

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 10<sup>th</sup> June 2015

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, we do not seem to have the requisite quorum. Therefore, I order the Bell to be rung for 10 minutes.

*(The Quorum Bell was rung)*

Now we have quorum. I order that the Bell be stopped.

**BILL**

*Second Reading*

THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

*(Hon. Kang'ata on 29.4.2015)*

*(Resumption of debate interrupted on 29.4.2015)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, Members! On this one, Hon. Tonui had eight minutes. I am interested to know if he is in the House and wants to utilise the balance of his minutes. But before I even give him that opportunity, if he is in I want to recognise the students and teachers from Precious Blood, Riruta from Nairobi County, who are seated in the Speaker's Gallery.

I notice that Hon. Tonui is absent and, therefore, I will proceed and give an opportunity to Hon. Mwalimu Kombe, Member for Magarini.

**Hon. Kombe:** Asante Mhe. Naibu Spika wa Muda kwa kunipatia nafasi niweze kuchangia Hoja hii. Kwa hakika kuna haja ya kufanya mabadiliko katika Bodi hii. Iwapo itawezekana, wale wahusika ingepasa pia nao waweze kujumuishwa katika Bodi hii.

Mmoja wa viongozi wa wanafunzi aweze kuwa ndani ya Bodi hii maana ni mwenye kuvaa kiatu ndiye anapata kufahamu kiatu kile kinadunga wapi.

Kwa hakika Bodi hii inafanya kazi nzuri. Hata hivyo, haijatosheleza yale mahitaji kwa sababu wakati mwingine ni kama inakumbwa na hali ya ufisadi. Wengine wanawasilisha maombi yao ilihali hawafikiriwi kamwe. Na hawa ni watu ambao wanatoka katika jamii maskini hivyo basi wanauhitaji zaidi mkopo ili kujiendeleza kimasomo.

Vile vile, ingekua vyema iwapo mkopo huu ungeweza kuwafikia wanafunzi walioko katika vyuo vikuu vya kibinafsi. Kwa wakati huu unapata hawawezi kupata msaada huu na hata pia wale hawajachukuliwa na lile baraza la kuwachukua wanafunzi wa vyuo vikuu lakini wamejiunga na vyuo vikuu vya umma hawapati mkopo. Ingekua vyema pia nao wajumuishwa kwa sababu hawa wote ni Wakenya na wanastahili kufurahia matunda ya uhuru wa Jamhuri yao ya Kenya.

Kwa hayo machache, nasema asante kwa kunipatia fursa hii.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Lugari.

**Hon. Angatia:** Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Bill. At the outset, I would say that the amendment to this Bill brings a lot of sanity in the allocation of money for higher education to the needy students in our society. By prioritising the fact that all students will apply through their parents, we shall give opportunity, in allocating money, to needy students from poor families because in every village or constituency, an hon. Member is put under pressure every time to allocate the Constituencies Development Fund (CDF) money yet the student who is being given bursary has already received an allocation from the Higher Education Loans Board (HELB). So, they keep disturbing us every time that they do not have money yet they utilise the money for CDF for other activities. Once we include this section in the Act that provides that an applicant shall use the name of the parent or a guardian in applying for this facility, it will bring accountability and openness in allocation of this HELB funds.

Secondly, I am grateful that this amendment Bill is also bringing in an area where students who have not secured employment one year after completing their studies are given a grace period before they can start repaying the loan. You will find that such students have bank accounts and have not secured employment but when you look at loans accreditation bureaus, they put their names there as defaulters. If they start businesses they cannot access loans from banks because they are told that they have not paid money for the HELB yet they have not secured employment. If you look at the accreditation bureaus, you will find names of students who have not remitted payment to the HELB. They cannot secure loans yet they have not secured job opportunities.

I also support this amendment in the section where a student who is granted a loan, upon attaining the age of 18 or maturity age where he can be independent from the parent, he can register on his own and start facilitating the following up on the repayment. Many students, after the parents or guardians pass on, evade payment of this loan but when you start following up when they attain the maturity age, it will be possible to find out where he or she is located or where he or she has secured employment.

This Bill is crucial and requires total support of the National Assembly so that we can streamline the issuance of bursary funds. I would also suggest that we need to streamline the allocation of bursary funds at the ward level because MCAs are allocated money, Members of Parliament are allocated money for bursaries and governors have a similar allocation of funds for bursary. If all this money is channelled through the HELB, it will save us the headache of giving money double or triple times to the same students

Thank you, Hon. Temporary Deputy Speaker. I beg to support.

**The Temporary Deputy Speaker** (Hon. Cheboi): We will have the Member for Kaloleni.

**Hon. Chea:** Thank you, Hon. Temporary Deputy Speaker for this opportunity. I wish to support this Bill. As I support, I also wish to thank the Mover as well as register my thanks for the existence of this fund. Had it not been for this fund, some of us would not have received university education.

I support the increased participation and representation in the affairs of the fund. The introduction of representatives from the students' community is a welcome idea.

I believe this will go a long way towards ensuring that students benefit a great deal. I also want to point out the question of equity in the allocation of funds for this Fund. You will realise, and this is from experience, that students from the same background apply for loans and they get different allocations. A student would apply for Kshs40,000 and would end up being given around Kshs21,000. As such, the student would not further his education.

Hon. Temporary Deputy Speaker, I urge the HELB to seriously look at the information that is given to them in the application forms. I see no reason why students should be discriminated against and end up being given amounts that would not assist them. The other issue that I wish to point out is that of the repayment period. The experience in this country is that it is hard for one to secure employment or even to go into self employment a year after graduation. So, HELB being on your neck immediately after graduation is tantamount to harassing the graduates. I support the idea of halting the penalty in position until some period when we are sure that some of the graduates have secured employment.

The other important thing is what my colleague has just spoken to. In our CDF kitty, we allocate bursaries. Other institutions also allocate bursaries. The absence of harmonisation of these funds creates a problem. At times it is even difficult to know who needs the bursary and who does not deserve it. It is my recommendation that upon money being given as loans to these students, it is important that HELB notifies the respective constituencies so that we can take care of these interests.

Above all, I support this Bill and thank the Mover.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Kibra.

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker. I begin by congratulating my friend, Hon. Irungu Kang'ata, for bringing these amendments. The issue of the HELB and its effectiveness in how it does its job touches on the lives of many young people in this country. I look forward to the amendment stage in the Third Reading where I will also be moving some amendments to propose, in particular that

HELB be guided in a way that is in the law. It should treat all students equally, whether they are in polytechnics, private or public universities.

The system that has existed has been discriminating against students who join two-year colleges such as the Kenya Medical Training Colleges (KMTC), the Kenya Technical Training College (KTTC) and similar institutions. We want to make sure that any student who is pursuing higher education, not just at the public universities, has a fair chance and access to HEPB. That is one of the improvements that we will be making at the amendment stage.

The second part that is very important is to make sure that students will be given a grace period that is not too long but not too short, so that the Fund is able to recover some of its money and regenerate some of that money to help future students. In this country, we have a bad habit where people go in and ask for HELB in good faith and when it is time to repay, they do not repay it. So, HELB has no money and is always languishing. It does not have enough money to give to the new generation of students who need that money desperately.

We will be making an adjustment to make sure that the grace period within which to start paying the loan is reasonable, perhaps a maximum of one year after you complete your studies. Employers have to deduct it and you repay the loan or you start a business. If at that point you cannot start paying, you have to seek a written waiver or extension. But the issue of people just disappearing and not repaying the HELB loan and denying the next generation of learners a chance to get funding, is an issue that we must address clearly in the law. We should make sure that there are stiff penalties.

A Member here has spoken about the credit reference bureaus. That is something that Kenyans must come to terms with. If you sign a document for a loan and promise to pay, you will have consequences when it is time to pay and you refuse to pay. That is what the problem is. But we can put it in law that you can seek an extension. You do not just disappear or go quiet. You will be held accountable and that is a good part of the amendment and the law that should be there.

Education, the way I understand it, is not an expenditure for the Government but an investment in our future. Of all the resources our country Kenya has, whether it is the potential for oil in Turkana, wind, natural resources such as coal, wildlife and tourism, our most important and precious resource is our human capital. The possibilities that lie amongst our young people and students like those from Precious Blood, without education, they will amount to nothing. With proper investment in education, they will turn into the next generation of inventors, employers, doctors, teachers and leaders of this country. This is something that we must take really seriously if we are going to address Vision 2030. This House must find a way to keep topping up the amount of money that HELB gets to make sure that all our young people looking for education have the money to go to college, whether it is technical trade schools for two years or for a university degree. Even those who are seeking opportunities to go beyond their first degree to do Masters should be allowed to apply on an equal footing and to sign contracts that they will pay within the stated grace period. The HELB should be funded in two ways, namely through the returns and the small interest rate of maybe 2 per cent at the maximum, that the students pay back once they have benefitted from the education and also through more levies, perhaps benefits and profits from the big SGR or some other way that the

Government can raise money to keep topping up the HELB kitty. The HELB is one of the best investments that we can make from turning our raw potential and talent in our young people to a human resource base that is very competitive.

I am proud to say that our education system, despite all its challenges, is still leading and an admiration for many countries in the East African region in general. We can do more to make it high class and world standard if we invest and make sure that the financing and the affordability for our colleges and post secondary education is real, effective and progressive.

I support and look forward to the Committee stage to make the final amendments.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Sigor. I notice that the Vice Chair of the Education, Research and Technology Committee is in the House. I definitely will be giving him an opportunity somewhere along the way. Let us hear the rest of the membership. Probably, you will contribute more effectively when you have heard what the Members are saying.

**Hon. Rotino:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to join my colleagues in supporting this very important Bill. First of all, I congratulate the Member for bringing this very important Bill and thinking through. We know education is vital for everybody. Some of us come from arid and semi arid areas where school fees is a real problem. HELB has gone a long way in assisting our students to get education. It has helped those communities which have problems raising school fees. It is important that we create conducive atmosphere for all the students, so that we do not duplicate bursaries, as my colleagues have said. We have bursaries from the counties, the CDF and the HELB. We should harmonise these bursaries so that a student does not get bursaries from all these kitties. Many students come behind and apply through the Member of Parliament to the CDF yet they have applied for bursaries to all these other kitties. We should not have one student getting money from these different institutions. My colleagues have spoken about the grace period. I have seen many students being asked to repay the loans yet they do not have any employment.

On the grace period that my colleagues have talked about, I have seen many students being told to pay money and yet they are unemployed. It is good that this Bill will address that so that, at least, the students who have not been employed their names are not taken to the Bureau before they write a letter to the Board explaining they cannot repay the loan they took from the Higher Education Loans Board (HELB).

It is also good that this Bill has recognised the parents. It is very important for them to know that there is a procedure to be followed when applying for this loan so that students do not make double application. In general, this Bill is very good because it will assist parents and students. Many students have benefited from the HELB and I congratulate this Member for bringing this Bill to the House.

Hon. Temporary Deputy Speaker, with those few remarks, I support the Bill.

Thank you.

**The Temporary Deputy Speaker** (Hon. Cheboi): We will have the Member for Navakholo Constituency.

**Hon. Wangwe:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to, at least, contribute to this very noble Bill.

From the outset, I want to thank my colleague, Hon. Kang'ata Irungu for thinking very wisely on behalf of all of us and on behalf of all Kenyans. This is a very noble Bill that seeks to correct what has been an anomaly in the existing laws of the HELB so that it lives up to the reality on what prevails in our society today.

If you look at the objective of the Bill, you will realise that the issue of student representation is very noble. I want to support it. It is important that students can speak on their own behalf because they understand what is happening within their age limits and the institutions they are in. They will be able to advise their colleagues on the Board on what is required of them and the kind of money that is required by a student. They will also advise their colleagues that loan could be small or enough, at least, to sustain them for that period. Therefore, this is a noble idea that Hon. Kang'ata has thought about and he ought to be supported.

There is also the issue the Bill seeks to correct in terms of the Board being able to notify the applicant about the process, and his or her ability to appeal in case the funds have not been disbursed to him or her. The right to be heard is very important. Many times you send your application to the HELB and no one bothers to notify you on what has transpired. So, it is important we make the Board accountable to the students. The Board should let the students know that the process has started and the current position.

The Board members should not behave as if they are bosses unto themselves but they should know that they are accountable to the students and the applicants. I feel that it is a noble proposal in the Bill that we make sure that the Board, at least, listens to our students who have been denied a loan. There is also the position that the students owing the HELB and have not secured a source of income, at least, can have a say. We understand the situation today. Many graduates leave universities and do not get employed immediately. But what happens to the HELB? It quickly assumes that in the fourth year a student has started earning income. Therefore, it is important that we give a leeway. Even in banks when you apply for a loan, you are given a grace period. We are saying that during the time when students do not have income, let there be a waiver or a grace period so that they can look for employment. They should be free within that period.

We do not want to blame the HELB but we want to correct its administration. It is also important to note that the HELB was funded long time ago and yet the population of the applicants has been growing year-in year-out. Therefore, many times the Board has been facing liquidity problems. It is my prayer that during the implementation of this Bill, the Exchequer will consider giving more funds to the HELB. This will enable it to handle the high population of students applying for loans.

There is also the issue of other contributory schemes. There is the Constituencies Development Fund (CDF) which we handle and the fund that is managed by the Members of County Assemblies (MCAs) which gets some allocations from the counties. There is also the allocation of resources from the county governments.

I propose that, as we correct the administration of the HELB, let us channel all these resources through one body. As much as we will be contributing from individual constituencies or individual wards, let the administration of these funds be carried out by a professional body like HELB.

With those remarks, I beg to support the Bill.

**The Temporary Deputy Speaker** (Hon. Cheboi): With that, I realise that the other gender has not been heard this morning. I will deliberately pick the Hon. Member for Kericho County, hon. Chepkwony to speak. It will be very important Members, especially those who are moving the Bills to be present when they are being debated so that they can get the mood of the House.

**Hon. (Ms.) Chepkwony:** Thank you very much, hon. Temporary Deputy Speaker for recognising the gender aspect.

I stand to support the HELB Bill. I want to congratulate the Government for introducing HELB. This is because most of our children come from very poor families and this Board has really helped them secure higher education.

I would like to say that the formula they use to give loans to students is not right. Sometimes you will find students who apply for loans are not successful but the HELB does not give reasons why they were not given. I think the way they scrutinise these students is totally unfair. Because we will now include the students in that Board, I pray that it will scrutinise those students and inform the unsuccessful applicants in advance. This is because right now, it takes too long for a student to know that he or she has not secured a loan with the HELB. I would also like to say that most students are sent home and yet they have applied for these loans. Students from poor families should be considered for these loans.

Hon. Temporary Deputy Speaker, the HELB should also consider students in private universities because we know that not all students join public universities. This is because vacancies in public universities are very few.

We thank the HELB for making sure that students who attained university qualifications but are in private universities get these loans. We pray that the Board will consider more students in private universities for these loans.

Hon. Temporary Deputy Speaker, in this country, we know that students in colleges are given funds by the CDF and county governments. We hope that the Board will scrutinise these cases so that these students are again not given HELB loans. There is a lot of duplication and such cases should be scrutinised so that only deserving students get these loan.

Concerning the grace period for repayment of the HELB loans, even now, there are students who have finished university but have been without jobs for even 10 years. In case a student has not got a job, the loan he or she took from HELB should not earn interest.

Hon. Temporary Deputy Speaker, the HELB should not block a student who has finished university and desires to get a loan from a bank. The HELB should approve these cases so that such graduants can get loans from banks which they can use to do businesses and repay the HELB loans. If you do not allow them to take loans from the bank to do business to repay the HELB loans, how will they repay the loans? This is because there are no employment opportunities for all of us in this country.

I beg to support the Bill.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us have the Hon. Member for Kwanza.

**Hon. F. K. Wanyonyi:** Hon. Temporary Deputy Speaker, I also take this opportunity to add my voice to the HELB Bill. First, this Bill has come at the right time.

During the Third Reading, I suggest that the HELB be decentralised because it is becoming very difficult for applicants countrywide to apply. As an hon. Member has said, it takes a lot of time for one to know whether his or her application has gone through or not. Because of the distance, most of time, the students approach the Members of Parliament to find out whether their applications have been fruitful or not.

Therefore, as much as we support this initiative, we should decentralise this function so that it is done at the county level. It is very expensive for the applicants to travel all the way to Nairobi to find out whether they have benefited or not.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Order Members! The consultations are becoming louder. As you will notice, we have very serious consumers of this Bill in the Chamber today. We have the Precious Blood School among others. Please, let us discuss any other business in low tones.

**Hon. F. K. Wanyonyi:** Thank you, Hon. Temporary Deputy Speaker, for protecting me. Some students join university at a very tender age. As the Bill suggests, the applicants should do it under the guidance of their parents or guardians. I know of cases where students join university at the age of 17. As you know, identity cards are very difficult to get in this country. Therefore, some students do not get IDs until they are 23 years old. Again, this must be flexible. We should amend the Bill so that the applicants can apply either through their parents or guardians.

As has been mentioned by my colleague here, universities have become many. Therefore, I propose that in the Third Reading, we enhance the cash flow at the HELB. We should increase it. Given the fact that sometimes repayment takes such a long time, we should enhance the cash flow at the HELB so that most students can benefit.

Hon. Temporary Deputy Speaker, the next point I want to make relates to penalising students after completing their university studies. Jobs are hard to get. For example, teachers who graduated in 2007 have not been employed. Getting a job in this country is problem. Some of these teachers have to go to Uganda and other countries to get jobs. Therefore, HELB should give enough grace period to those who have completed university so that they can repay the loans. It can give, maybe, four years because the economy is not doing well.

Lastly, the HELB loans should not only be restricted to university students. Students in medical training colleges and other colleges should also benefit from the same. Very few students join universities, and those who join public universities are very few. We should enhance funding for the HELB so that it can cover students who join other colleges like the teacher training colleges, medical training colleges and polytechnics.

I support this amendment by my brother, Hon. Irungu. I look forward to having this included in the Third Reading.

I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Well, let us have the Hon. Member for Endebess. I will be following the list as it is. I realise that some groups will be disadvantaged, but let us go as per the rules.



**Hon. (Dr.) Pukose:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this amendment. In the past, university students have had no representation in the Board. It has been a challenge because their views are not taken into consideration because nobody is there to defend them. More often, even the people who are involved in giving out those funds do not understand how much the students require. This is a good amendment and once it is passed, we will have university student representation within the HELB.

The other issue is about age. Many students join university at an age when they have not got their National IDs and it becomes a big challenge for them to access loans from the HELB. Therefore, bringing this amendment where their guardians or parents can be signatories for them to access these funds is a move in the right direction.

More often, students come to us requesting for bursaries from the CDF and when you ask them why they did not get money from the HELB, they tell you that they are under age. Having a guardian or a parent as a signatory to access the HELB will make their lives better.

The other issue is about repayment and giving students time to repay the loans. This is a move in the right direction. The HELB has been sending short messages to people asking them whether they have repaid their loans or not. Sometimes, they tell people that they have not repaid the loan. They need to update the records.

The other day, I got a short text message telling me that I have not repaid the loan and yet I cleared the loan in 2012. How could I have got the clearance from the HELB when I had not repaid the loan? They need to update their e-system so that it can be up to date.

The HELB penalises those who have not repaid the loan. What about those whose money they still retain? More often, you could over repay the loan and they end up having your money. Do they pay that money with interest? We need to move an amendment on this area so that the HELB systems, in this era of computers, can be efficient. Where people have paid excess, they should remit that money. This is because it is a waste of time if you go to the HELB offices for a refund. The Board should have a system that can refund any excess money.

Therefore, it should look for a system that can identify individuals who have overpaid, so that they can reimburse them through M-Pesa or any other system.

Lastly, on the issue of who got the money, they have to adopt a system of publishing in the newspaper names of students who got the loan and the amount each got. This is for transparency purposes. Whenever we give bursaries from our CDF, every student in university or college demands to be given some money. What happens to the one who has not got anything? The students who get money from HELB also want to be given bursary.

Publishing the names of the beneficiaries in the newspapers, indicating the amount of money each got and possibly the deficit will enable well wishers and administrators of organized funds, like the Members of County Assembly Fund and the CDF to identify genuine cases for assistance. Even the women Members of Parliament are going to establish a Fund from which they will give bursaries to needy students. It will be a big disadvantage to the needy students to have an individual getting loans from

all the sources namely, the HELB, the County Fund and the Ministry of Education Bursary Fund. These are the issues that need to be looked into.

With those few remarks, I beg to support this important Bill.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us hear the Member for Butula.

**Hon. Onyura:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

The HELB has played a very important role in our education system. I commend those who started it; it was very visionary of them. The HELB has helped very many Kenyan students who would perhaps have missed university education. It is, therefore, an important Fund. Any improvement, like the one that Hon. Kang'ata has proposed, is worth supporting.

Hon. Temporary Deputy Speaker, we have many students who sit for the Kenya Certificate of Secondary Education (KCSE) examination every year. Many of them get the minimum requirement to join universities but we still end up with thousands who miss opportunity to join public universities. So, they revert to either enrolling in the Parallel Degree Programmes offered by public universities as self-sponsored students, or enrolling in private universities.

I wish to state that if this Fund is expanded, as some hon. Members have already suggested, it will be a saviour for students who get the minimum requirement for joining public universities but end up not doing so. I will, therefore, support any suggestions to appropriate more funds to the HELB. I always pray that no Kenyan child should miss education or be limited to a certain level because of lack of money or because they are poor. We should facilitate all our children so that they can get the education they want up to the levels that their abilities can take them.

Hon. Temporary Deputy Speaker, I also support this Bill because it provides that the Board will be notifying those who have been given the money. If it can give the details, including how much money has been awarded to them, it will be good.

In addition, they should also communicate to every applicant, including those who get the money and those who miss it. They should tell those who have missed the money why they missed. Many times, parents come to us, as their representatives, and ask for support for their university-going children. If you ask them why they have not applied for HELB loans, they say that they have applied but it is only that they have not received response or they are not sure whether they will be given any money.

The HELB should, therefore, communicate to those who have been awarded loans as well as to those who have not, giving the reasons why they have not been awarded any money. Some of the reasons may be technical, including something missing in the application form. Such minor mistakes can be rectified. This will enable the HELB to be as equitable as we would like it to be.

Hon. Temporary Deputy Speaker, representation of students, as among the key stakeholders in this Fund, makes a lot of sense. It will facilitate good communication between the receivers of the loans and the givers. The students' representatives can discuss and inform the Board about any challenges they may be experiencing.

I would like to take this opportunity to urge compliance because those who came up with this fund and made it HELB, wanted it to be self-sustaining. This can only be so

if those who receive the funds as loans consider it their duty and responsibility to comply with regulations. As it is in the Bill, it should be the responsibility of every recipient of the loan to notify the Board when he or she is able to pay – that is when he or she starts working. Therefore, those who receive the loan should be encouraged to repay so that the Fund can be self-sustaining.

Hon. Temporary Deputy Speaker, those described as minors in this Bill are mainly those who have not yet attained the age of 18 and, therefore, have not acquired IDs. There are some who have failed to get HELB loans because they did not have IDs. Therefore, allowing such students to use their parents' or guardians' IDs makes a lot of sense.

Finally, I would like to commend the County Government of Busia and Governor Ojaamong for what they did recently. That is the signing of an agreement between the county government and HELB, paving the way for the county government to deposit Kshs100 million with the HELB to support students from that county. That is a very commendable act. I hope that they will be enhancing that amount annually so that our children can benefit from the Fund.

With those comments, I beg to support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us hear the Vice-Chairman of the Committee, Hon. Melly.

**Hon. Melly:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill, but with a number of recommendations for amendments.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let me know. Are you speaking as the Vice-Chairman or in your capacity as the Member for Tinderet?

**Hon. Melly:** Hon. Temporary Deputy Speaker, I am speaking as the Vice-Chairman of the Committee as well as the Member for Tinderet.

I want to say that HELB is one of the best revolving funds that this county has ever established. The Board is very essential. It has even helped a number of hon. Members, who are here today, to go through their university studies.

Hon. Temporary Deputy Speaker, the intention of the Higher Education Loans Board (HELB) was to ensure that Kenyans access higher education. Its purpose is to assist the younger generation to go through our system of education.

In this amendment, the issue of making sure that the parents sign for the minors is very good because minors, that is, those who are below 18 years cannot enter into any contract. Some of them have failed to access loans because of that. So, if it is allowable that parents take the loans on behalf their children until they attain the age of 18, then that is a very good idea. This regulation has barred many students from accessing funds. With this new Clause 3, a number of students whose age is below 18 and do not have IDs will get their funds.

I would like to talk about Clauses 4 and 7. Making sure that the Board notifies every student that he or she has got the money can be handled administratively. This can be handled through regulations. The HELB can ensure that the students are easily identified and so there is no need for those clauses.

On the issue whether a student should get meaningful employment or income before he or she can repay the loan, I would like to say that the Jubilee Government has given 30 per cent of its tenders to the youth. It should be noted that a number of students

who have started companies have very good income. In this case, this matter should be handled with the students and the HELB. This has been the regulation and it has been practiced all along.

If it is made mandatory that the HELB will allow a student one, five or ten years, we will reduce the gains of this Board which has assisted a number of students. The intention was to ensure that the Board is self-sustaining.

Hon. Temporary Deputy Speaker, Clause 7(1)(a) will make a number of beneficiaries not to repay their loans. I want to give an example where students have cleared their course. I know a number of students who are in their Second Year or Third Year who have very good companies and, therefore, very good income. I would recommend that Clauses 4 and 7 be handled under the regulations.

I know that we have a number of institutions that are also dispensing bursaries or funds for education. It is my considered opinion and that of the Committee that all these be put together the way the hon. Member from Busia put it. I have done the same in my constituency.

I also know a number of constituencies that have developed constituency revolving funds. If these are put together under one Bill, then these funds will be channeled very well and all our students in the public universities will not have a problem accessing higher education funds.

I support with amendments. Thank you.

**The Temporary Deputy Speaker** (Hon. Cheboi): We will have the Majority Whip.

**Hon. Katoo:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also contribute in support of this Bill. A lot has been said by my colleagues and I do not want to repeat much. The current number of our universities, both public and private, is 68. We have 31 public universities, including the constituent colleges and 37 private universities. It is important that we realise the need to increase the HELB monies.

I propose that when the relevant Committee brings amendments at the Third Stage, it also considers proposing a certain percentage, perhaps, from the national kitty or the budget of the Ministry of Education that should always be set aside for HELB. The situation as it is now is that, the Ministry of Education decides how much money it allocates the HELB. If we make it a certain percentage of the budget of that Ministry, then this may help in terms of increasing the allocation.

One of the Members who contributed to this matter talked about decentralizing this to the counties. That is a good proposal, especially the processing of the applications. The number of students seeking university education is increasing year in, year out in this country. It is important, therefore, that the processing of the applications for this money be decentralized to the central point in each county. Maybe, HELB needs to establish county offices where applications could be processed and then payment is made from a central point in Nairobi since this is a national function.

If you look at the proposed amendments in this Bill, thanks to the Member for Kiharu, Hon. Kang'ata, you will find that the main amendments are in five parts. In fact, some have been explained very well.

There is the issue of bringing student representation to the Board which is a welcome move. If you look at the proposal, you will realise that those two students, that is, one representing public universities and the other representing private universities, will serve in the Board for a period of not exceeding two years while the rest of the Members serve for a period of five years and are eligible for reappointment.

Students have four years to do most of the courses and that is why I think he has proposed a period not exceeding two years. There will be no re-appointment because that student would have left. Therefore, he gives a chance to continuing students in the universities to represent students in the Board.

The other amendment proposed in the Bill is about the issue of minors. That has been explained very well by my colleagues. Because of the difficulties experienced in acquiring IDs in this country, students join university when they are above 18 years but without ID cards. It is not their mistake that they do not have IDs but it is because of the systemic challenges that exist in acquiring those cards. Therefore, parents being allowed to be signatories to such students while applying for the HELB loan, is a welcome move.

There is another proposal with regard to penalties. Section 15 of the parent Act states:-

“A loanee shall be required subject to and in accordance with this Act or any regulations made thereunder, within one year of completion of his studies or within such a period as the Board decides to recall its loan whichever is the earlier.”

This means that the Board may even recall your loan even within three months of completion of your studies. That is good and, in fact, that is why there is this proposal in the amendment that, at least, there should be a grace period. This grace period is talked about in Sub-section 7 of the amended proposal. That is why I differ with the Vice-Chairperson of the Committee who proposed that such a clause can be addressed through regulation.

We should not wait for the Regulations to address that aspect because even in the current position, which is that the Board may recall your loan within a year after completion of studies or even earlier, or any time that the Board may decide, is not provided for in the regulations. It is provided for in the Act. Therefore, we should retain Clause 7 of the Bill, which provides that within one year of completion of studies, if a loanee has not secured a source of income, the loanee shall notify the Board in writing and the Board shall not levy penalties on the loan.

Hon. Temporary Deputy Speaker, I have an example of a student from my constituency who has finished her studies and, for two years now, the loan has been attracting penalties or interest. That is not good. Hon. Oyula has just talked about compliance. Even if we encourage the beneficiaries of these monies to be compliant, because of economic hardships, at times this may be beyond their wish. Therefore, it is good that we provide for a grace period of one year for the beneficiaries to settle down after studies and try to secure some source of income before starting to make repayments.

On the amendment about the right to be heard, again, I differ with the Vice-Chair of the Departmental Committee on Education, Science and Technology when he says that the aspect can be addressed administratively through regulations. This is because the proposed amendment in Clause 4 states that the Board shall notify every applicant in

writing, whether an application for a HELB loan has been accepted or rejected. This should neither be put in the Regulation nor left to administrative action because Clause 14(2) of the current Act states that where the Board has resolved to make a loan to any eligible student, the Board shall notify the applicant in writing. Only eligible students are to be informed. It is imperative that they inform every applicant. That is what the amendment is saying.

Above all, the issue of appeal, as contained in the current Act, is not there. The amendment proposes that if you have not been successful, you have a right to appeal. That is important because some information may have been misrepresented, and that could be the reason why your application was successful. Therefore, you should be given a chance to appeal.

Hon. Temporary Deputy Speaker, we have three categories of applicants namely students in the regular degree programmes, students in the self-sponsored programmes and students in private universities. Since this is a loan which beneficiaries from the three categories will repay, they should be given an equal platform in terms of application and consideration. Everybody should be given equal chance and same conditions because the money that is given to students is a loan. Whether you are a parallel degree programme student or a private university student or regular student, you will repay the loan. This is because none of those categories is attracting more fines or interest than the other.

Hon. Temporary Deputy Speaker, this is a welcome move. It is a good amendment and, therefore, all of us should support it.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. We will hear the Member for Mvita, Hon. Nassir.

**Hon. Nassir:** Thank you very much, Hon. Temporary Deputy Speaker. This Bill has been drafted by my brother, Hon. Irungu Kang'ata. It talks about amending four Sections of the mother Act known as the Higher Education Loans Board Act. The first amendment is on Section 4, which seeks to include representation by students from both public and private universities in the Board. It further states that there will be a rotation every two years. This is a move which is truly welcome.

Section 13 allows a parent or guardian to apply on behalf of a minor. It states very clearly that once the minor comes of age, the onus of repaying the loan will lie on the minor since that minor will have become an adult. The Bill also seeks to amend Section 14 by ensuring that every applicant is replied to in writing, whether they were successful or not. It also allows every applicant the right of appeal. Section 15 also gives the loanee a chance to notify the Board that they are yet to be employed.

I would like to speak on behalf of the many disadvantaged Kenyans who are unable to access this loan. This Act needs to be amended, first and foremost, to allow it to give these loans based on quotas. The quotas should be broken down to levels of counties and constituencies, so that someone from Mvita Constituency can compete fairly and freely like any other Kenyan.

Looking at the percentage of the applicants from Mombasa County who have managed to access these funds, they are shocking. Secondly, the Fund needs to be expanded. I hope to bring an amendment to that effect during the Committee Stage. I hope that the amendments will be accepted by every Member. This Fund needs to be expanded to include students pursuing diploma courses.

We are in leadership at a time when this country has one of the highest rates of unemployment and the highest number of youth lacking the capacity to get an income. Therefore, we need to allow the young people of this country who have not attained university levels, but have managed to get enrolment for diploma courses and other courses, to apply for HELB. The HELB should not be biased towards any particular level of higher education.

Section 15(b) of the mother Act is totally unconstitutional. It says that it is the obligations of the loanee to begin repayment of his loan, together with any interest accrued thereon. First of all, it has already given a gender bias by just limiting his and not her. That, in itself, is totally wrong.

Secondly, the HELB has totally pegged itself on interest. Just like any other Muslim in this country, I do not believe in interest. I would like to refer to the Preamble of our Constitution. We need to be proud of our ethnic, cultural and religious diversity. We need to be determined to live in peace and unity as one indivisible sovereign nation. We need to be committed to nurturing and protecting the wellbeing of the individual, the families, communities and nation and recognising the aspirations of all Kenyans for a government based on the essential values of human rights, equality freedom, democracy, social justice and the rule of law.

It further says: “Adapt an Act and give this Constitution to ourselves and our future generations”, something that unfortunately, some Members here are failing to understand. I was not here, Hon. Kang’ata, on anyone’s favour. I was here at the behest of 35,000 Mvita constituents who elected me.

The Bill of Rights is pretty clear that religious rights have to be included in each and every Government institution. It is for that reason that we will be seeking an amendment so that when the Third Reading comes, we can ensure that every single Kenyan has access to this fund and is not denied his or her right to get education in the rightful manner.

**The Temporary Deputy Speaker (Hon. Cheboi):** Let us have the Member for Sigowet/Soin.

**Hon. Kemei:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. As I rise, I am in full support of the amendments brought by Hon. Kang’ata.

If we look at most of our school-going children, we will realise that they attain the age of 17 by the time they are due to join colleges and universities. If we were to deny them a chance to apply for loans on the basis of not having identification documents, we will be going against their rights as citizens of this country.

Secondly, my colleagues have spoken about the need to expand this loan to cover students in all higher learning institutions. We should not restrict them to universities. We should have students learning in the Kenya Polytechnic University College, Kenya Medical Training College (KMTC) and other institutions that we have in this country, getting access to this facility.

Thirdly, we need to create harmony between the higher loans disbursements, disbursements from the CDF and disbursements from the county governments so that, by and large, we are fair to the students requiring those facilities. If you look at the way we are disbursing the funds at the moment, you will find that bursaries from the county governments and those from the CDF are not harmonised. If we extend this to the HELB,

we will create a situation where we might be unfair to a few people who may not be able to access those loans.

Fourthly, as I support this Bill, 80 per cent of the students who go for higher learning cannot sustain the high financial requirements of higher learning. Therefore, if we expand so that we can reach the majority of Kenyans who require higher education, we must make sure that this fund is increased.

Fifth, and probably that will be the last from me, is that - and the Vice Chairman of the Departmental Committee on Education, Research and Technology was here a while ago - we need to have publicised on a regular basis universities which are recognised by the Government of the Republic of Kenya in and outside this country. This is because some people go out there masquerading to be having degrees from universities from outside this country, and yet those universities are not recognised by the Government of Kenya. Therefore, we should have that on a regular basis so that those people who do not have degrees should not compete with the students who have gone through institutions which are recognised by the Government of Kenya.

Thank you, Hon. Temporary Deputy Speaker for giving me this chance.

I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Having recognised some of the serious consumers of this Bill, if it goes through, namely Precious Blood Secondary School, Riruta, I would also like to recognise another very serious consumer of this Bill, and they are students and teachers from Kangaru High School in Embu County.

*(Applause)*

I give the opportunity to Hon. Odanga, the Member for Matayos.

*(Hon. Oyugi spoke to the Chair)*

Hon. Neto, I hear you but unfortunately we have to follow the list and you are somewhere on the list. Proceed, the Hon. Member for Matayos. I have given you the chance. Probably, you have removed the card yourself.

**Hon. Odanga:** Thank you, Hon. Temporary Deputy Speaker for this opportunity to contribute to this very important amendment by the Hon. Member for Kiharu. From the outset, I want to pay glowing tribute to the initiators of this fund which has helped very many of us to go through university education during our times. If you recall, from the mid-90s backwards, the money that we received for accommodation, tuition and a little other money that we always put in our pockets for other uses, was very dear to us and that is what made us go to school. For some of us, we used some of that money to help our other siblings.

I would like it to be noted that we are supposed to be giving this fund to the very needy students who are taking higher education. We want to encourage HELB to find a better way or criterion to identify the very needy students to access these funds. What is now happening in this country is that whenever there is a fund to help people, be they students or other people, everybody else would like to access it even when they are able to pay. This is why this fund has always experienced cash flow problems.



Therefore, I will support the Member who said that it should even be decentralised to the counties so that vetting is done to find out the better criterion for those who really deserve this fund. This is very important because we are talking about the representation by the direct beneficiaries of this fund namely the students. This is also in the spirit of participation of those people who are concerned with this fund. We must support this amendment Bill.

Similarly, the idea that those students who join university at a tender age or are below 18 years should get this loan without identity cards cannot go unsupported because we have very many needy students who have failed to get the loans to help them continue with higher education. The idea that the parent or guardian can also come in until these students attain the age of 18, when it is transferred to them is commendable.

We should also note that all the students in this country, right from when they join Class One, are now given birth certificates. A birth certificate also has a number. That number is important and it should not be taken for granted. It is a number like the number in the national ID card. I wish that HELB also considers using the birth certificate number so that any child who has qualified to join an institution of higher learning, directly qualifies for this loan to complete his or her education.

I also support the amendment on notification of applicants. That is students who have applied for the loan and their applications have been accepted or rejected should be notified. They should be notified in time and sufficient reasons given to them so that when they apply next time, they know why they did not get that loan in the first place.

The issue of timeliness should also be addressed so that when HELB is disbursing the loans, it should do that on time. It should do that at the beginning of an academic year so that the parents and we, the leaders who represent them know that student "A" got the loan and student "B" was unable to get the loan. This will enable us come up with the way forward.

Lastly, I would like to propose that there should be information because information is a very important tool. Let us know those of us who are in the counties and constituencies. Let us also have information from the board concerning who got the loan so that, as we are disbursing the funds that we have in the counties and constituencies, we shall know whom to give more or not. It is very important for us to make a decision. Many students tell us every time they have not received their loan, but when you seek more information, you find that they had received the loan. That information is important.

With that hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. I will give Hon. Member for Turkana Central, Hon. Nakara.

**Hon. Nakara:** Hon. Temporary Deputy Speaker, thank you for giving me this opportunity to contribute to this very important amendment that has been brought by Hon. Irungu. First of all, on the issue of representation, that brings a very clear picture that those who are beneficiaries of the funds should be involved in decision-making. By doing so, it will give the students an opportunity to represent their fellow students and present their needs. By representation, we build the leadership skills of the students at that early age. That will make the students who represent others to learn leadership skills at that early age. My worry is the criteria to gauge the students who will represent others

in the board. We have two categories here. We have public universities and private universities. We need to go beyond this stage and come up with criteria to get the representatives to the board. Maybe, we can assemble all the private universities together to elect one, or we can do a rotational system, in which today we could have a representative from Nairobi University, tomorrow from Daystar University and so on. That way, at least, every university will taste that skill.

On the issue of minors, I want to acknowledge that, that is a problem. The board needs to educate students on the use of funds. When you give money to a minor or somebody who has not handled money before, he or she can misuse that money. We are, therefore, requesting the board to take time to educate the students on how to use that money. That money is meant for their education and not for leisure or for buying phones and other unnecessary things to the detriment of their education. It is a challenge to the board, so that when students get the money, they can use it appropriately for their education.

On the issue of attaining 18 years and above, it is good that we are now allowing such students to handle money by themselves. We cannot keep on handling business of adults after attaining the age of 18 years. I agree with that. When students attain the age of 18 years, we need to make them independent so that they can handle their money.

On the issue of notification, there are some parts of this country where it takes long to receive a letter. A letter can take two weeks to reach Turkana. We want to encourage the board to send SMS messages to notify the students that they have been given the loan or not. A letter can take years. By the time the letter arrives, the grace period is over. We, therefore, encourage the board to use other means to notify the students about the status of their loans. Sending an SMS message directly to the phone of the student can be a quicker way.

On the issue of the amount, not all students are equal. There are some students from poor backgrounds. So, when you give an equal amount of money to the students, those who come from poor families are disadvantaged. That is because they may not have the extra money to meet other costs. So, sometimes, when the board is giving the loans, it should also consider that there are some places like Turkana, Pokot and Samburu. Those are pastoralists who depend on livestock. They need to make sure that such students get extra money, so that they can meet the costs of accommodation, tuition and transport. We need to consider that issue when we are giving loans.

The other issue is the repayment of the loans. The grace period is one year. We now have graduates who have stayed more than three years without getting jobs. When we start accumulating interest, by the end of two years, some graduates may not have found employment. It, therefore, becomes a burden to them. Let the board make sure that before the loans start accumulating interest, the students are employed. There are others who have run away without repaying back. That is because the board lacks data. The board should have data for every student so that, once they finish their education, they can be followed. Some join international Non-Governmental Organizations (NGOs) and Community Based Organizations (CBOs) where there are no records to be followed. It is good that data for each student is kept properly.

I am worried about what Busia County has done. If you give county government money which is supposed to be given freely as a loan, and yet the money has been taxed

and given to the county government, it is not right. It is like the Constituencies Development Fund (CDF). When you take that money to Higher Education Loans Board (HELB), then it comes back to your people. I am wondering whether the profit that you get from such funds will go to the county or to the board. I am a bit worried about that. Anybody can go to the court and say that, that money is meant to be given for free because it came through the county government. I do not know whether that is the case, but that would encourage some of us to take money from CDF there. It would be good. I need to be educated further on that.

Finally, on the issue of discrimination in terms of faith as alluded to by hon. Nassir, the loan is a choice. You either take it or not. So, when you want to take a loan, you must follow the guidelines and the rules that are given. There is nothing like faith here. That is money that should be refunded. If your faith does not allow you to take loans, then you should not apply for it. If you bring the issue of faith, the Turkana will say that if it is about faith, then they are marginalized. They will refuse to pay interest as well. Let us do away with the issue of faith and religion in the loans and follow the guidelines.

As I conclude, I would like to say that the self-sponsored students should be considered. I want to give an example of the Turkana teachers who are studying to get diplomas and degrees. They are suffering. The little salary they are getting is what they are using to pay fees. We are appealing to the board to give loans to such people. Those loans will save them. Bank loans charge very high interest but HELB loans have low interest. I would like to encourage self-sponsored students to apply for those loans to cater for their education.

With those few remarks, I beg to support. Thank you.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us have Hon Sitati, Member for Webuye.

**Hon. Sitati:** Thank you, Hon. Temporary Deputy Speaker. At the outset, I would like to add my voice to this Bill. First and foremost, what this Bill is trying to address is the crusade of *haki yetu* by students and their representation in the Board. The Bill addresses that effectively. My challenge is that we are creating a society that may not trust any other person. Students are supposed to be in class reading. When they are part of the board, they are supposed to attend board meetings. I do not know how they try to divide their attention because my opinion is: It will be a very big task for the students who will be appointed to that board.

We are also creating a society where we cannot trust one another. We are supposed to represent. In such a situation, the decision that comes out is what we must go by. In that case, when we get too much noise that the board has not served them well, it means it is the board that has failed to address the issues. As much as this amendment will cure that we are, on the other hand, creating a situation where people can sleep on their jobs and instead of punishing them, we enlarge the boards. In this scenario, everybody is crying that we have so many boards and the financial situation of this country is wanting. As much as we may look at this, I would wish that we scrutinize on what the boards do. If they do not do a good job, we should dissolve them or appoint other people who will give the service to the people. That way, the consumers of the services will be satisfied. That is one.

Two, I have looked at the amendments and I appreciate them. I want to ask the board to have some timelines in terms of when they give information to the applicants who have not qualified to get the loans. For sure, the Board has always taken it for granted. There are some students who never get those loans. Therefore, they leave the students in a quagmire. The students are left in a bad situation. They do not know where to go. If the students get information in good time that they have not been successful in getting the loans, maybe their parents will look for alternative means to make sure that they get education. I support, but my fear is getting everybody who is a stakeholder on the board. I know that representation from students is questionable.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Ndhiwa.

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Speaker. I would like to, first of all, congratulate my very good friend, Hon. Irungu Kang'ata, for bringing these very useful amendments.

First is to speak to the fact that he proposes to bring student representation to the board, which is going to be useful in terms of adding the students' voice in the board. That is a good amendment.

The second amendment stipulates that nobody is going to be denied a chance to access the loans simply because he or she is a minor. To that extent, they make parents to be trustees for purposes of making sure that students have access to the various loans. That makes those students who go to school fairly early to also have a chance to have a bite at the Fund.

The third thing is the creation of an appeals process and giving a chance to the students to appeal the process. An amendment that would also have been good is to show what that appeal process is going to be. This is so that you are not just saying there is going to be an appeal to the same people who refused to give you the loan. We need to create a different appeal process, perhaps, an appeals committee that is slightly higher than the executive committee of the board itself.

Lastly, on the amendments is the fact that it gives space for loanees who do have employment in the first year having finished school to have a chance in terms of when they start repaying the loan. There ought to be an amendment that speaks to how to verify the loanees who would not have had a job in the first year. I have listened to hon. colleagues speak to the fact that because of the nature of various employments that are given, you might not be able to easily track where the loanees work. So, there ought to be a proper way. That is the reason why most people stay for too long without repaying their loans, thereby denying the board the chance of getting back the repayments in good time. So, there ought to be a proper mechanism so that even if you are going to be giving a chance to the people not to pay loans because of unemployment but, at least, there should be a methodology of tracking the people and where they work.

Out of the various amendments, I would like to speak to three things. First, my hon. colleagues have spoken to timely disbursement of the Fund. You find that most students go to the university in time, half the loans take too long to disburse and so, they end up doing all manner of odd jobs so that they can keep themselves at school. Some of them are not able to join schools in good time. It would only be fair that because the

Board knows the semester dates and when the schools start, we ought to have a chance that there ought to be timely disbursements.

The second thing I would like to speak to is that there ought to be an increase in the amount of money that is available to the Board for purposes of making loans available. Not everyone else applies for those loans. So, it is possible for the Departmental Committee on Education, Research and Technology, the next time they are doing their budget, to ensure that the Higher Education Loans Board (HELB) has a lot more money than it currently has, so that a lot more people who apply for the loans are able to get them. We should not be talking about people being denied loans because it is going to be repaid anyway. So, why do we not make the money available so that anyone else who applies is able to get the loan? Apart from the money that we occasionally allocate to HELB, there is also the money that is constantly being repaid. So, it is possible to work out a formula where almost everyone else who applies for the loan is able to get it.

Lastly, it is about something that is very close to my heart. You know for a fact that education is an economic and cultural right. Article 43 of the Constitution speaks very well to the fact that the Government ought to be making progressive realisation towards the achievement of this right. I grew up in a little town when going to university looked like fun. When my seniors went to university, it was fun to look forward to joining university because the Government catered for students' needs. Accommodation was fairly free and everything else was made available. However, right now, we end up with university students who are bothered about where they are going to cook. So, they end up cooking in their hostels and end up burning the whole place. They do not even have places to stay. That goes contrary to the very aspirations of Article 43 of the Constitution. Whatever we ought to do, we should be making university education free and interesting so long as it is about public universities. The Government needs to do something and so should we as legislators to make sure sufficient money is available for people who join university. We need to make public university free so that people are not bothered about the difficulties of going to school. Students should not be bothered about where they are going to lodge or what kind of food they are going to cook. That ought not to be the business of a student. It is not his or her business to find out where lunch is going to come from. The Government needs to ensure that there is space and money available for our students. This includes money for tuition. If we can do something and ensure that we revert to where we were during the 1980s, then that will be laudable.

With those very many remarks, I thank Hon. Irungu Kang'ata for thinking outside the box and trying to make the life of our students very good. I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, before I give the next Member an opportunity to contribute, I want to recognize the presence of Segero Herald Adventist School from Kesses Constituency in Uasin Gishu County. There is also a school called St. Vincent's Secondary School from the constituency of the Mover of this Bill, that is, Hon. Kang'ata. It is Kiharu Constituency in Murang'a County.

I will give the opportunity to the Member for Malava, Hon. Injendi.

**Hon. Injendi:** Thank you, Hon. Temporary Deputy Speaker. Before I make my contribution, I wish to send my condolences to the family of a pupil called Shilingi of

Lubao Primary School in Kakamega County, who passed on after drowning in a ditch that was left open by a company that was contracted to do the Kakamega-Webuye Road. That company has not delivered on the works after two years.

I would also like to add my voice on this issue of involvement of students in decision-making with regard to HELB loans.

In the past, we used to make decisions that affect beneficiaries without getting their own input. So, I support this. My only query on this is when it comes to private and public universities. They do not have a unified body that will take all of them on board. So, whoever is working on this would also want to look at that, when we have the representation of students from private and public universities to find out how to get one to represent the interests of the students. Usually in many cases, you find that when such persons have been incorporated, they are compromised. You will find that such kind of students are finally getting favours when it comes to the particular loans so as not to be ready to fight for the other's interests.

The other thing I would like to talk about is the issue of underage. I am seeing our legal advisor is here because we also know that Mr. Kaimenyi has put in place some regulations that require a student joining Class I to be seven years old. If you look at this amendment, it is talking about students joining university when they are underage; which means that they will not be above 18 years. So, that is a contradiction. If Mr. Kaimenyi has put in place regulations that control the age at which a student is to join Class I, then it means that all persons who would be joining university will be 18 years or above. For this one, we will get legal advice from these particular lawyers.

The other thing I would wish to talk about is the issue of the appeal because many students have been affected. They have been denied that particular loan and they have no one to make an appeal to, particularly when they have been unfairly judged not to get the loan. What I am asking whoever is behind this is this: When it comes to the Secretary of the Board, he is the same person who makes the decision. For example, when it comes to denying a particular student a loan and there is an appeal, it is made to the same person who made the decision to disqualify the student. When it comes to the Third Reading, we will look at this. We will form an appeals board. If there are appeals, then they should go to those particular persons and not necessarily the very Board that made a decision.

Finally, situations also vary. For example, in my own constituency, when it comes to orphans, we are saying that the guardian should sign on their behalf. Some of the guardians take care of the students up to Form IV. But when they go to university, they do not want to commit themselves into loans and signing loans on behalf of the students. I would also request Hon. Kang'ata to look at that. When that kind of scenario arises, that particular person who may not have a guardian per se---That has happened elsewhere where guardians refuse to sign because they do not want to commit themselves imagining that they have done their best to provide basic education to those particular students.

So, with this, I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Kipkelion West.

**Hon. Rop:** Thank you very much, Hon. Temporary Deputy Speaker for giving me the opportunity to also join my colleagues in supporting the Higher Education Loans

Board (Amendment) Bill. The objective of this Bill is to provide student representation in the Higher Education Loans Board (HELB).

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

*[The Temporary Deputy Speaker  
(Hon. Kajwang') took the Chair]*

This is one way of enabling the youths to participate in leadership and decision making. Allowing representation from both public and private universities from student leaders in a rotational way is good because we will be enabling students to participate in decision making and also help to guide the Board on the needy issues of their colleagues. They are representing student leaders in those respective universities.

There is also the issue of minors. Many of our students finish Form Four when they are hardly 17 years old. Even if they are 18 years old, getting an identification card (ID) in this country has become a problem. It is a nightmare now. You will find that students have applied for IDs when they were in school but two years down the line, they have not got their IDs. So, the objective of this Bill is to enable those students without the IDs to access the loans like the rest through their parents and then later on when they become of age, the loans can be transferred to their respective accounts.

The notification also by the Board is of essence because most students apply for the loans but they do not get the information that they qualified or they did not. So, the essence of informing the students is one way of being accountable and enabling them to know whether they really got access to the loan.

The issue of unemployment in this country is high. Students finish universities and the essence of this law is to enable those who have not started earning any income to report to the Board by writing so that they cannot be penalised for delaying to repay the loan. Not every other university student who finishes the university gets employment or earns an income almost immediately. So, guaranteeing them to communicate back to the Board of their inability to repay is good.

There is need to increase the funding to HELB because the objective or essence of HELB is to help the needy students. We know that the kind of funding that they are receiving right now is not enough to facilitate all the students who desire to access this loan. So, there is urgent need to increase funding to HELB. Hon. Temporary Deputy Speaker, I have listened to people saying that some counties have been paying their bursaries directly to the---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Gatobu, is that your way of greeting me or you are on intervention?

**Hon. Kinoti:** No, I am on intervention, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang'): What is out of order?

**Hon. Kinoti:** I am rising on the issue of interest in this Bill. I am requesting whether you can reduce the time for every Member to three minutes so that many of us who are remaining to contribute to this can have time to contribute to it. I wish to move that you reduce the time for each Member to speak for at least three minutes. Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Well, I can see that there are a lot of requests and interests on it but you know that Bills have a specific period of time that they are debated by the Standing Orders. If you are looking at your clock, we only have 15 minutes to get over with this because this is not the first time it was resumed in a previous session. Although I sympathise and all of you may want to speak to it, there is a period of time that the Standing Orders permit. So, anyway I hear you but can we have this Member finish? Can you just put your intervention so that I can see you?

**Hon. Rop:** Hon. Temporary Deputy Speaker, I think I---

**The Temporary Deputy Speaker** (Hon. Kajwang’): Yes, there you go.

**Hon. Rop:** I was winding up. I was wondering whether it is really good for bursaries that counties are allocating to students to be brought back to the HELB to charge interest. I thought that we should be disbursing our bursaries in our respective places and allow students to access them free of charge rather than bringing it back to HELB and generate an income which we do not understand where it will go. I believe that we should not do that.

Thank you, Hon. Temporary Deputy Speaker. I support the Bill.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Member for Marakwet West.

**Hon. Kisang:** Thank you, Hon Temporary Deputy Speaker. I rise to support the Bill brought by Hon. Irungu Kang’ata. For one, most of us in this House are beneficiaries of the Higher Education Loans Board (HELB) because while we were in the university in the late 1980s and early 1990s, we used to get what was popularly called “boom”. Eventually, we learnt that that was part of a loan and luckily, some of us have already paid it fully. But we would like to encourage ourselves, especially those who have not completed or started paying to do so, so that it will benefit our students.

I want to support the notification of those students who have received the loans and those who have been rejected. It is good to give them reasons. Since the students apply for the loans online and they have e-mail addresses, it would be prudent for the board to send a feedback on the reasons the loan for a particular student has been rejected so that they can make corrections or changes when they apply in the following financial year.

I know that in the late 1980s and early 1990s, it was easy to secure employment immediately you graduated but for the last years or so, students who graduate wait for more than five to ten years before they secure employment. If they are required to repay the loans immediately after one year, it will not be possible because until they secure employment or do business, they will not be able to repay the loan. So, at the next stage of this Bill, it will be good to increase the grace period of waiting before the loan accrues interest. This is because you will get that somebody has not been employed but the interest is growing daily.

We want that when the HELB approves a loan, if a student gets the loan, before it is submitted to the bank, it would be good for the board to send all the names of beneficiaries to the respective universities because in some occasions, students miss exams when they have already received the loan though the money has not been sent to the respective university banks. So it will be good for them to e-mail all the names of the beneficiaries to the universities.



Finally, we support the idea to put, at least two students in the board but as one of my colleagues has said, it might be very difficult for them to sit on that board. It will also be challenging to choose who among all the students will be in the board. We know, as one of us has said, the board might compromise. They might just get students from urban centres like Nairobi. We prefer to get a student from rural areas because these are the people who really need the loans.

I support the Bill. In the next stage, we will bring some amendments so that our students benefit.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang’): That was shorter than I had imagined. So, I still have some two minutes for someone. This will be Member for Likuyani. Some two minutes or so will be available so it is up to you.

**Hon. (Dr.) Kibunguchy**: Thank you, Hon. Temporary Deputy Speaker. I will take my two minutes by just touching on one or two areas of this Amendment Bill. One of the areas I would like to propose that we need to look at in the Third Reading is the two students from the universities who will sit in the Board. I feel that it will be important that when we pick these two students, they are staggered over the years. For example, we can pick one student this year and another one next year so that institutional memory is not lost so that all the students do not leave at the same time and come in at the same time.

The second area we need to look at for amendments is expanding the quota that goes to the Higher Education Loans Board. This money needs to come directly from the Exchequer so that we are sure that we will have it and the beneficiaries will include not just university students but even students going to colleges and also students who are doing their Masters and PhDs. As you realize some student finish university and even before they secure employment, they get a chance to go and do their Masters. These students need to be helped.

Finally, in this country, the weakest link in our education system is the link of the secondary education. As much as this does not directly touch on the Bill, it is important as everybody has pointed out, that we have by far too many bursaries in this country. Time has come for the Departmental Committee on Education, Research and Technology to look into this and see whether there is a way we can pool all these bursaries into one basket and make it possible for all our students in secondary schools to acquire free secondary education. There are by far too many duplications. You have bursaries from CDF, from the Ministry, NGOs and now the County MPs are going to get a fund which I hear most of them are going to set aside some money for bursaries. So, you get by far just too many bursaries. I wish all these could be put into one basket and we make sure the criteria for their education is purely on merit and not whether one’s parent or guardian has money or not.

I support the Bill but in the Third Reading, we will come in with some amendments to make a good thing better. Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you. Members, as you know, sometimes when we get interesting Bills, we forget what we have agreed before. If you look at your Order Paper, you will see the notices which we always put every day to remind you what we have agreed. In that first notice, we resolved on 11<sup>th</sup>

February 2015 that Bills arising out of Standing Order No.97 (4) will have a maximum of three hours and thirty minutes. We started discussing this Bill with the balance of time being two hours and two minutes. We began at 9.42 a.m. and we must end it by 11.45 a.m. The Mover should be on his feet right now so that we keep time. I say that because I sympathize. Many of you have a lot of interest to participate. I can see Members for Rongo are here although you are almost 11<sup>th</sup> or 12<sup>th</sup> in my list. But I advise you to talk well with the Mover sponsoring the Bill. That way he is able to donate a few minutes. I also see the Member for Rarieda, Seme, North Imenti, Igembe North, Samburu East, Alego-Usonga, Buuri, Ugenya and Kajiado North. You are all here. I do not see Member for Suba on the list, unfortunately.

So talk well with the sponsor of this Bill, he will donate one or two minutes. I do not want to grant a point of order until this Member is on his feet. Not Member for Mbeere South. Where is the Member sponsoring the Bill?

**Hon. Kang'ata:** Here I am.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Why are you using somebody's card?

**Hon. Kang'ata:** Hon. Temporary Deputy Speaker, I apologize.

**The Temporary Deputy speaker** (Hon. Kajwang'): No! We are not going to tolerate that. We must be in order. The HANSARD captures which Member is speaking and on what every time. So if you do not have a card, you proceed to the Dispatch Box so that the HANSARD is clear. Next time some activist who is trying to know who is speaking how many times in the Assembly will capture the Member for Mbeere South instead of the Member for Kiharu. Give him some volume in the Dispatch Box, please.

**Hon. Kang'ata:** Thank you, Hon. Temporary Deputy Speaker.

*(Hon. Kang'ata leaned against the Dispatch Box)*

**The Temporary Deputy Speaker** (Hon. Kajwang'): No. No. That Dispatch Box will capture your voice. You do not have to lean against it, however tall you are. Just speak. But you can donate time if you so wish because you have some time.

**Hon. Kang'ata:** Thank you, Hon. Temporary Deputy Speaker. I have several requests. Allow me to restrict myself to seven Members. I have Hon. Gumbo as the first one.

**The Temporary Deputy Speaker** (Hon. Kajwang'): How many minutes for the Member for Rarieda?

**Hon. Kang'ata:** One minute each.

**The Temporary Deputy Speaker** (Hon. Kajwang'): One minute each?

**Hon. Kang'ata:** One minute each which will be seven minutes in total.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Can you count them? Yes, sorry.

**Hon. Kang'ata:** First is Hon. Gumbo.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Rarieda, yes.

**Hon. Kang'ata:** Hon. Kihagi is number two.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Kihagi is a Member for which constituency?

**Hon. Kang'ata:** Hon. Isaack Mwaura.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Mwaura is a Nominated Member.

**Hon. Kang'ata:** I have Hon. Kinoti.

**The Temporary Deputy Speaker** (Hon. Kajwang'): The Member for Buuri.

**Hon. Kang'ata:** Hon. Dawood.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Imenti North? Yes.

**Hon. Kang'ata:** Hon. Letimalo.

**The Temporary Deputy Speaker** (Hon. Kajwang'): That is the Member for Samburu East.

**Hon. Kang'ata:** Then Hon. Nderitu.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Nderitu, yes.

**Hon. Kang'ata:** And my senior colleague here.

*(Hon. Kang'ata pointed at Hon. Anyango)*

**The Temporary Deputy Speaker** (Hon. Kajwang'): The HANSARD does not see your gesticulation. Can you mention whom you are referring to?

**Hon. Kang'ata:** Hon. Dalmas Otieno.

**The Temporary Deputy Speaker** (Hon. Kajwang'): The Member for Rongo.

**Hon. Kang'ata:** Yes.

**The Temporary Deputy Speaker** (Hon. Kajwang'): So, those Members in that order, you have one minute each. Member for Rarieda Constituency, proceed.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Speaker. I wish to thank my good friend, Hon. Irungu Kang'ata, for giving me one minute to make a contribution.

This country will be on its way to attaining a middle class status the moment we make education affordable for all. Like the great nationalist Mandela once said, "Education is an equaliser". We must make it available to all of us. Like I have stated here before, countries which want to live in luxury forever grow their people. The only way to grow our own people is to provide education for them. I want to thank Hon. Irungu Kang'ata for bringing this amendment forward.

As I conclude, we will probably have to look within the regulations on the modalities for nominating the students' representatives to the HELB, which is a very innovative idea, but which may bring problems considering that we now have nearly 30 public universities, each of which will be keen to have a nominee on this Board.

Otherwise, I wish to support.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you. Which Member is next?

*(Hon. Kihagi moved to the Dispatch Box)*

You have also conveniently left your card elsewhere?

**Hon. Kihagi:** Yes, Hon. Temporary Deputy Speaker, I am sorry. I misplaced my card in the car and the car went to the garage.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Proceed, anyway. You only have one minute. Do not waste it much.

**Hon. Kihagi:** Thank you, hon. Temporary Deputy Speaker. I want to thank Hon. Irungu Kang’ata for donating a minute to me and for bringing this Bill to amend the HELB Act. It is very important that all the stakeholders be involved in the management of issues that appertain to them. The student leadership and representation in this Board is of paramount importance. However, the method of how we nominate them to the Board has to be discussed and regulated. My proposal, as we will be putting it in the Third Reading is that we have a council of university students leaders to elect one of them to represent them in the Board.

Again, with regard to the fact that a student or a beneficiary has to be the one to inform the Board of when he has got a job, that should not be the case. This is subject to abuse. Again, we will be bringing an amendment towards effecting the same. On the multiplicity of bursary schemes and grants to university and college students, it is also a very abusive way of spending our money. We also need to look at how we can harmonise all these grants and bursaries that are being given to students. I have been trying to bring a revolving Fund in the CDF through HELB, so that we can give our students money as bursaries in the CDF through the HELB. I do not see why we give a bursary to a person who is becoming a lawyer next month and it is just a grant. That person should repay that money whether he got it through the CDF or the county government, so that it can benefit generations after him.

I thank you Hon. Kang’ata.

**The Temporary Deputy Speaker** (Hon. Kajwang’): All right. Who is next?

*(Hon. Mwaura moved to the Dispatch Box)*

Why are many Members without cards this morning? Nominated Member, you also have apologies?

**Hon. Mwaura:** Hon. Temporary Deputy Speaker, I apologise for not having my card.

I rise to support this Bill with two observations. One, the two students’ representatives are supposed to be appointed or elected. My thoughts are that they will be from among the students’ leaders elected by the students. Having been a student leader at the Kenyatta University, I want to imagine that this process needs to be guided so that it is not manipulated by the Vice-Chancellors. Most of the time, they would want to have their own puppets in this Board. A student representative needs to be qualified further. They also have their own association of students’ leaders. Maybe we can use that as an organ of election. We know very well that students’ elections can be acrimonious.

The other thing that has been captured partly and needs to be enhanced by the Mover of the Bill is the issue of repayment. Sometimes back, being a young man, I repaid my loan but the penalties were so high. It did not matter whether you had given notice, if for example, at some point you may not have been formally engaged. This is a challenge of the young people. Sometimes when you have a contractual job and it comes to an end,

including this Parliament, and you have not cleared the loan, they keep on accumulating that. Eventually, even when they give you waivers, it is only a percentile of what has been accumulated. There must be a proper procedure. HELB must be accountable. Even if HELB wants to collect as much money for the need that is there now that we have many universities including some like Masaai Mara and Kabianga, we need to ensure that they do not exploit otherwise jobless Kenyans. It is not a crime not to be employed.

I support.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Who is next? Member for Kiharu, why did you give time to too many people beyond my time? Anyway, one minute each.

**Hon. Kinoti:** Thank you, Hon. Temporary Deputy Speaker. I first want to strongly congratulate my colleague, Hon. Kang’ata, for moving this very important amendment. I also congratulate the Chief Executive Officer of HELB. For the years he has been there, he has done an exemplary job in transforming the Board.

I also wish to congratulate Parliament because it will go down in history as one of the Parliaments that have done most in making education affordable to Kenyans especially all the way from primary, secondary to higher education. As much as we want to reform the HELB, with these noble amendments, we still need to do a lot in Parliament. The HELB had requested for Kshs9.3 billion, but we are only funding them to the tune of Kshs4.9 in the Budget that we will get tomorrow. So, as much as we want to make the recovery of the loans more friendly, it is still a burden to the HELB. So, as Parliament, we should think of how much more funding we can avail to make education affordable through the HELB.

Secondly, I wish to note that it is a very noble thought to include students in the Board, but it is also important to note that HELB also gives funding to technical and vocational training institutes. So, in the Third Reading, apart from including students from private and public universities, we must also include a representative from the technical training institutes in the Board.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Member for Imenti North.

**Hon. Dawood:** Thank you, Hon. Temporary Deputy Speaker. I wish to thank hon. Kang’ata for donating a minute to me.

First of all, I would like to congratulate the CEO of HELB, Mr. Ringera, who comes from my constituency and has done a very good job.

Secondly, the loans should be discounted. The *in duplum* rule should be applied. Interest should not exceed the loan that has been taken by the students.

Thirdly, we should not have biases towards students’ representatives in private or public universities. There are TVET institutions. We should even offer loans to middle level colleges to do diplomas and all that. We should even have funding increased to HELB.

Fourthly, when they are not in a position to pay the loan, they should not be chased around. If somebody has not got the loan in first year, he should be considered in the second year. People who have applied in the first year should not be the only ones to be given loans. Constituencies Development Fund (CDF) as well should be assisting HELB. People who have defaulted because they do not have a job and have been listed

on the Credit Reference Bureau (CRB) should be removed. This is because how will they get a job if listed?

**The Temporary Deputy Speaker** (Hon. Kajwang’): Next Member please. This is Samburu East.

**Hon. Letimalo:** It is Samburu East. Thank you, hon. Temporary Deputy Speaker. I want to thank hon. Irungu for donating one minute to me to enable me contribute to this Bill. We must accept the fact that the job market in Kenya is becoming very competitive to an extent that unless one has a university degree, it is not possible to secure a job in Kenya. This is applicable both to the national Government and county governments. It is for that reason that there is overwhelming interest in Kenyans acquiring higher education. This applies to both those who are endowed with resources and, therefore, can afford higher education and those who probably come from poor family backgrounds and may not raise sufficient fees to meet the education cost. All are entitled for higher education.

It is important that since the Government has actually made provisions for many public institutions such as CDF, HELB and county governments to provide bursaries to needy students, it is important for HELB to come up with a mechanism to harmonize this public fund to ensure that no student misses college fees or fails to meet the education that one requires.

Lastly, we are saying it is important for the Board to give reasons whenever an applicant applies and probably his or her applications are rejected. Reasons must be given so that if it is due to misconduct, then it becomes a learning lesson to other students. If the reasons are valid and satisfactory, then the students will be able to have opportunity to seek for assistance elsewhere.

I thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang’): The last one on this please. Hon. Dalmas.

**Hon. Anyango:** Thank you, hon. Temporary Deputy Speaker. Let me thank hon. Irungu for donating to me this one minute.

I only have two points. One, the real challenge for HELB is funding. Section 12(1)(d) allowed them to borrow. They have not been creative enough in commencing the issue of loans at the current Government guarantee rates. It is possible given the current asset base of the fund to be able to issue long term bonds, to be able to fund education again at interest rates which would be pegged on the Central Bank of Kenya (CBK) rate as of now. On such a basis, it is not going to rely on the annual allocation of funds by Parliament because Kshs4.9 billion is really nothing given the demand for funding.

Secondly, there is discrimination. Those who are under the Joint Admissions Board (JAB), much of their schooling is already paid for by Government. What they are getting is for the little extra. Very soon in this country, the parallel degree programme students are going to be as many as the JAB students and they will be requiring more money. On that basis, they would have to borrow from the banks at the commercial bank rates. It is this education fund that can help them by taking the money at Government bond rates and being able to lend it over to those students. Why do I say so? You are lending to the cream of the country. All of them are graduates. So long as we pursue the right wealth and creation policies, they will get jobs in the end.

On that basis, the next thing we need to do is to insure these loans. In Credit Life Insurance, if any of the borrowers die, the loan is automatically paid by the insurance companies. I am asking the Board to be creative. We do not need to add to the amendment but I hope they will listen to the advice and within the spirit of Hon. Irungu's Motion do two things: Commence long term borrowing at Government guaranteed rates, insure the loans and three reduce the discrimination between JAB students and the parallel degree programme students.

Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang'): You have given up all your minutes. So you do not have much time. You can easily bow so that you can save on the time.

**Hon. Kang'ata:** *(Inaudible)*

**The Temporary Deputy Speaker** (Hon. Kajwang'): No you over-gave. In fact I can see there is a Member who is very unhappy because you mentioned him and I do not have time for him. Debate on this will be more useful in the Third Reading because it will come back in the Third Reading. Member for Kiharu, can you please wind up? Can you give him more volume on the microphone?

There is a Member for Imenti who is very unhappy but I do not ---

**Hon. Kang'ata:** Maybe we can give him one minute.

**The Temporary Deputy Speaker** (Hon. Kajwang'): You do not have that power to give people minutes.

**Hon. Kang'ata:** I apologise.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Please finish what you are supposed to say

**Hon. Kang'ata:** Thank you, hon. Temporary Deputy Speaker. I appreciate all those presentations from my colleagues. I have taken into account their suggestions particularly the last clause relating to the penalties. I am going to do amendments to ensure that this Board does not lose money by that amendment.

On the issue of the students, whether they have time to attend board meetings, they do attend senate meetings and that is not an issue. In any event, under the Constitution, you must ensure youth are represented in various entities. Through this amendment, youth are going to get representation in this Board so that it becomes constitutional.

With those remarks, I beg to move.

Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang'): I order that the business appearing as Order No. 8 be listed on the Order Paper this afternoon for purposes of taking a vote.

Next Order.

## MOTION

### DECENTRALIZATION OF MARRIAGE SERVICES

**Hon. Injendi:** Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, aware that the Marriage Act, 2014 was assented to by H.E the President on 29th April, 2014 and commenced on the 20<sup>th</sup> of May, 2014, noting that the act was by and large an amalgamation of the previous Acts, thus amendments relating to the regulations were minimal in effect, deeply concerned that there are only twelve offices for the registrar of marriages in the whole country, making it difficult for the hopefuls to issue notice of marriages, mindful of the fact that the upward revision of the marriage certificate acquisition fee is not affordable to many Kenyans, thus inhibiting them from registering marriages as envisaged by the new Act, this House urges the Government to review the procedure and the cost of marriage registration, and to decentralize the offices of the registrar of marriages to a minimum of all sub-counties so as to reduce bureaucracy and enhance accessibility.

If you look at the regulations of the Attorney-General, this arises from two facts. The first one is the process of registering a marriage where when it comes to the Office of the Registrar. Marriage registrars are only 12 in the country. In the whole country, we only have the offices of the Registrar of Marriages in Kakamega, Kisumu, Kisii, Embu, Machakos, Mombasa, Malindi, Nakuru, Eldoret and Nairobi.

If one has to register a marriage, the only offices available to them to issue notices as required by the Act are these 12 offices in the country. This makes it difficult for one who is interested in getting married to give a notice to the Office of the Registrar. If you take the case of a person in Lodwar who intends to marry and give notice, he has to come all the way to Eldoret. In Kakamega County, a person in Budalangi or Busia has to come all the way to Kakamega Town to give a notice for a marriage. This Act was to help the Attorney-General to decentralise these offices to the sub-counties to enable persons to give notices easily.

After giving notice to the Registrar of Marriages, the Registrar should give notice to the pastors and Church Ministers before time lapses as required by the law. Previously, it was easy to get married. Nowadays, it takes almost three months from the time one gives a notice of marriage to the marriage date. This increases the period in the old Act, which provided for a shorter period for persons to marry, particularly persons who are engaged for a long time.

Another problem that arises from this is the fee. When you look at the fee in the regulations by the Attorney-General, it is inhibitive. They make marriage to be a preserve of the upper class. Persons in the middle level and the lower class will find it hard to get married. This Marriage Act was to take care of persons who were getting married when they were not seriously intending to get married. The few persons who are causing us to have the Marriage Act amended have caused many Kenyans to suffer. For example, if you look at the notice of marriage, it used to cost Kshs200 but it now costs Kshs600. Solemnisation of a marriage, for those who do not know, is for the persons who have been living together without marrying officially in Church. It used to cost Kshs1,000 before but now it costs Kshs2,000. The issuance of a marriage certificate previously used to cost Kshs200, but it is now Kshs500. The mere issuance of a certified copy of a



marriage certificate used to cost Kshs200, but it now costs Kshs600. Search of a marriage certificate used to cost Kshs100 but it now costs Kshs500.

When you look at all these fees, the effect is that the person who intends to marry, in this case a man, has to take care of these costs. This inhibits most of the persons who would have got married. I am speaking from a Christian point of view. I am a Catholic. If you are not married in church, you will miss on many activities in the church. For example, as a Catholic, you are not recognised fully as a member of the church. Most of us who are Catholics here will realise that when it comes to the church mass, we have three parts in a mass. One of them involves sharing of the bread. When you are not officially married in church, you cannot participate in the sharing of the bread. This makes some people feel like they have not participated fully in the church mass. Most of the people who are affected in this are persons of lower and middle classes. Because of this, they are discouraged from getting married. Apart from this, persons who are mostly affected are women, who have always been marginalised. When it comes to marriage, women feel honoured when they get a marriage certificate. This has become an excuse for most men not to commit themselves to marriage. The spirit of this Act was to heal this.

I do not want to take much time talking about this. I am urging this House to urge the Government to decentralise these offices to constituencies and reduce the cost and the procedures in giving notice. I ask my brother, Hon. Isaac Mwaura, who has gone through this process and is wedding on 27<sup>th</sup> July 2015 to tell us his experience. He has gone through this process, which is so tedious and has experience to share with us in terms of what people are going through under the Marriage Act.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Member for Malava, you have not formerly moved your Motion.

**Hon. Injendi:** Hon. Temporary Deputy Speaker, with those few remarks, I urge the Government to decentralise the offices of the Registrar of Marriages to sub-counties and also reduce the cost of marriage and procedures.

I beg to move.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you. You know you cannot escape from people like the Member for Rarieda. They have been here for so long.

Nominated Member, I do not see your intervention button. Did I hear that you are planning to do something beautiful, which you may or may not have shared with the Members of the National Assembly?

**Hon. Mwaura:** Yes, I am getting married.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Is that the reason why you smile all the time these days? All right, you may proceed.

*(Laughter)*

**Hon. Mwaura:** Thank you, Hon. Temporary Deputy Speaker for that compliment. I am getting married on 27<sup>th</sup> June and not July, and all the Members of Parliament are invited. We will provide the details thereafter.

I want to congratulate the Mover of this Motion. Indeed, there are very many hurdles when it comes to one certifying the manner in which you would want to register a

marriage. If you look at the new Act and the regulations thereof, you realise that most of our people first do the traditional marriage before they do the formal one.

Hon. Temporary Deputy Speaker, if you look at the requirements, there is need for some evidence to show that two parties are married, but you find that there is some kind of paper work that is involved because both of you have to write a statement and there must be a kind of mark – which I do not know what it means – of people who may have participated. People could attest as witnesses that dowry was paid. This makes the procedure cumbersome. For example, there have been cases where people said that they were customarily married, with other parties disputing the same. Therefore, there is need to sensitise communities to ensure that after they have done the traditional procedure, they formally register their marriage with the Registrar of Marriages. That is something which needs to be looked into.

The other issue is that there are so many churches around the country. If you look at the procedure that qualifies one to be a minister to officiate in a marriage, you will see that there is a *lacuna*. Previously, all that one needed was a letterhead, which you would send to the Registrar of Marriages, pay Kshs20,000 and get a booklet with 100 certificates. Now you are required to pay Kshs25,000 and fill the certificate in triplicate, which is good. However, I would want to imagine that quite a number of couples may be duped into believing that they have done a proper marriage when in actual sense no marriage has occurred. This is because there are many churches that are mushrooming, and there is quite a number of pastors and ministers of the word of God within the confine of a Christian marriage. Some of these ministers might not be actually licensed to officiate pastors. These are some of the issues.

I was personally shocked when I wanted to register my intention to get married because I did not know that I had to give a 21-days notice and pay some money. There was a long queue at the Office of Attorney General (AGs). After you have given the 21-days notice, you have to provide some documents, including the number of the certificates from the minister – which you will sign later. You have to give a three-months notice. The funny thing about it is that you cannot give that notice if it is more than three months. If you have more time, you are required to wait until it is exactly three months to the wedding. That is when you can be given the certificate. You have to wait and go back to get the certificate, get the documents from the church and communicate that certificate to the church minister. It is really cumbersome.

Hon. Temporary Deputy Speaker, noting that there are only 12 State Law Offices, it means you will spend a lot of time. You need to be there very early in the morning. If you were to do a quick distribution of counties, one State Law Office would serve at least four counties since the number of the counties is 47. That means quite a number of Kenyans might not access these services in good time. The level of awareness amongst those who have intention to get married is low.

I want to say without fear or favour that the law scrutinises the Christian marriage more than it does a Hindu and Muslim marriage. As I said earlier, it puts a kind of premium on the traditional forms of marriage which are the most common because sometimes people say that they just started living together, and that they do not know when they got married.

Therefore, formalisation and the kind of stringent procedures that have been introduced so that people can access the legal status of marriage are prohibiting in a country where people are still poor; and where the youth are predominantly the people who want to get married, and might not have resources. Given that this is a country where the level of awareness and information dissemination is still low, these regulations need to be relooked. When we were doing our premarital class, we were told that before we could start the process, we needed at least four months to prepare. According to me, that is not really necessary. It is like you are giving a four-months notice of intent to get married. I do not know what purpose such notice would serve?

Hon. Temporary Deputy Speaker, on the issue of those who may object to a marriage, given the fact that the procedure requires that the matter be looked into through writing and that the person in charge of the public place determines that case within seven days by either cancelling or postponing the wedding until such a time that a decision is made, there is a three-months notice; we need that to be done a little much earlier. This is because at the time the banns of marriage are read out in church, it is only about three weeks to the wedding; this is how it is in my case. If a malicious individual were to come and object to the marriage, you can imagine the havoc that would be created because of all the preparations and expectations that would relate to this matter. If you give a three-months notice of the date when you want to get married, it is only fair that any objection arises as early as possible, so that you can have enough time to determine whether the marriage ceremony should continue or not.

Some of these issues need to be looked at further. The Act provides powers for gazette of the regulations to the Cabinet Secretary (CS). In itself, that law is at variance. During the Grand Coalition Government that responsibility was within the ambit of the Minister for Justice and Legal Affairs. In the current dispensation, we do not have a department for justice as such, headed by a Cabinet Secretary. We are dealing with the Office of the Attorney General. I do not know whether the law may want to reflect that as much as the AG sits in the Cabinet, he may not necessarily be a CS. So, that is one of the issues we need to look into.

Otherwise, as stated by the Mover, it is very important to decentralise this service, so that it can relate to the person. As I said, we have only three days that are important in life: when you are born, when you get married and when you die. Therefore, this service should be as close to the people as maternity wards and graves.

With those remarks, I beg to second.

*(Question proposed)*

**Hon. (Prof.) Nyikal:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. Marriage is the basis of a family. As we all know, the family is the basic unit of a nation or a country, through which we can instill all the values that we Kenyans have proudly put in our Constitution. In Article 10 of the Constitution we talk of lofty values, but there is really no way of instilling these values in the nation, so that we can create a nation and not a State as we have now. The difference - I know you know more than me - is that a State is a creation of documents and papers while a nation is

what is created by the cohesion of the people who live there. You cannot create that cohesion unless you have a strong family unit where values are instilled.

If you look at Article 10, you will see the values that we are looking at. Article 10 2(a) talks about patriotism, national unity, sharing, the ruling of law, democracy and participation of the people. In 10(2)(b) it talks about human dignity, equity, social justice and inclusiveness. Can we really, as a nation, have institutions or schools that instill these if people do not grow up with them? We can try in schools, but even what happens in schools is determined to a large extent--- By the time a child is seven or eight years old, their character and nature are almost completely formed. Therefore, the family is the only unit where we have the opportunity to instill this. The biggest challenge in this country, the way I see it, is actually the lack of values. The corruption that we are fighting in this country is because we do not have national values and we cannot have them until they are instilled at the family level; the product of it is marriage.

With regard to the insecurity that we have, I once listened to a BBC documentary where they were asking: “Why is Kenya affected so much by *Al-Shabaab*, yet other countries which went into Somalia are not equally affected?” The response that somebody gave was that because of corruption it is very easy to breach the security systems in Kenya. I thought to myself: “Do we have a country that we can die for? Do we have a nation?” I concluded that we have a State born of papers. For me, it is at the family level where we have what we believe and what we can practise when we are at the table with our children. That is what will bring the change. That can only be done through a marriage.

That same family unit is challenged by all the problems we have. Talk of poverty, unemployment, issues of single parenthood, divorce and domestic violence. Therefore, we must stabilise the family and marriage is the basis. Illegal and unsecured marriages like the come-we-stay one cannot be a basis on which we develop families that eventually will give us a nation.

You do remember that when we were passing this law, we did not decline to legalise the come-we-stay arrangement. We gave it a period after which it becomes a marriage. Well, in a way we were exhibiting our nature as a nation. It is, therefore, important that we strengthen marriage. So, lengthy, difficult and costly procedures in the marriage process, in my view, must be eliminated. We need to reduce the costs, time, procedures, and then decentralize so that when you want to register your marriage you go to the nearest service point and get your marriage registered. This is extremely important, so that we do not let nature take its course. The forces that pull people into a marriage last a very short time. After a time, that beauty and emotion go! What you need is a serious commitment that must be established through registration of a marriage. Therefore, we must do that. We must be innovative and make it so easy that even the Huduma Centers we have today--- We can equip them and get our marriages registered there. I do not want to say much, but we must make it easy for people to register their marriages, so that we have a strong family base.

With that, I support.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you. Nominated Member, Bishop Mutua.

**Hon. (Bishop) Mutua:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. First of all, I want to thank my colleague, Hon. Injendi, for bringing such an important issue to be discussed in this Motion. One, I want to speak particularly concerning the process that was supposed to have been simplified by the Act that we passed. The regulations seem to have reversed the intention that we had because the regulations have become quite prohibitive. They are very expensive time-wise, money-wise, emotionally and in terms of the procedures. Therefore, we need, first of all, to increase the registration centers as proposed in this Motion. This is so that the Christian marriage service can become accessible to the people who do not even have a lot of money. As it is now, it has become a very expensive affair to get your marriage registered. This is going to encourage what I would call “come-we-stay” marriage, which has no documents.

These particular regulations are working against the Christian faith and beliefs. This is because they are making it very expensive to get married in the Christian way. Therefore, these regulations need to be changed and amended. The people that are affected by these regulations need to be involved in the preparation of these particular regulations. When the regulations were being done there were very little consultations. The present regulations are forcing people to travel very far places just for the purpose of seeking to give notice. The thing is this: You give notice, you stay for some time, you come back, you stay for more time and you go back again. This is punitive! We are punishing the people who want to get married. Therefore, we are discouraging the official marriages from taking place in this country. Why should it become so expensive for you to register your marriage? Why should it become so expensive for you to get the registration? This is something that should be so easy as it is controlled by love that the two people have towards each other.

Under customary law, there were processes that were laid down. They were not as expensive as this one because they were made in such a way that they were entertaining and participatory. However, this particular exercise that we are seeing now is more commercial than anything else. We have changed the Christian marriage to a commercial event in terms of the amount of money that you are required to pay before you can get married.

As far as the issue of people rejecting, or objecting to your marriage is concerned, the process has been put in a way that a malicious person can also interfere and postpone your date of marriage for no good reason. The church has its mechanism of verifying whether two people who intend to get married in a Christian marriage are qualified to do that. I would like to propose that we let the church play its role in assessing and checking who qualifies to get married in a Christian way, just the same way our Muslim brothers are doing. They are not subjected to this kind of law because of their Kadhi courts that determine whether they are qualified or not.

The church also requires to be given a leeway to determine who qualifies and who does not. Therefore, the church minister who has been authorised by the Government to conduct weddings should be authorised to do some of the things that are supposed to be done in Nairobi, Kakamega or Kisumu. They should be done within the sub-county and the constituency, where a particular wedding is going to take place. If we do it that way, many more people will be encouraged to formalise their marriages, particularly when it

comes to solemnising marriages that took place through the come-we-stay and traditional arrangements. Now all that they require is legal recognition that they are living as a married couple. Why should we put road blocks for them when all that they seek to do is make it legal? We should simplify and not complicate the process.

With those few remarks, I beg to support and say that this is the right way to go. Let it become decentralised and cost-effective or very cheap and affordable.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Member for Turkana South.

**Hon. Ekomwa:** Thank you, hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this debate. I rise to support the Motion.

One of the best things that we have under the new constitutional dispensation is devolution. As we make law in this House, we have to consider devolution. Everything that we pass must actually be devolved. This Act is not an exception. As we have heard from the Mover, we have only 12 offices in the whole nation, yet we have 47 counties. We should automatically have had 47 registration centres for marriages. Marriages are conducted in every county on a daily basis. Therefore, we have to make marriage affordable to even the poor Kenyan in Lokichar, Malindi and Maralal by ensuring that marriage services are right next to people’s homesteads.

Looking at these procedures, it is like the one who is marrying is paying dowry twice. First, you pay the Registrar of Marriages by complying with the procedures before you pay the real dowry. It is like you start to pay dowry by complying with the procedures, which should not have been the case. It is actually marginalising the one who is marrying. The man is the one marginalised. The law needs to be fair to this person. You are marrying, paying dowry and at the same time you are paying money to comply with the procedures. It would be fair to ensure that this thing is affordable to Kenyans.

I happened to attend a wedding in a church in my constituency where six couples got married at the same time. I was really pleased that there was an old man who broke the record. He was almost 90 years old when he got married. I like the way the Catholic Church has really made marriage affordable; it was very cheap. It is not like in other churches which make marriage very expensive.

I concur with the Mover of the Motion that, first, we have to decentralise these offices and take them to each sub-county. Secondly, we should also ensure that we reduce the cost of marriage. This is because a three months-notice of marriage will actually affect your marriage. One month is long enough to seduce someone else and plan another marriage. So, when you give a three-months notice, the one who is marrying will be worried because three months is too much time. When someone decides to marry, he has a lot of expectations. So, we need to speed up the process to make sure that he realises his expectations.

With those remarks, I beg to support the Motion.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Member for Siaya.

**Hon. (Ms.) Ombaka:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. I rise to support the Motion.

Last year, we passed the Marriage Bill which was later on assented to by the President and this means it has already come into effect. In that Bill, it was indicated very clearly that men can marry more than one wife. Therefore, it means that women who are already in polygamous marriages need to legalise their marriages by registering them.

I imagine that a man with eight wives will have to pay quite a lot to register all the wives. This becomes very expensive. I sympathise with the men who marry more than one wife, because registering them all will be more expensive than they had expected. So, this needs to be reduced. We also need to take the offices that register marriages to the county. Devolution must be made to work. We must, therefore, have the Registrar of Marriages establishing marriage offices in the villages. It is very important to do so because many women who are not registered find it very difficult to do anything for themselves, including getting a national identity card.

That is why, again, you find a lot of young women getting into come-we-stay marriages or cohabitation. They are avoiding paying money to register their marriages because it is expensive. If we want marriages to remain stable, we should legalise them and make sure that everybody is comfortable in his or her marriage. We must devolve registration of marriages. Since the law was passed last year, I have taken it upon myself to teach women that if they are in a polygamous marriage, they should try their best to register because it is good for them as the law will protect them when problems occur in the marriage. So, registration of marriages is very important to a couple.

A man must have a legalised marriage, so should a woman. If we make it very expensive and locate the offices very far away from the people, marriage services may not be accessible. Most marriages will be based on come-we-stay and cohabitation. That is not what we want. Therefore, let us reduce the cost of registration and take the registration centres to the sub-counties.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Kajwang): Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this debate. Let me state at the outset that I support the Motion and thank the Mover for bringing it to the House. The passage of the Marriage Bill itself was a milestone in this country. For several years, those of us who have been in the women's rights sector have worked towards the passage of such law. Even though the Motion indicates that the primary aim was to amalgamate the many marriage laws that existed then, that was not the only aim. It was almost coincidental as the main aim was to rationalise the sector in order for it to be responsive to emerging issues in the marriage institution.

If you look at the Act, one of the things it now provides for is cohabitation and it also recognises customary marriages. One of the reasons that this was done was so that those who are married under customary law and those who live in cohabitation may have an easier way.

While practising as a lawyer, the greater part of my practice, other than in human rights law, was in family law. One of the challenges that we faced was on the issue of customary law and cohabitation. I am sure the Hon. Temporary Deputy Speaker is very well aware, since he is a lawyer that in cohabitation, for you to prove that you are married, you had to bring neighbours, photographs and a whole manner of things in order to prove that you were cohabiting. In customary marriage, you had to bring elders, if you were a Kikuyu, to prove that *ruracio* and *ngurario* had been done; if you are a Luo *ayie* was given and a whole lot of other things. This process has been made easier. Even if you

are married under customary law, once you get a certificate, it is proof enough. Now if you are going to court, whether it is for divorce or whatever reason, it is easier.

Unfortunately, by way of regulation it is going against the very object for which this Marriage Act was passed, which was to make marriage, as an institution, easier for Kenyans. The regulations are making it more difficult for Kenyans. That is why I am very pleased with the Hon. Member for bringing this Motion which will make marrying easier. I am glad that what he is seeking to do is devolve the Office of the Marriage Registrar. I was just telling my dear sister, Hon. Joyce Lay, that we need to be very clear that what we are devolving is the office and not marriage. I do not want Mr. Mabona to be devolved to the counties. Having said that, and if we are clear that we are not devolving marriage but the office, I wish that the Member had concurrently also brought amendments to the Marriage Act.

I want to confess that at the point that we were doing the Marriage Act, we were at the Pan-African Parliament (PAP) and so I was not able to push in my own amendment. One of the things that are of concern to me in the Marriage Act is the definition of “dowry”. The definition of dowry in the Act seems to suggest that women are for sale. As Hon. Millie Odhiambo-Mabona, I do not see dowry as sale price. I personally rejected the idea of anybody paying dowry for me because I am not worth any price. I am valueless before God and I do not want anybody purporting to pay any dowry for me.

To make sure that the people who look at it from a cultural perspective and not from a commercial perspective understand, if you look at the way it is defined in the Act, it is actually a commercial venture. It takes a contract law perspective because it says: “Dowry is money or something else paid in consideration of---” “In consideration of” makes it a contractual thing. In a contract you have the buyer and the seller. They pay consideration for something. Those are some of the things that we need to amend.

We also need to redefine the meaning of “monogamous marriage” under the Act. Inadvertently, this Act has excluded the bulk of Kenyans who are married under what we called before the “African Christian Marriage and Divorce Act.” They are excluded by definition. I do not want to read because of time. I want to give my colleagues a chance. I am sure we did not think through it very clearly but it has excluded people who choose to go through monogamous marriages directly.

Those are not the only defects that I have noticed in this Act; a lot of them have to do with issues of definition. Some of them would just be to strengthen the Act in relation to, for instance, the issue of cohabitation because we are still not curing the challenges that most practitioners were facing. When you say cohabitation refers to people who have stayed together for a number of years, what is “a number of years”? Are two, 10 or 20 years a number of years? “A long time” is a very relative term. For me, if you are happily married then 10 years is like one day. However, if you have married a horror movie, then even one day is like a lifetime. We need to cure these ambiguities.

I want to thank the Mover. It is a good first step but after six months, which I believe the Act has lasted, we need to look at amending both the Marriage Act and the Division of Matrimonial Property Act, not because they are bad but to make them better. There are one or two mistakes that we made here and there, and we can correct them. Both are good initiatives.



I support.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Member for Taita Taveta, is marriage being devolved and are couples in marriage being devolved? That is the question.

*(Laughter)*

**Hon. (Ms.) Lay:** Asante sana, Mhe. Naibu Spika wa Muda kwa kunipa fursa ya kuchangia Hoja hii ambayo Mhe. Injendi ameleta. Kwa kweli, nataka pia kumpongeza kwa sababu imekuja kwa wakati unaofaa. Nakumbuka mwezi uliopita nilikuwa na mkutano kule Taita na viongozi wa makanisa. Hili lilikuwa ni swala tetesi. Walizungumza na kutuambia kuwa hapa Bungeni, tulete Hoja hii ili tuhakikishe kuwa ofisi za kusajili ndoa zimeletwa karibu na kaunti.

Mhe. Injendi alitangulia kwa kuongea kuhusu mambo ya fedha zile ambazo watu wanaitishwa wakati wanapoenda kusajili harusi au ndoa. Kwa kweli, fedha hizi zinazoitishwa ni nyingi mno. Unapata kuwa inakuwa ni vigumu na vijana ambao wanatarajia kuoza wanaogopa kwa sababu ya fedha ambazo wanaitishwa. Vile vile, unapata vijana wetu wengi hawana kazi, gharama ya maisha imepanda na kila kitu ni bei ghali. Tukisema kwamba pia katika ndoa tuweke bei ghali, itakuwa vigumu sana kwa vijana wetu kuweza kuingia katika ndoa halali.

Alizungumza kuhusu cheti cha ndoa. Wakati huo mwingine kilikuwa Kshs200, lakini saa hii kimefika Kshs500. Kuhalalisha ndoa ilikuwa Kshs1,000, lakini saa hii ni Kshs2,000. Na vile vile kuna swala la kumpa cheti yule ambaye anafunga ndoa. Wakati uliopita ilikuwa hawaitishwi chochote, lakini sasa hivi ni Kshs1,000. Kwa kweli, unapata kuwa ni gharama na haitakuwa rahisi kwa sisi kushangilia ndoa nyingi ambazo zitakuwa zinafungwa kihalali.

Hoja hii inazungumzia kuhakikisha kwamba ofisi ambazo zinasajili ndoa ziletwe karibu na mahali ambapo wananchi wanaishi, ikiwezekana katika kaunti zote ama sehemu tunazoita kwa Kiingereza “*sub-county*”. Sasa hivi nchini Kenya, ziko afisi 12 pekee za kuandikisha ndoa, na ziko katika miji mikubwa mikubwa. Kama kwetu Taita Taveta, inabidi mtu aende Mombasa ili asajili notisi kwamba anataka kupewa ruhusa ya kumoa mpenzi wake.

Kama vile Mhe. ametangulia kusema, miezi mitatu inayohitajika ni mingi. Anasema kwamba kuna wasiwasi katika miezi hiyo mitatu kuwa yule mchumba anaweza kuchukuliwa na mtu mwingine; ukapata kwamba unakosa mchumba wako wa kufunga ndoa. Kusafiri kutoka mahali ambapo wananchi wanaishi hadi kituo kingine ambacho ni cha msajili wa Ndoa ni mbali sana na wananchi. Ni jambo la muhimu kuhakikisha kwamba vituo vya usajili vimeletwa karibu na kila jiji.

Sasa hivi, tuna serikali ya ugatuzi; unaweza kupata huduma ambazo wanahitaji, huduma ambazo ni za dharura, na huduma ambazo ni za muhimu karibu na wao.

Nashukuru sana Mhe. Naibu Spika wa Muda na ninaunga mkono.

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

**Hon. Bunyasi:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. It took me by great surprise when my parish priest one time called me for a

discussion and said: “Could you people look at this issue of registration under the Marriage Bill?” I must say that this matter had sort of escaped my attention. What he described was simply horrendous. We are worrying about the fee structure here which I will comment on, but I am concerned more about the overall cost, what it takes to get this done. If there are only 12 centers in Kenya, it means that each centre serves 3.5 million people. If you look at the area, it means that each center serves an average of over 1,000 square kilometers. This is completely ridiculous in today’s Kenya. For a country that is moving towards Vision 2030 and middle income industrialized country, these kinds of things are retrogressive.

In my view, these centers need to be increased dramatically to no less than one per each sub-county and, perhaps, a lot more within each sub-county. I come from a region where sub-counties are not that large but they are large enough to cause significant travel even within the sub-county. When you put one center in western Kenya, Kakamega, and somebody is in Busia Town or Budalangi, where my hon. friend comes from, it is going to cost about Ksh1,500 for a return journey. The stages involved are not concurrent; they are sequential. You finish one, go home, come back another time and so on. You may find the officer unwell on that day, or he may have gone for a funeral, or is getting married on that particular day; it will mean that day is wasted and you will have to go back again.

The transaction costs, apart from the regulated costs, are extremely high. It is an embarrassment that we have this kind of thing existing at the moment. On that score, I think that these regulations ought to come back to a committee of Parliament, so that they can come before the House for the House to look at them again. There has been enough time for them to be in practice; so, we know what pain they have caused.

I want to thank Hon. Injendi greatly for bringing this Motion because it draws our attention to the kinds of things that we sometimes pass not thinking about whom we are talking about. The per capita income of this country is over US\$1,000, which means when you bring it down to the equivalent on a per day basis, it is about US\$3 per day or about Ksh200. Remember these are indices greatly influenced by billionaires we have in this country. They are not influenced by the wanjikus. They are greatly influenced by the billionaires even to appear to be US\$3 or Ksh300 a day. When you impose this kind of cost and we know the distribution of incomes, it falls mostly on men. So, within a family, when marriage is being proposed, these are costs that disproportionately fall on the man. Forget these urban class weddings where rich people are eager to marry off their daughters and may foot all these costs related to marriages; these take place within the big cities where the centers also exist.

What we are doing, therefore, is that we are imposing a burden on people that maybe equivalent to their three years per capita income to get married. This is absolutely ridiculous. I think that we should move this to a point where it is close to zero. If people want to have exceptional types of arrangement which they have in urban centers, you have seen that they can go ahead and do that, but let us not make this difficult for those who want to legally get together through marriage, or solemnizing the marriages they may have been in for a long time.

It has been mentioned from aspects of culture, tradition and religion about marriage being the unit of the family. Marriage is an important unit of currency in

stabilizing communities. It must mean there is a public good, and if there is a public good in going this direction, the cost must be looked at also so that the public good is what drives us. Therefore the issue of paying this or that fee must be looked at again.

Certainly, the very fact that within a whole region there is only one centre--- The distance from Lodwar to Eldoret is probably 600 Kilometres. Who is going to waste time doing that kind of thing? If we want to get our marriages solemnized so that we begin to respect contracts from within the family, then we must look at this. That is where the public good argument also comes in.

We passed many aspects of marriage in the marriage law. I hope, contrary to the views of the Member for Mbita, that this will be devolved to the counties and from counties down to the wards. This must come as close to the people as is necessary. The issue of whether or not a register can be kept accurately in this digital age – and we have a digital Government - is no longer an issue. Kenya is one of the countries with very high penetration of telephony. So, there are many ways in which this can be communicated and registered.

With those comments, Hon. Temporary Deputy Speaker I strongly support this Motion. I hope that we will get the regulations back to this House, so that we can look at them again properly.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you. Member for Tigania East, I only have four minutes. Can you use these four minutes wisely?

**Hon. Aburi:** Asante, Mhe. Naibu Spika wa Muda. Naunga mkono Hoja hii.

*(Hon. Dawood stood in his place)*

**The Temporary Deputy Speaker** (Hon. Kajwang'): Why is the Member next to you on his feet? Member for North Imenti, what is the issue?

**Hon. Dawood:** Hon. Temporary Deputy Speaker, I have waited for more than an hour---

**The Temporary Deputy Speaker** (Hon. Kajwang'): That does not matter. You can wait here the whole day. Everybody here has an opportunity to speak.

**Hon. Dawood:** Yes, Hon. Temporary Deputy Speaker. However, this is the second time I am being pushed down the list. I do not feel it is right.

**The Temporary Deputy Speaker** (Hon. Kajwang'): You do not know that you are being pushed down the list. It is the Chair's privilege to recognise you. You need to learn Commonwealth practice and parliamentary procedure.

Member for Tigania East, continue.

**Hon. Aburi:** Ahsante, Mhe. Naibu Spika wa Muda kwa kuniokoa hapo.

Ninaunga mkono Hoja hii. Kule ninakotoka ni shida kubwa sana mtu kuo. Hii ni kwa sababu watu wengi hawawezi kupata vyeti vya ndoa. Zamani vyeti hivyo viligharimu Ksh100. Hivi leo nafikiri vinagharimu Ksh500. Kuna mahali kwingine vinagharimu Ksh1,200. Kwa hivyo, imekuwa shida kubwa sana. Kama inawezekana, vile mshimiwa mwenzangu amesema ni muhimu watu wapelekewe hivi vyeti kule mashinani.

Jambo lingine ni kwamba siku hizi sisi wanaume tuna taabu sana ya kuoa akina mama. Ukisoma magazeti kila siku utaona kwamba akina mama wamekuwa wakiwapiga na hata kuwaua wanaume. Kuna wanaume ambao wanatafuta pesa kwa taabu sana. Wakati umepata pesa, mwanamke atasema eti lazima ufe ndio abaki na mali. Kwa mfano, angalia mambo yanayotendeka huko Nyeri, ambayo yamesimuliwa katika magazeti. Sisi wanaume tuna taabu. Ni lazima tutafute kufuli na mabati ili tujikinge kwenye nguo zetu ndiposa vitu vyetu visiende - imekuwa shida. Ona sasa huko Nyeri mtu aling'olewa "mizigo" yake na hali hiyo "mizigo" ndiyo inasaidia mama. Hiyo "mizigo" imesaidia kila mtu. Hiyo "mizigo" ndiyo inainua mtu. Hiyo "mizigo" ndio umetoka hapo lakini hawana heshima.

**The Temporary Deputy Speaker (Hon. Kajwang')**: Sielewi. Hii mizigo ni nini?

**Hon. Aburi**: Mhe. Naibu Spika wa Muda, ukiangalia gazeti la leo la *The Standard*, katika ukurasa wa tatu, utapata "mizigo" ya mwanaume. Unaelewa "mizigo" ya mwanaume. Hatuwezi kuitaja lakini kila mtu anaielewa. Wanawake wa Nyeri wakifanya harusi, baada ya kupewa vyeti, wanangoja wakati wanaume wamelewa pombe ama wamelala kisha wanakuja na kisu na kung'oa kila kitu. Sisi wanaume tumechokeshwa na hawa akina mama. Ndio maana nasema hata ni shida kuunganishwa katika ndoa.

Mimi natetea wanaume kwa sababu wanawake wamekuwa shida kwetu. Lazima tuende polepole na tuelewane na akina mama kwamba, "Mimi nimekuoa uwe bibi yangu. Nimeunganishwa na wewe na kuwekwa pete na nitakaa pamoja na wewe." Hakuna maana ya mama kutoheshimu bwana yake. Lazima uniheshimu na mimi nikuheshimu ndio tuweze kukaa pamoja. Hata tukienda kuunganishwa, wakati mwingine kuna wale wakora. Unaunganishwa nao lakini yeye analenga ile mali ambayo unayo kama magari na nyumba. Akiingia kwa nyumba, anakuwa simba; huwezi hata kuongea wala kuinuka. Hilo ni jambo baya sana.

Sisi wanaume tunasema kwamba kile kitendo kilitendeka Nyeri kwa Wakikuyu si kizuri. Ni kitendo kibaya sana kung'oa mwanaume "mizigo" yake. Wewe mama unang'oa mali ya mwanaume na hiyo mali ndio inakufurahisha! Ni vibaya sana.

Mimi ninaunga mkono Hoja hii lakini hilo jambo la kung'oa vitu vya wanaume sitaki.

**The Temporary Deputy Speaker (Hon. Kajwang')**: Is that the converse of female genital mutilation (FGM)?

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

**The Temporary Deputy Speaker (Hon. Kajwang')**: Who is on a point of order? Hon. Silverse Anami, Member for Shinyalu, what is the point of order?

**Hon. Anami**: Hon. Temporary Deputy Speaker, I have tried very much to follow my brother, Hon. Aburi Mpuru on this issue of *kung'oa wanaume*. Can he be kind enough to explain to us how a man *anaweza kung'olewa*? We do not understand. How is this happening? Maybe he can explain to us. Is it in order for him to use a language that we cannot understand?

**The Temporary Deputy Speaker (Hon. Kajwang')**: Member for Tigania East, can you explain the words that you have used and make it easy for all of us to follow?

**Hon. Aburi**: Ndugu yangu mpendwa, mheshimiwa wa eneo Bunge la Shinyalu, anafurahia sana kusikia ni kitu gani kinang'olewa. Ndugu yangu wa Shinyalu, hicho kitu

ambacho kinang'olewa, wewe mwenyewe umekibeba na mheshimiwa Aburi amekibeba. Sikusema ni kigeni. Kwa vile sisi ni familia hatuwezi kukitaja mbele ya Bunge lakini wazee wanajua ni kitu gani kinang'olewa. Ni kweli tunaona kinang'olewa. Tunakiita sehemu nyeti.

**The Temporary Deputy Speaker** (Hon. Kajwang'): All right. I know that this will bring a lot of points of order. Member for Kilome, what is out of order?

**Hon. (Ms.) Muia:** On a point of order, hon. Temporary Deputy Speaker. I want to request *mhe Aburi* to apologise to women. Is he from Meru or Igembe? He is using very sarcastic language about women who cannot be on the Floor of the House to defend themselves. You are using abusive language to Kenyan women, wives and married women. Can you apologise?

**The Temporary Deputy Speaker** (Hon. Kajwang'): Sorry, Member for Kilome. The Chair was not very attentive to that specific word. What was it which was abusive? What is sarcastic cannot be out of order but what is abusive may be out of order. What was that? Can you give the Member for Kilome the microphone?

**Hon. (Ms.) Muia:** Hon. Temporary Deputy Speaker, some of the words he has used I cannot use because I am a Christian.

**The Temporary Deputy Speaker** (Hon. Kajwang'): What is the specific word that---

**Hon. (Ms.) Muia:** As an hon. Member, I cannot use such language. You know the words---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Kilome---

**Hon. (Ms.) Muia:** Mhe Temporary Deputy Speaker, you did not speak---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Kilome, you may be getting out of order yourself, but the Chair wants to assist you. What is the specific word that you find offensive, so that I can put it to the Member?

The Speaker will refresh his mind from the HANSARD. If I find that there is a word which was unparliamentary, Member for Tigania East, you will have to explain. I have not looked at the HANSARD. So, allow the Speaker to look at the HANSARD and find out if there was a word which was unpalatable.

Give the Leader of the Majority Party the microphone.

## PAPER LAID

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker. I beg to lay the following Paper on the Table of the House today, Wednesday, 10<sup>th</sup> June 2015:-

The Report on the Vetting of Hon. Eugene Ludovic Wamalwa, Cabinet Secretary Nominee, Ministry of Water and Irrigation on behalf of the Committee on Appointments.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang'): All right.

Next Order.

## NOTICE OF MOTION

### ADOPTION OF REPORT ON VETTING OF NOMINEE

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## FOR CABINET SECRETARY POSITION

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Committee on Appointments on the Vetting of Nominee for appointment as the Cabinet Secretary for Water and Irrigation, laid on the Table of the House today Wednesday, 10<sup>th</sup> June, 2015 and pursuant to the provisions of Article 152(2) of the Constitution, approves the appointment of Hon. Eugene Ludovic Wamalwa as the Cabinet Secretary for Water and Irrigation.  
Thank you, Hon. Temporary Deputy Speaker.

**ADJOURNMENT**

**The Temporary Deputy Speaker** (Hon. Kajwang’): I order that the business appearing as Order No.9 be included during the next sitting of the House. It has a balance of two hours.

The time being 1.05 p.m. this House stands adjourned until this afternoon.

The House rose at 1.05 p.m.