriages. We can see the hullabaloo the western countries have created about this. They are putting pressure on African countries to accept homosexuality. We have to defend our stand on this issue. Even this Committee has really looked at areas in the Bill where they could have sneaked it in especially where we have foreign envoys solemnising their marriages in this country. We were categorical that it has to conform to the Kenyan law. So, I want to assure those Members who feel that there are loopholes in this Bill that they are not there. We have looked very well into it.

Hon. Temporary Deputy Speaker, there is also the other issues of marriages. There are several options. There are several forms of marriages. There is the Christian, Islamic, civil, Hindu and customary marriages but the key issue here is that before you get into marriage make your choice wisely because the provision is clear that you do not jump from one form of marriage to another. If you do that, you will be in trouble. So, make the right choice from the outset.

There is also the other issue of customary marriage which is very important. It was lacking and we know in our society most of our people more or less engage in it. They also felt that it was an inferior form of marriage *vis-a-vis* those other ones which are registered. However, it is now well documented, captured and recognised in law.

Hon. Temporary Deputy Speaker, in supporting this Bill I think it is a win-win situation for all parties. There was also a provision whereby some people have been in bondage in these marriages. So, the exit is very clear that you do not have to remain in an abusive marriage under the pretext that it is for life. So, there are provisions which are well looked after that if you feel it is not working, you can just get out.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. The Member for Kilome.

Hon. (Ms.) Muia: Thank you, hon. Temporary Deputy Speaker. I stand here to support the Bill but with some few amendments. It really hurts me when I see our male colleagues standing here and supporting some issues. You know you are looking at this Bill as if it only concerns you. It also concerns your daughters and your grandchildren who will come. I can only support this Bill if matrimonial property will be protected because women always become victims when it comes to marriage.

I have heard one of my colleagues saying when you go to celebrate your marriage outside it means that you have allowed your husband to marry another wife. My question is: Why is this concerning women so much as if men are not part of marriage? We can also go and celebrate that. Even women allow other men to come on board. Why do you think women are victims of any circumstances?

Hon. Temporary Deputy Speaker, I stand here to oppose this because once you marry, both of you share a home. You share so many things unless when you are married and you do not produce children. Other countries have very strong laws to protect children. Sometimes you see children suffering out there and the man is there enjoying

himself, looking for beautiful women after his wife is worn out. Then you are very happy supporting this Bill. I hope Kenyan women who voted for you so overwhelmingly are seeing what you are doing on the Floor of this House because once the Bill is passed, we are not going to reverse it. It will be assented to and it is going to affect so many people. You may be working and the woman is there taking care---

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Kilome, you realise though that you have the Floor and you have the freedom to express yourself but you realise though that men in this National Assembly also have an unfettered opportunity to express themselves and I want to protect them.

An hon. Member: On a point of order, hon. Temporary Deputy Speaker.

Hon. (Ms.) Muia: I do not have time. There is no point of order. Let me finish and then you will talk.

(Laughter)

The Temporary Deputy Speaker (Hon. Kajwang’): Order. Proceed but know that men also have the opportunity to express themselves very freely.

Hon. (Ms.) Muia: What I am saying here is that all of us are here to protect our people.

Hon. Temporary Deputy, I am saying that we should also look behind and think of our daughters who will be treated the way you are treating people here. All the time, women are victims. They have no property. You marry and after sometime, you think that you can divorce that woman and you go and look for another person. We are going to agree, if that is the case, that the day you marry, whether you marry one day and one night, that is a wife. If you divorce her the second day, she will be entitled to your property because you have shared a lot. I beg you to support this Bill and know that it is going to be there for years. It has become so difficult when it comes to the issue of women. It is like women are second class and that is the way you look at them.

Some of the women even take care of the families. So, I am here to support this Bill and say that women should not be victims. I am not going to support it unless some amendments are done on it, which will favor women. It is favoring men only. It is like women do not exist and we are only there to bear children and nothing else. We do not play any part in these families. I disagree with the Bill.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much. You do not support. Thank you so much, Member for Kilome. Member for Ol Jorok.

Hon. Waiganjo: Thank you, hon. Temporary Speaker for giving me this opportunity to also talk to this Bill. From the outset, this is a very important Bill because it will collapse the seven statutes. It will be easier even for advocates to ventilate issues of marriages in courts. The Bill clearly defines the meaning of “marriage union” which is between a man and a woman voluntarily in a polygamous or monogamous marriages, but registrable marriages.

So, from the outset, it is clear that we are not talking about the same sex marriages. We are not talking about child betrothals or forced marriages. So, it is a very progressive Bill. It protects families. It is a little disappointing to see that a House of 349 Members, we are probably under 20 Members when we are discussing such an important

Bill. Kenyans have been waiting for this Bill to take off. For me, even the provision of equal rights within this Bill is also clear. It clearly states that the parties have equal rights at the beginning of the marriage, during the marriage and even at the time of the dissolution of these marriages. The Bill talks of how those marriages can be dissolved. So, nobody can be imprisoned in a marriage situation. For those who fear polygamy, for instance, it is important for Kenyans to know that they can eliminate that by subjecting their marriages to private law, so that if you do not want a situation whereby your husband marries more, then you go the Christian marriage way or the civil marriage way. The parameters are there and it is clear that he cannot marry again. But if you stay in an arrangement that we call come-we-stay, then of course, you are vulnerable because you have opened up and you have not subjected yourself to any particular law. Therefore, your marriage is potentially polygamous. Therefore, your husband can marry again.

Therefore, it is a Bill that also says who can enter into a marriage and who cannot. It gives the age limit and the capacity to enter into a marriage. There is a limit of 18 years. Of course, even the witnesses to that marriage must also have the capacity of 18 years. Therefore, there is no ambiguity in the people who can enter into these kind of marriages. Of course, they must be of sound mind. The Bill also clearly states the types of marriages. Within those types of marriages, there are different ways in which you can get out of those marriages. Even the grounds for divorce are well enumerated in this Bill. This is at the point whereby you feel that the marriage has irretrievably broken down. This Bill gives the grounds you can rely on and get out of the marriage. It also gives the places where marriage can be celebrated. It is not just anywhere. For the Christian marriages, you know, of course, it is a public place. There is the church, but the public place must be allowed by the church.

It also recognizes the marriages contracted outside Kenya or those contracted within Kenya in foreign missions or embassies or consulates. As long as they are consented, then the Bill says that they are recognized. We did not have that before. In fact, there has been a lot of confusion for people who have contracted their marriages outside Kenya and then they come back to Kenya and they want their marriages registered. There has been a lacuna of some sort. Customary marriages, of course, are potentially polygamous. The issue of consent as the Chairman, said, we found that it is untenable. I mean, nobody will give you consent. But then again, it is a proper opening for people who would want to contract other marriages. If you want your marriage to be polygamous, then let it be known. Like we have said, when a husband dies, a lot of other women and children come up and it clearly messes up even the process of the administration of the deceased's estate. On passing the Matrimonial Properties Act, we tried to protect the first and second wives in that arrangement, in as far as matrimonial properties are concerned.

This House is doing a good job in as far as the protection of these marriages is concerned. Then of course the grounds for divorce are not the same in every marriage. In the Muslims situation, you can divorce on the grounds that you have changed your religion. That does not happen in a Christian marriage situation. Therefore, it is a Bill that also brings out the issue of maintenance. Men in this country should also think very hard about getting maintenance from their wives. You find situations whereby all the time, even in court, after the end of the litigation, or after the resolution of the marriage, most

men walk empty handed. Women have worked hard together with their men, but when the marriage is on rocks, the properties are usually left to the lady and she even gets much more. It is because men do not know that they are entitled to maintenance. So, men should also seek maintenance during the end of their marriages.

Hon. Temporary Deputy Speaker, we have a raft of reasons for dissolution of these marriages. In the Muslim situation, if a wife was to get pregnant and the husband is not responsible, at the time of the marriage, that is a ground for the dissolution of that marriage. Then of course, there is consummation. If you do not consummate your marriage, then it is a ground. The prohibited relationship that hon. Kaluma mentioned, those are criminal offences because some cultural practices are repugnant to justice and morality. This message should go out clearly to those people who think that they can take their underage girls and marry them. This is rampant and it happens every day. We need some firm controls. We need to enforce the law against child marriages because they are there and they are many. They equal the genital mutilation. Our society has gone the wrong way. There is decay in that.

The other ground is incurable insanity. As a Committee, we looked at this and wondered whether once you go berserk, that is a ground for your divorce. But then the Bill now provides that this will be certified by two doctors. A Psychiatrist must certify that your condition is incurable or the recovery is improbable. Therefore, it is a ground because, again, we want to protect marriages and at the same time, we do not want to get people into situations whereby they cannot get out of it. There is also exceptional depravity by spouse. These grounds are not the usual adultery, negligence, desertion, but it is also cruelty.

This cruelty need not only be against your spouse but even against your children. I know there are families where husbands or wives are very cruel to their children. We have had instances of this. We know about ladies who have children outside marriage and when they go into another marriage, they hide the children or do not mention that there are children outside the marriage. You will find the husbands are very cruel when those children join the family.

Hon. Temporary Deputy Speaker, this Bill goes out of its way to protect children outside marriage.

With those few remarks, I support this Bill.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, the Member for Kanduyi, hon. Wamunyinyi.

Hon. Wamunyinyi: Thank you very much, hon. Temporary Deputy Speaker, for giving me this opportunity to also contribute on this important Bill on marriage.

First---

Hon. Members: That was not his chance!

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Wamunyinyi, your colleagues are not very happy because I must have skipped one or two. But because you are in order of ranking, I have exercised my discretion to have you contribute.

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

The Members of the Committee did a commendable job. Truly, this Bill is important because there were issues in the Constitution which many of us were not comfortable with. I think the Bill provides a framework which will regulate or make the

institution of marriage the foundation of society. This is because it provides clear guidelines or regulations which everybody must adhere to.

There are a few provisions in this Bill which I think need to be considered. I thought my friend, *wakili* Kaluma would talk about this. This is because those days when young people approached girls, in the process of seduction they went as far as promising them marriage. They told the girls that when they thought about them, they did not sleep. The boys also told the girls that they were the most beautiful girls they had seen on earth and that they would marry them. In this Bill, if you promise to marry a girl and you do not marry her, she can go to court and seek damages.

(Laughter)

I would like this to be the other way round. If a lady promises a man that she will marry him and she does not marry him, the man should be at liberty to sue her for damages. It should not just be the other way only. The lady is talking about men treating ladies like they are second hand items. This is not so because human beings are the same. The law should apply to both men and women or husbands and wives.

Hon. Temporary Deputy Speaker, I have heard some Members complain. Recently, one of our governors, His Excellency the Governor in one of the counties talked about some unmarried women who do not deserve to hold certain positions in society and so on. This law is helping those women. Now, it provides for marriage that is recognized beyond one, two or three wives. Those women can now get men, marry and then hold their positions. These women should not complain.

So, this is a Bill which will help the society. It helps the people who even stayed without solemnizing their marriage or are in come-we-stay relationships. Without imputing bad motives, there are some communities that are fond of marrying one wife but they keep very many women out there. We would rather have men from our side who marry women and declare that they are married and do not hide others or buy houses or homes and then they claim to have only one wife.

The Temporary Deputy Speaker (Hon. Kajwang’): Are you referring to the great men from where you come?

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, this is something that you know because you also come from there. I do not have to get into that very much.

However, the point I am trying to make is that I can understand now what hon. Kaluma was talking about when he talked about old marriages. I thought he included homosexuality which we seriously hamper. There are guidelines for marriages of opposite sex and our men and women should take advantage. Let them not be in illegal relationships and when they die and the real wives are preparing to bury them, other women move to court trying to get the estate. These men should use this law to get rid of those cases. This Bill, therefore, provides good framework or regulates or helps to resolve the issues. So, this Bill will help our society if it is passed.

Hon. Temporary Deputy Speaker, a colleague has talked about the criminal aspect. There are even issues of people from the other sex going for young children. These are criminals. It is incest and it is punishable by law. There was even one who went with the sheep somewhere. I was also told that another one went with chicken. We love chicken and they should keep off our chicken which we eat. This is because women

are there. So, let the people that this Bill provides for or is helping follow the law and keep strong family institutions.

I know that some Members want to contribute. Hon. Savula and my friend are looking at me. I want to stop there to allow other Members contribute in the remaining minutes.

Hon. Temporary Deputy Speaker, I thank you for having given me the chance.

I support this Bill.

Hon. Gikaria: Thank you very much, hon. Temporary Deputy Speaker. I want to thank the Chairman and his Committee for having done a thorough job and being able to bring a Bill that has been there for ages.

I am just learning that almost seven statutes have been collapsed and summarized into one Bill. We thank the lawyers especially, hon. Kaluma, for giving us insight as regards these issues. These laws, as the Chairman read out, are as old as 1900. This has been the reason for all these problems that we have had in the marriage institution. If this Bill is passed into law, it will address most of these issues which have been happening. Every other day in our constituency, you will find very young mothers or a woman of two weeks coming to seek assistance because the husband has taken off.

I think we need to ask the male spouse to also start taking up responsibilities because it is very sad when such women come to us for help. Sometimes I ask where their husbands are because they are helpless. They say that there is nothing they can do and that they took off and they are not bothered.

Hon. Temporary Deputy Speaker, I also agree with hon. Kaluma when he says that we need to look into this issue from both sides. We do not need to look at it as the hon. Lady said. I am a father of four girls and I am supporting this Bill for the benefit of my daughters whom I know one day will get married and they will be protected by this law once it comes into effect.

Most of us and most of our constituents have not had an opportunity to read these laws and what it takes for them to solemnize or register their marriage in a legal way. Most of the marriages have been done under customary law. As it has been pointed out by the Chairman---

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): The Member for Nakuru Town East, I am afraid I am unable to allow you to speak more. When this debate resumes next time when the House sits, you will have a balance of eight minutes. Come to the Chamber early to be able to finish your contribution.

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

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members for Lugari, Balambala and Kitui, I am sorry that we are unable to reach you. This Bill is very important and debate on it will resume. I want you to come and register your requests. You will be the first people to contribute to this Bill when debate on it resumes.

Hon. Members, we have come to the end of today’s sitting. Therefore, the House stands adjourned until Wednesday, 19th February, 2014, at 9.00 a.m.

The House rose at 6.30 p.m.