

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Thursday, 11th March 2021**

House met at 10.00 a.m.

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

Hon. Deputy Speaker: Hon. Members, although a number of Members are walking in, we are just short of the required Quorum. So, I order that the Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order Members! Take your seats. We now have the required Quorum. Let us begin business.

PETITION

Hon. Deputy Speaker: Under this Order, we have the Member for Magarini, Hon. Michael Kingi.

IRREGULAR EXTENSION OF GALANA RANCHING BOUNDARY

Hon. Michael Kingi (Magarini, ODM): Hon. Deputy Speaker, I rise to present Petition No.4 of 2021 regarding irregular extension of Galana Ranching Boundary.

I, the undersigned, on behalf of Magarini Sub-County Community Land Owners, draw the attention of the House to the following:

THAT, the Galana Game and Ranching Community land in Kilifi and Tana River counties was indigenously settled on by the Waata and Giriama communities before colonisation of the country.

THAT, in 1972, the Agricultural Development Corporation (ADC) took over Galana Game and Ranching land with its original boundary points that were marked in 1961 jointly by the Waata and Giriama communities and several colonial government representatives such as Geoffrey Pois, Martin Anderson, Henry Henly and David Teller.

THAT, local representatives who witnessed this demarcation separating the ranching land from the community land included Hiribae Guyo, Bajila Bashora, Wakati Hogomthi, Fondo Mwangirani, Kitu Nguo as well as Abadiba Guyo Kiribai, James Guyo Bajila, Robert Thoya Mwamure, Soso Shako, Changawa Chanjalo and other community elders.

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THAT, the original boundary points were Kisiki, Tanke, Kore and Didimabul, with the upper western part of the boundary points being allocated to Galana Ranching with the lower eastern part being reserved for community use.

THAT, in 2020, and without due public participation, ADC undertook an illegal and irregular boundary extension exercise that resulted in new boundary points at Chain Barrier (Sameta), Kormotho, Kapangani, Dakabuko, Kalaluwe, Gurujo, Bisaadhi, Diririsa, Bibithole, Changoto and Dera, which were then gazetted for adjudication.

THAT, not only is the extension illegal, but failure by ADC to involve the community and leaders in Magarini Sub-County in the re-surveying of the land poses an existential threat to the livelihood of the local communities and goes against basic tenets of justice in light of the fact that the original beacons are still in place.

THAT, efforts to have this matter addressed further by the relevant authorities, including the National Land Commission and the National Environment Management Authority, have been futile.

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

Now, therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Lands:

(i) enquires into the matter with a view to securing, with the assistance of the National Land Commission, the restoration of the original boundary points of the Galana Game and Ranching land so as to safeguard the land originally allocated to the local community;

(ii) causes the Ministry of Lands to complete the adjudication process in the areas where it had begun and urgently commences the process in the remaining areas with a view of ensuring that members of the community are issued with title deeds; and,

(iii) makes any other order or direction that it deems fit in the circumstances of the matter. And your petitioners will forever pray.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. I am trying to see if there is an indication of a Member or two who wants to address the Petition. It does not seem so.

Hon. (Dr.) Robert Pukose. You want to speak to this one?

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. I support the Petition by the Member for Magarini. It is important that the prayers that he sought, especially the demarcation and issuance of title deeds to the residents, are addressed expeditiously. A title deed is a document that shows ownership of land. We have heard about the Galana-Kulalu issue for many years. Unfortunately, even with the billions spent, no single person has been arrested or arraigned in court for matters corruption. Yet we know that it has galloped millions and billions of shillings. I think this is something the Departmental Committee on Lands needs to look at expeditiously and resolve.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. Hon. Baya Yaa.

Hon. Owen Baya (Kilifi North, ODM): Thank you, Hon. Deputy Speaker. I want to support my brother, the Member for Magarini. Before the Government went into the Galana-Kulalu land to start this farm under the ADC, there were indigenous people who had settled there for many years; people who claim ancestral and community land ownership. This is their land and they are known. I think their Member has given the history and the people who were living there.

Again, the Government went there, disregarded everything else including the law that exists. It went ahead and took the land, subdivided it and gave it to other people dispossessing those who were already there. The first person that needs to follow the law is the Government.

Hon. Deputy Speaker: I just want you to say something so that when the Petition is brought, they must include it. But already you are debating the Petition.

Hon. Owen Baya (Kilifi North, ODM): No! I am just laying a short background.

Hon. Deputy Speaker: You have no time to lay whatever you want to lay.

Hon. Owen Baya (Kilifi North, ODM): Let me say that I would like the Committee to move very fast and ensure justice is done to the people of Magarini. Thank you.

Hon. Deputy Speaker: Okay. Hon. Sherriff, I hope you will be brief. Do not debate.

Hon. Abdullswamad Nassir (Mvita, ODM): Actually, Hon. Deputy Speaker, this is something that might interest the petitioners and those supporting the same. After the whole Kenya Medical Supplies Agency (KEMSA) thing, we are planning to table a report regarding Galana-Kulalu. I am aware there is the element of land, and the land from the ADC has since been transferred to the National Irrigation Board (NIB). So, there is quite a lot. Maybe if they wish, they could provide some of this information to us. Land ownership is subject to audit in all our audit reports.

Hon. Deputy Speaker: Let us move on to the next Order.

PAPERS LAID

Hon. Deputy Speaker: On this Order, we will have the Leader of the Majority Party having the first shot. Thereafter, the Chairperson, Budget and Appropriations Committee, in that order.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Deputy Speaker, on behalf of the Leader of the Majority Party, I beg to lay the following Paper on the Table of the House:

Annual Performance Report of the Ministry of Defence for the Financial Year 2019/2020.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next.

Hon. Kanini Kega (Kieni, JP): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Budget and Appropriations Committee on its Consideration of the Division of Revenue Bill (National Assembly Bill No.7 of 2021).

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. Now, let us move on to the next Order.

ORDINARY QUESTIONS

Hon. Deputy Speaker: Under this Order, we only have Ordinary Questions, then we go to Statement requests and thereafter, response to Statements. We will start with the Member for Mwatate, Hon. Mwadime.

The new Member, Hon. Kalasinga prepare yourself. Whenever you want to have your Maiden Speech, indicate, because I do not think you have your card. But if you do, then it is fine.

Also, you probably need to tell us which of your names you prefer to use because when you were taking oath, you had too many names. Please, do not do it now because if you do so, it will be considered a Maiden Speech. But we would like to get indication from you about your names Kalasinga and other long ones like Majimbo, so that we know how we will be referring to you in our records.

Question No.037/2021

INSURANCE SERVICES FOR LIVESTOCK IN TAITA TAVETA COUNTY

Hon. Andrew Mwadime (Mwatate, ODM): Thank you, Hon. Deputy Speaker. I wish to ask Question 037/2021 to the Cabinet Secretary for Agriculture, Livestock and Fisheries.

- (i) Could the Cabinet Secretary consider providing insurance services for livestock within Taita Taveta County to cushion farmers from huge perennial losses during droughts?
- (ii) When does the Ministry expect to rollout the National Livestock Insurance Programme in Taita Taveta County?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: This one will be replied to before the Departmental Committee on Agriculture and Livestock. Let us go to the Member for Matayos, Hon. Geoffrey Odanga.

Question No.064/2021

CONSTRUCTION OF BUSIA-KISUMU-KERICHO-MAU SUMMIT DUAL CARRIAGEWAY

Hon. Geoffrey Odanga (Matayos, ODM): Thank you, Hon. Deputy Speaker. I wish to ask Question No.064/2021 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

- (i) Is the Cabinet Secretary aware that Messrs. Trade Mark Eastern Africa sourced about Kshs300 million from various donors to upgrade and construct a dual carriageway from Busia Border Post to Busia Prisons (about five kilometres) in 2015 and the said funds have remained unutilised at the Kenya National Highways Authority (KeNHA) save for Kshs100 million which was earmarked for supervision?
- (ii) What measures is the Government taking to ensure that the said part of the Busia-Kisumu Highway is urgently constructed to dual carriage standards to reduce traffic congestion on the busy highway?
- (iii) When will the entire Busia-Kisumu-Kericho-Mau Summit Road be constructed into a dual carriageway to ease increasing traffic in the region?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Transport, Public Works and Housing. Next is the Member for Mombasa County, Hon. Asha Mohammed. I am looking for her and I am sure it is very easy to see her. Yes, there she is.

Question No.066/2021

MEASURES TO SECURE LOCAL AND INTERNATIONAL MARKETS FOR COCONUT

Hon. Asha Hussein (Mombasa (CWR), ODM): Thank you, Hon. Deputy Speaker. I wish to ask the Cabinet Secretary for Agriculture, Livestock and Fisheries whether he could explain the measures the Ministry is putting in place to secure local and international markets for coconut, which has been categorised as a scheduled crop in the Crops Act, 2013?

Thank you.

Hon. Deputy Speaker: Very well. This one will be replied to before the Departmental Committee on Agriculture and Livestock. Next is the Member for Kasipul, Hon. Charles Were. As we give him the chance, Members should remember to be bringing their cards with them, more so, those who know they have scheduled business. Truthfully speaking, Hon. Were does not have his card. You cannot come to ask a Question and do not have your card. Next time ensure you have it.

Question No.067/2021

MEASURES TO RESTRAIN M/S. CHINA CITY CONSTRUCTION COMPANY

Hon. Charles Ong'ondo (Kasipul, ODM): Thank you, Hon. Deputy Speaker. I wish to ask Question No.067/2021 directed to the Cabinet Secretary for Environment and Forestry.

- (i) Is the Cabinet Secretary aware that M/s. China City Construction Company currently operating in Kasipul Constituency produces a lot of toxic dust, which is blown to Akech and Katangá villages causing health complications and hazards?
- (ii) What steps is the Ministry taking to address the blockage of access to Awach River, which has been caused by the Company because of heaping soil and dumping hazardous materials on the access points, considering that the river is the main source of water to area residents?
- (iii) What steps is the Ministry taking to restrain M/s. China City Construction Company from polluting the environment and contaminating Awach River?

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Environment and Natural Resources. Hon. Gedi, what is it?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Deputy Speaker, we should not entertain some behaviours in this House. After Hon. Tiren and another Member realised I am rising on a point of order, they are running away. We have to maintain social distance. The manner they are sitting is not good. Let us be firm on the protocols. Let us be guided by the COVID-19 regulations.

Hon. Deputy Speaker: Hon. Members, we will be very serious on issues COVID-19. As you realise, the numbers are going high and we should be the ones leading from the front. Any Member who will be asking a Question or even contributing without masking will not be given an opportunity. We will not allow that at all. Hon. Members, we should maintain social distancing. There are designated seats for Members to sit. You must sit in a designated seat. I see one Member here who is sitting on a seat which is not designated. We will not allow that because that is the

only way we can keep safe distance. You can see the same Member is approaching another Member. Members will be ruled completely out of order and probably we will even ask them to leave the chambers and go and breathe some fresh air. Hon. Members, we will be very serious on that. It is a serious issue and we must lead from the front.

We had finished with the Member for Kasipul. So, we are now doing the Question by Hon. Tom Odege, the Member for Nyatike.

Question No. 068/2021

STATUS OF COMPENSATION TO MR. DENISH GUMBE OSIRE

Hon. Tom Odege (Nyatike, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Defence the following Question.

- (i) Could the Cabinet Secretary explain why one, Mr. Denish Gumbe Osire of ID No. 0403819 was tortured and incarcerated by military and other Government agencies and later discharged from military service in 1983, contrary to the law?
- (ii) When will he be paid his compensation as awarded by the Milimani High Court in 2017 vide Petition No.572 of 2013?

Hon. Deputy Speaker: That particular Question will be replied to before the Departmental Committee on Defence and Foreign Relations. We will move on to the next Question by Hon. Shinali, the Member for Ikolomani.

Question No. 079/2021

MEASURES TO SECURE MALINYA INDUSTRIAL PARK PROJECT

Hon. Bernard Shinali (Ikolomani, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Trade, Industry and Cooperatives the following Question:

- (i) What steps is Ministry taking to ensure that Malinya Industrial Park Project in Ikolomani Constituency is secured against theft and vandalism?
- (ii) What measures has the Ministry put in place to ensure that the park is connected to critical utilities such as water and electricity and made operational, and by when?

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Trade, Industry and Cooperatives.

Question No.083/2021

CONFISCATION OF PROPERTY BELONGING TO M/S. MARERENI TIMBERS

Hon. Michael Kingi (Magarini ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Environment and Forestry the following Question:

- (i) Could the Cabinet Secretary explain the circumstances that led to confiscation of property belonging to M/s. Marereni Timbers in Magarini Constituency on 9th December 2020 by the Kenya Forest Service Officers from Gede Forest Station?
- (ii) What measures is the Ministry taking to ensure that the confiscated properties are returned to their owners?

- (iii) What steps is the Cabinet Secretary taking to ensure that the owners are compensated for the losses incurred during the period of confiscation?

Hon. Deputy Speaker: This one will be replied to before the Departmental Committee on Environment and Natural Resources. The Question by the Member for Manyatta is deferred on his request, having written to the Speaker.

Question No.087/2021

GAZETTEMET OF NGINDA DIVISION IN EMBU NORTH SUB-COUNTY

(Question deferred)

Hon. Deputy Speaker: We will move on to the Member for Kilifi North, Hon. Baya.

Question No.090/2021

KDF RECRUITMENT IN KAUMA SUB-COUNTY

Hon. Owen Baya (Kilifi North, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Defence the following Question.

- (i) Could the Cabinet Secretary explain why the recent Kenya Defence Forces recruitment exercise undertaken in February 2021 was not carried out in Kauma Sub-County of Kilifi County?
- (ii) What steps is the Cabinet Secretary taking to ensure that the Kenya Defence Forces recruitment exercise is conducted in the sub county during the next recruitment process?

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Defence and Foreign Relations. We will now move on to the second segment of that particular Order which involves Requests for Statements by Members. We will start with Hon. Ali Wario.

REQUESTS FOR STATEMENTS

MANDATORY RETIREMENT AGE FOR PUBLIC OFFICERS

Hon. Ali Wario (Bura, JP): Thank you, Hon. Deputy Speaker. I have two Requests for Statements.

Pursuant to Standing Order 44(2)(c), I seek to request a Statement from the Chairperson, Departmental Committee on Administration and National Security, regarding mandatory retirement age for public officers. Section 80(1)(a) and (b) of the Public Service Commission Act provides that on attaining the mandatory retirement age, the Commission or other appointing authority shall not extend the service of such retirement age. Recently, a Chief of Bangale Location, Tana North Sub-County, was granted extensions twice by the Commission after attaining the retirement age, denying the acting chief an opportunity to serve or to be promoted.

Hon. Deputy Speaker, in November 2020, the Public Service Commission issued a circular dated 19th November 2020 regarding mandatory retirement age for public officers noting that with effect from 1st January 2021, the Commission shall not approve any extension of service for

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officers retiring from the service upon attainment of mandatory retirement age of 60 years and 65 with respect to Persons Living with Disabilities (PLWDs). It is on this background that I seek a Statement from the Chairperson, Departmental Committee on Administration and National Security, on the following:

- (i) Could the Chairperson explain what led the Ministry to grant an extension twice to the retired Chief of Bangale Location in Tana North Sub-County in contravention of mandatory retirement policy and law?
- (ii) What steps the Ministry has taken to ensure succession planning for continuity in service delivery upon the retirement of officers, especially chiefs?
- (iii) What measures is the Ministry putting in place to promote all assistant chiefs across the country and particularly the Acting Chief for Bangale Location in Tana North Sub-County?
- (iv) What measures have been put in place to ensure that the officers due for retirement are adequately prepared to transit into retirement so as not to violate the law and other Commission guidelines?

I will go to my next Request for a Statement.

ROLE OF KENYA IN ADDRESSING PEACE AND SECURITY IN HORN OF AFRICA

Hon. Ali Wario (Bura, JP): Hon. Speaker, pursuant to Standing Order 44(2) (c), I seek a Statement from the Chairperson, Departmental Committee on Defence and Foreign Relations regarding the role of Kenya in addressing peace and security in the Horn of Africa Region. Owing to worsening situations in the Horn of Africa, thousands of people have been forced to flee as violence erupts. More than 100,000 refugees crossed to other countries where UNHCR authorities are working around the clock to set up a new refugee site to shelter and provide food and water.

In addition, for fear of their lives and the lives of their families on the new grounds, thousands of children, women and men have been forced to flee into other countries and Kenya may too experience refugee influx.

Hon. Deputy Speaker, it is on this background that I seek a Statement from the Chairperson, Departmental Committee on Defense and Foreign Relations on the following:

- (i) Could the Chairperson state the role of Kenya in addressing peace and security in the Horn of Africa?
- (ii) What measures is the Government putting in place to address conflicts and influx of refugees into the country as a result of deteriorating peace and security in the Horn of Africa?
- (iii) What measures is the Government undertaking in collaboration with other countries to ensure peaceful co-existence between the communities living in all countries in the Horn of Africa region?
- (iv) What is the position of the African Union (AU) and the East African Community (EAC) in the ongoing conflicts in the Horn of Africa, particularly the impending humanitarian crisis?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next request for Statement is by Hon. Lentoimaga.

KILLING OF POLICE OFFICERS IN KAPEDO, BARINGO COUNTY

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Deputy Speaker, pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the recent killing of Mr. Moses Murson Lekairab, a Chief Inspector and Deputy Commander RDU, Kapedo and his driver, PC Mr. Benson Kaburu at the Amaya Bridge in Baringo County.

Hon. Deputy Speaker, on 21st January 2021, CIP Moses Murson Lekairab was killed alongside his driver, PC Mr. Benson Kaburu at the Amaya Bridge, Baringo County while on their way from burial in Maralal, Samburu County. The deceased officers were unarmed, non-combatant at the time they were killed. It is also of great concern to note that more than 63 police officers have lost lives and their firearms taken away by attackers in the same area and with no arrests made and culprits brought to book. In addition, thousands of livestock have been taken away and driven towards Kapedo, Suguta Valley and surrounding areas by heavily armed cattle rustlers impoverishing the communities and threatening peace among communities.

Hon. Deputy Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

Hon. Deputy Speaker: What is your point of order, Hon. Washiali?

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker, I did not want to interrupt my good friend. However, I wanted to bring to your attention that the screen on your immediate right is shaking too much such that it is disturbing some of us. I wanted to request that if the technicians are not able to fix it, then they would rather switch it off like they have done on the one on the left.

Hon. Deputy Speaker: Which one? I see that all the screens are working well.

Hon. Member: You are disadvantaged. You do not see.

Hon. Deputy Speaker: I am not disadvantaged at all. I am actually advantaged if there is a problem with it because I am not having any interference. If it is the one on my immediate right as indicated, we ask the technicians to simply switch it off. Thank you for pointing it out, Hon. Washiali.

Proceed Hon. Lentoimaga.

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Deputy Speaker, sorry for that interruption.

Hon. Deputy Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) Could the Chairperson provide the status of investigations into the killings of the late Mr. Moses Murson Lekairab, Chief Inspector and Deputy Commander RDU Kapedo and his driver, PC Mr. Benson Kaburu, and whether any arrests of those involved have been made?
- (ii) Could the Chairperson explain what challenges the security agencies are facing making it difficult to provide information to facilitate identification and arrest of culprits as well as addressing the security problems in the area?
- (iii) What plans has the Ministry put in place to ensure long term and sustainable peace in the area that includes disarmament, conducting operations and engaging communities on matters of security?

- (iv) What measures have been put in place by Government agencies to recover the stolen livestock and/or compensate the victims who have been rendered poor by this illegal activity?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Hon. Wario?

Hon. Ali Wario (Bura, JP): Hon. Deputy Speaker, I have asked for two Statements, unfortunately, I have not heard any direction from the Chairs or your end. I am asking for your indulgence.

Hon. Deputy Speaker: I will be giving directions on them after we are through with this one. I was just about to make those directions. In the meantime, what is it again, Hon. Member who is making a request here?

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Deputy Speaker, it is just a concern. Last year, I made a request for a Statement on a comprehensive audit of the Integrated Financial Management Information System popularly known as IFMIS. There was a lot of interest from Members in this House on the issue of IFMIS. The Speaker then directed that the Committee on ICT, and that on Finance and national Planning, handle the matter jointly because we had matters that touched on technology and finance.

Hon. Deputy Speaker: Just a minute. I thought it was about the same thing. Just hold on for a minute because we need to give directions on these ones that have already been canvased. I thought it was on the same thing, but they are different. The Statements requests by the Member for Bura and the one by the Member for Samburu North will be going to the Departmental Committee on Administration and National Security. The second one by Hon. Wario is going to the Departmental Committee on Defence and Foreign Relations. Let me get an indication because I see the Vice-Chair of the Departmental Committee on Administration and National Security, Hon. Gedi, is here. How long do you require for the two Statement requests?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Deputy Speaker, two weeks will be okay. After recess, I will issue the two Statements

Hon. Deputy Speaker: Two weeks is actually reasonable. I see that you are already in consultation with the Member for Bura. So, there is a possibility that you have taken the wind of the urgency.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): The request for Statement by Hon. Wario could even come earlier than that.

Hon. Deputy Speaker: I do not want you to say that. Let us put it at two weeks. Even if it comes early, it is fine, considering that there will be a scheduled recess. Hon. Lentoimaga, are you okay?

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Deputy Speaker, is she referring to my Statement or she is only referring to the Statement by Hon. Wario?

Hon. Deputy Speaker: Yes, two weeks for both.

Hon. Alois Lentoimaga (Samburu North, JP): It is okay.

Hon. Deputy Speaker: Now, let us have the Chair or the Vice-Chair of the Departmental Committee on Defence and Foreign Relations. We can have a ranking Member there. Hon. Charles Mutavi Kilonzo is definitely a ranking Member in that Committee.

Hon. Charles Kilonzo (Yatta, Independent): Thank you, Hon. Deputy Speaker. We should respond in two weeks' time. So, that will be after recess.

Hon. Deputy Speaker: We can then proceed with the issues that we were having from the Member from this other direction. You said you made a request for Statement? When is it that you made that request for Statement?

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Deputy Speaker, I made the request on 1st October last year.

Hon. Deputy Speaker: On 1st October?

Hon. Godfrey Osotsi (Nominated, ANC): Yes.

Hon. Deputy Speaker: Is that the Departmental Committee on Finance and National Planning?

Hon. Godfrey Osotsi (Nominated, ANC): Yes, the Departmental Committee on Finance and National Planning. During the deliberation, there was a lot of interest from Members. It appeared that some of the issues were technology-related and some were finance-related. The direction was that the two committees work together to give a response to this House. I have been following up on this matter, particularly with the Departmental Committee on Finance and National Planning, but I gave up because the Session ended. There was a Procedural Motion to extend some of those issues like Petitions and Statements. Up to date, I have not received any response. I am very much concerned.

Hon. Deputy Speaker: I do not see the Chair of the Committee.

Hon. Shakeel Shabbir (Kisumu East, Independent) *spoke off-record*.

Hon. Deputy Speaker: Hon. Shabbir, did you become the Chair? In my records, I definitely do not see Hon. Shabbir as the Chair or Vice-Chair of that Committee. Are you a Member?

Hon. Shakeel Shabbir (Kisumu East, Independent) *spoke off-record*.

Hon. Deputy Speaker: Where is your Vice-Chair? In the absence of the Vice-Chair, let us hear from another ranking Member.

Hon. Shakeel Shabbir (Kisumu East, Independent): Hon. Deputy Speaker, I am very sorry. I am a ranking Member having been there for three terms. We raised a similar problem a number of times in the Departmental Committee on Finance and National Planning. I assure you that I will take it back to our new Chair. The National Treasury is not helpful. When we talk about IFMIS, they go under the table.

Hon. Deputy Speaker: Which table?

Hon. Shakeel Shabbir (Kisumu East, Independent): I will talk to the Chair and ensure that we attend to the request by the Member.

Hon. Deputy Speaker: It is also fair, but kindly treat it as urgent now that this matter seems to have been lying on your shelves for quite some time. What is the likely timeframe for you to dispense with the Member's request for the Statement?

Hon. Shakeel Shabbir (Kisumu East, Independent): I will take it up with the Chair next week at the next meeting. I am sure she will guide us very quickly as to when we can issue the Statement.

Hon. Deputy Speaker: Let us not make commitments on that, but make sure you do it quickly because the Member has been waiting for long. I know you are not able to give a specific timeline because you are a Member. I expect the Chair or the Vice-Chair to make that commitment and ensure that it proceeds well.

I notice that the Member for Manyatta is now in. He had requested that we defer his Question briefly as he struggled with traffic jam. We will consider the response to the request for

a Statement by the Member for Mvita and then I will allow him to ask that Question. Make sure you are prepared.

Let us have the response to Hon. Abdullswamad Nassir from the Departmental Committee on Administration and National Security. Let us have Hon. Fatuma Gedi.

STATEMENT

SHOOTING OF ABDALLAH FAHAL, SALIM ABDALLA AND AHMED SALIM IN KALOLENI

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Thank you, Hon. Deputy Speaker. I issue the response to the request for a Statement with a heavy heart. This is a Statement on the recent shooting of Mr. Abdallah Fahal, Mr. Salim Abdalla and Mr. Ahmed Salim in Kaloleni, Mombasa County, by Hon. Abdullswamad Sheriff Nassir, the Member for Mvita Constituency.

At a sitting of the National Assembly, Hon. Abdullswamad Nassir requested for a Statement regarding the shooting of Mr. Abdallah Fahal, Mr. Salim Abdalla and Mr. Ahmed Salim in Kaloleni, Mombasa County. Specifically, the Hon. Member sought to be informed on:

- (1) What measures the Government investigative agencies are putting in place to ensure that thorough investigations are carried out and those responsible for the death of Mr. Ahmed Salim and injuring Mr. Salim Abdallah are brought to book.
- (2) What measures the relevant Ministry is putting in place to ensure that affected families are duly compensated for the loss of life, including settlement of hospital bills for Mr. Salim Abdallah and Mr. Fahal Salim Abdallah and by when.
- (3) What steps the relevant Ministry and Government agencies are taking to deal with increasing cases of killings and overall insecurity in Mombasa County.

On 11th February 2021, at about 2.20 p.m., it was reported at Tononoka Police Station by members of the public vide OB.No.25/11/2/2021, that two unknown persons who were riding on a motorcycle with unknown registration number plates confronted workers at Melon Swellamoor Cyber that deals with M-PESA services. During the struggle to rob members of the public at the shop, one of the armed robbers was overpowered and he produced an AK47 rifle which was hidden in a sack and shot the following persons:

- (1) Amour Salim aged 25 years;
- (2) Sadat Salim aged 35 years; and,
- (3) Fuad Salim aged 23 years.

They were taken to the Coast General Hospital where Amour Salim was pronounced dead on arrival. Later, the other two, Mr. Sadat Salim and Mr. Fuad Salim, were transferred to Aga Khan Hospital for further treatment.

The County Police Commander, the Sub-County Police Commander, the Sub-County Criminal Investigations Officer Mombasa and the Officer Commanding Police Station (OCS) Tononoka, visited the scene and investigations commenced immediately. The Crime Scene Support Services Unit in Mombasa processed the scene and several witnesses were interviewed, but none had any idea of the robbers' identities.

On request by the family of the deceased, a postmortem was performed and burial took place the same day as per the Islamic faith. Nine witnesses have recorded statements so far. Investigations are ongoing.

The Ministry does not have a budget line for compensation or payment of hospital bills for the victims of the unfortunate incidents or similar incidents of criminality. The following measures have been put in place to deal with incidents of insecurity in Mombasa County:

- (1) Police have launched investigations into the incident with a view to bring the culprits of the incident in Kaloleni to book.
- (2) Monitoring of CCTV surveillance by Integrated Communication Command and Control (IC3) Centre.

(Hon. (Ms.) Mishi Mboko and Hon. Asha Hussein consulted loudly)

Hon. Deputy Speaker: Order! I am not so sure Hon. Mishi and the Member for Mombasa County are seated in the proper manner. Members, we will be very serious on that. Sometimes we drop our guard and it does not make us look very good - even in public - if we are the ones flouting the containment measures for COVID-19. Every Member will sit in a chair that is so designated. Proceed.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Thank you, Hon. Deputy Speaker for that.

- (3) Collection of intelligence criminal gang activities.
- (4) Profiling of known criminals released from prisons.
- (5) Enhancing good public relationship with members of the public.
- (6) Arrest and prosecution of all persons found culpable in acts of lawlessness.

The response is signed by Fred Matiang'i, Cabinet Secretary for the Ministry of Interior and Coordination of National Government.

Hon. Deputy Speaker: I will give the first shot to Hon. Nassir.

Hon. Abdullswamad Nassir (Mvita, ODM): Mheshimiwa Naibu Spika, nilipopata jawabu hii jana, niliwasiliana na familia. Nasikitika kuwa dadangu amepewa karatasi asome lakini sivyo ilivyo.

Kwanza, majina yaliyo hapa si yale niliulizia. Pili, ikiwa ni wizi, tujaribu kuwaza. Fedha ambazo zinazunguka katika duka lile hazipiti hata Ksh20,000. Watu waliingia na AK-47 kuiba kutoka kwa duka ndogo sana la M-PESA.

Tatu, kama ni kweli uchunguzi unafanywa mpaka leo, *Statement* ya Sadat haijachukuliwa. Viongozi wa Wizara hawajui kile ambacho wanachokizungumza. Wamesema kwamba wale ambao walimiminiwa risasi walipelekwa hospitali ya Coast General ambayo ni uongo. Hawakupelekwa huko, Mhe. Naibu wa Spika. Wale waliathirika walipelekwa katika hospitali ya Memon ambayo iko karibu. Baada ya hapo, walipelekwa katika hospitali ya Aga Khan. Wametaja hapa kuwa kuna namba ya *Occurrence Book* (O.B). Lakusikitisha ni kuwa hakuna mmoja wa wale wanafanya kazi katika eneo hilo, waliopigwa risasi ama familia zao ambao *Statement* yao zimechukuliwa. Licha ya hivyo, walijipeleka kusema kuwa wanataka kupiga ripoti ya masuala haya. Waliambiwa kuwa ripoti tayari imepigwa, wakae kado.

Mwishowe nikimalizia, kuna huu mwenendo wa Katiba 2010 ambao Waziri anaandika ripoti, kisha anampelekea Mjumbe kuisoma. Nasikitika itabidi waregeshe tena suala hili ili wajue ukweli. Mwisho, wamesema *post-mortem* ilifanywa. Hakuna *post-mortem* yeyote ilifanywa kwa marehemu. Kwa hivyo, nasikitika kwa sababu itabidi dadangu ambaye yuko katika Kamati ambayo inahusika arejee tena kuambia Serikali kuwa kuna kiwango ambacho watu wanaweza kuhadaiwa.

Hon. Deputy Speaker: We can dispense with this issue quickly. Are you able to respond to those specific issues or you want to request time to handle them in a different way?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Deputy Speaker, when I started to read the response, I said that I would do it with a heavy heart. Indeed, I have noted his concern which is very serious. So, I need more time to go back and consider the issue.

Hon. Deputy Speaker: That is fair. We simply ask you to re-consider it within a reasonable time and then bring a Statement that will take into consideration those issues that have been raised by Hon. Nassir.

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Deputy Speaker, on a point of order.

Hon. Deputy Speaker: What is your point of order, Hon. Lentoimaga? I have ruled on that particular issue.

Hon. Alois Lentoimaga (Samburu North, JP): Hon. Deputy Speaker, this issue needs to be canvassed more.

Hon. Deputy Speaker: That is exactly what I have ruled.

Hon. Alois Lentoimaga (Samburu North, JP): Let me just put something across. The issue is more about the Cabinet Secretary appearing before the Committee. The Chair cannot address this issue sufficiently, even if it is in written form. The fact that the Constitution has made CSs not to come to this House has really disadvantaged us. There are too many outstanding cases of that nature that have not been addressed by the CS.

Hon. Deputy Speaker: Are you speaking to this particular case or generally?

Hon. Alois Lentoimaga (Samburu North, JP): There are many other cases, including from where I come from. Many other colleagues have issues that they would like the CS to appear before the Committee and address. Relevant Statements or Questions by Members can be canvassed there.

Hon. Deputy Speaker: Hon. Lentoimaga, you are aware that is exactly what happens. The CSs and principal secretaries are invited to committees. When the Member comes to respond to a Statement, he or she will have been part of the process. That is what happens. When a Question has issues, we refer it back like we have just done. We ask Chairs to be very critical in terms of Statements that they are given to read to the House. They should be factual. Therefore, they should satisfy the Members. Otherwise, the rest of the things are matters of procedure and our hands are tied. You have already set up your Standing Orders to accommodate this. It can only go as far as is constitutionally right. We cannot do more than it has been done. That is finished.

Hon. Emmanuel Wangwe (Navakholo, JP): On a point of information, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Wangwe, whom do you want to inform?

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. I want to inform Hon. Lentoimaga that sometimes it becomes difficult when a Member asks a question under a Statement. If you ask a Question, it calls for a CS or Ministry representative to appear before the Committee, so that he or she is interrogated further. However, if you ask for a Statement, you give a leeway that the Committee Chair files it through the House to the Member. Therefore, it is important for that clarity to come out, so that it gives way on what is supposed to be done.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Okay. Hon. Muchiri will ask the Question that he was supposed to ask. I confirm that the new Member for Kabuchai will be happy to be referred as Hon. Majimbo Kalasinga. All the other names can be used elsewhere like in funerals and weddings. Hon. Majimbo Kalasinga is the new Member for Kabuchai. He has very many names. Members, you notice that they are almost six. I have been told that there are also other two names which he did not mention on that day. So, they are eight. That is a serious Member.

(Laughter)

Question No.087/2021

GAZETTEMET OF NGINDA DIVISION IN EMBU NORTH SUB-COUNTY

Hon. John Nyaga (Manyatta, JP): Thank you, Hon. Deputy Speaker. I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

- (i) Could the CS explain why Nginda Division in Embu North Sub-County has not been gazetted yet the Registrar of Persons has been issuing National Identity Cards to persons indicating the place of issue and births as Nginda Division?
- (ii) Could the CS confirm whether the failure to gazette the division led to Kenya Defence Forces' not carrying out recruitment at the said division, thus denying the youth from that area employment opportunities?
- (iii) What steps is the CS taking to ensure that Nginda Division is gazetted without any further delay?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: This Question will be replied to before the Departmental Committee on Administration and National Security. Hon. Vice-Chair, these particular Questions come from very many constituencies, including Keringet Division in Kuresoi North Constituency. I have been told that there are a number of other Members who have asked the same Questions. As you consider this Question, you will respond specifically to the Member for Manyatta. However, this is something that needs to be resolved, so that every constituency can have its share of the cake.

Let us move on to the next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairman (Hon. Patrick Mariru) took the Chair]

THE CROPS (AMENDMENT) BILL

Hon. Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are now in the Committee of the whole House to consider the Crops (Amendment) Bill (National Assembly Bill No.25 of 2019).

Clause 2

The Temporary Deputy Chairman (Hon. Patrick Mariru): On that, we have two amendments: one by Hon. Gitonga and the other one by Hon. Baya. We will start with Hon. Murugara.

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Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Chairman. Allow me to kindly move-

THAT, the Bill be amended by deleting clause 2 and substituting therefor the following new clause—

Amendment of the First Schedule

of No. 16 of 2013.

2. The Crops Act is amended in the First Schedule by inserting—

(a) the following new item in Part 1—

“Mung beans (green grams/*ndengu*) scientifically known as *Vigna radiata*”

(b) the following new item in Part 3—

“Achiote (Mrangi) scientifically known as *Bixa Orellana*”

The justification is that mung beans, popularly known as green grams or *ndengu* in Kenya, are a staple food crop spread all over the country. It is also a cash crop in counties that are in dry areas. In particular, it is a cash crop in Tharaka Constituency, Tharaka Nithi County. It is also grown in Mwingi North in Kitui County, Makueni and Machakos. It is a crop that requires attention under Sections 7 and 8 of the Crops Act. I gave notice of intention to move that we amend Schedule 1 of the scheduled crops and include mung beans/green grams/ *ndengu* in that Schedule.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

The Hon. Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, let us hear from the Majority Whip, Hon. Wangwe. It will also be good to hear from Hon. Tandaza then we make progress.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairman. Whereas I respect my very good friend Hon. Murugara, I am of the view that introducing a major item like this at the Committee stage denies Members the opportunity to converse. This is a substantive product or item that he is introducing midway. He has denied us the opportunity to debate about this product in the Second Reading. He has not analyzed the main advantages and disadvantages of the item.

By him introducing it at this level and giving the advantage that the product will enjoy as a scheduled crop, in the vastness of it, I feel that it will be unfair to the Members who would have given it the view that it suggests. Therefore, I ask that Members assist me to drop it because he has denied us the opportunity to dissect the item in full.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. (Dr.) Wamalwa and then Hon. Tandaza. Of course, Hon. Murugara you will have the final stamp on it and then we make progress.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairman. What Hon. Wangwe has said is very critical. There is a reason why crops are scheduled in this Crops Act. This is because they come with different implications. We have had a debate, for instance, whether Miraa should be a Scheduled crop or not. This House was very much involved and scientific analyses were brought here. You will realize that there were pros and cons on whether this product should be scheduled.

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How I wish Hon. Murugara - he has been a fast-learning student as a first-termer and has been doing very well - had attached further description on this particular product. It is a common product. What reasons may have led to this crop not being scheduled? We should not rush at the Committee of the Whole House to bring in the product. As Hon. Wangwe has clearly said, it very critical that public participation ought to have been done about this particular product.

I thank you.

The Hon. Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Wanyonyi.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Chairman, I want to agree with the Majority Whip. I am a Member of the Departmental Committee on Agriculture and Livestock and I know that these products have not been exhaustively discussed by my Committee. I speak on behalf of the Committee. We know the product, but we have to discuss and know more about it before we schedule it. He has jumped the gun and the best he can do is to bring this to the Departmental Committee on Agriculture and Livestock so that public participation on the same can happen.

We should not be in a hurry to schedule the product just because there is a chance for us to do it in the Third Reading. I want to ask my colleague to hold his horses until we have the time to look at this. I am a ranking Member in the Committee and at no time have we discussed this. Of course, these are products that we know but now that you have mentioned them, I think we can have the time to discuss this matter.

I oppose this amendment. Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Tandaza Sawa, do you have a comment on this?

Hon. Kassim Tandaza (Matuga, ANC): Thank you, Hon. Temporary Deputy Chairman. I would have no objections on amendments only that I am also seeing this amendment for the first time. We had not even got an opportunity to probably discuss and see how it would affect my Bill and the benefits that would accrue from whatever he is intending to amend. I will leave this to your discretion. Otherwise, it is a matter that I am also not conversant with.

Thank you, Hon. Temporary Deputy Chairman.

The Hon. Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Let us have Hon. Murugara, then we will have the House vote. But just for record, Hon. Tandaza, there is no express obligation for any Mover of an amendment to consult the Mover of the Bill. It is just good and tidy but there is no express obligation for that.

Hon. Murugara, you have the Floor.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Chairman. I have heard the sentiments by the Chief Whip and the other Members but I wish to notify them that at the debate stage, we indicated that we would bring this amendment. There was a discussion along the lines of the amendment and it was supported by Members from Tharaka Nithi, Meru, Kitui, Machakos and Makueni. The assumption is, the crop we intend to introduce is well known in the country. It is a staple food crop and also a cash crop in those areas.

In my view, the advantages of having this crop scheduled outweigh any disadvantages. I do not think that the House would in any way come up with any other decision even if the crop was discussed. It is a widely consumed crop, in fact, in every part of the country. It is a crop that, possibly, this House should have interest in. As we look at this crop, knowing Kenya is an agricultural country, we have to consider other crops from time to time.

It is not clear why the crop was not scheduled, but I presume that it may not have been known. I would have brought a schedule of advantages and disadvantages but I wish to notify the

House that the most important point is that this is a food crop and we did a lot more on it. It is also a cash crop. So, I urge the House to agree with me, without prejudice to any other feelings that there may be, and we agree to the amendment.

Thank you.

(Loud consultations)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order Members! Let me finally give a chance to Hon. Mutua Barasa, then put the matter to vote.

Hon. Didmus Barasa (Kimilili, JP): Hon. Temporary Deputy Chairman, thank you for giving me this opportunity. It is clear from the Members of the Departmental Committee on Agriculture and Livestock that they are seeing this amendment for the first time. It has not even gone through public participation. This House cannot be a party or rubber stamp an illegality. The Constitution is very clear on public participation. So, the House should throw out this amendment. If it is a good amendment that would bring benefits to this country, but let the proper channels be explored. We cannot rubber stamp an illegality.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Murugara, you cannot get many opportunities to make a comment. I gave you two.

(Hon. George Gitonga spoke off record)

You have an intervention. Let us listen to it.

Hon. George Gitonga (Tharaka, DP): The intervention I wish to make is that in view of the fact that we need to have public participation on the crop, and in view of the fact that it is a very popular crop in the country and we would want it scheduled without delay, may I withdraw the proposed amendment so that I can bring in a substantive Motion or Bill so that we can discuss the entire crop and bring it through the right channel, as they say? Allow me to withdraw the amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Murugara’s amendment is withdrawn.

(Proposed amendment by Hon. George Gitonga withdrawn)

We have another amendment by Hon. Baya still on the same clause. Hon. Baya, you have the Floor.

Hon. Owen Baya (Kilifi North, ODM): Hon. Temporary Deputy Chairman, I beg to move: THAT, the Bill be amended by deleting Clause 2 and substituting therefor the following new clause—

Amendment of the First Schedule to No. 16 of 2013.

- 2. The First Schedule to the Crops Act is amended—
 - (a) by inserting the following new items in Part 1—
 - Cashewnut.....Anacardium Occidentale

Coconut.....Cocos nucifera.

(b) by deleting the following items in Part 3—

Coconut.....Cocos nucifera.
CashewnutIndigenous Vegetables.
(Blacknightshade, Spider plant, etc.).

(c) by inserting the following new item in Part 3—

Achiote (Mrangi).....Bixa Orellana

The justification of the amendment is that I brought two Motions in the House before and the House passed the Motion on coconut and cashew nut that they be scheduled crops. That Motion was passed in the House and the advice the Members gave was that I bring it as a substantive amendment in the Bill. Because of that, there was general agreement in the House that we need to schedule coconut and cashew nut crops. Therefore, I would like to take this opportunity and the advantage that we have this amendment that is being fronted by my brother, Hon. Tandaza, whom I have consulted on the same, that we move the coconut from Part III of the said Bill, because it is already there, and frog march it to Part 1 of the Bill, so that it can receive more attention.

Secondly, coconut and cashew nut are the main crops at the Coast, but have suffered mainly because there has not been any Government attention on them. It is now opportune that we give them an opportunity to go to Part 1 where they will receive more attention. Therefore, we will rescue a whole economy at the Coast that is dwindling.

Thirdly, these two crops are finding place for growth in other parts of the country. We have seen part of Meru growing cashew nuts and we have seen some organisations coming into the country and wanting to trade in coconut and cashew nuts. Because they are not in Part 1, they do not get due attention from investors coming into the country as they ought, and the crop does not get the best marketing and research. This is a multibillion industry. Tanzania, today is growing in leaps and bounds because of these two crops, but in Kenya, they are going down and a whole economy is sinking.

I would like to urge the House, because we passed the two Motions that I brought to this House and there was a general understanding that these crops be elevated as two of the main crops in the country, to allow this amendment, so that we can help the people at the Coast and Kenya. I know there will be an item on public participation that has been put here, but there has been enough public participation on this by people in many fora where they have talked about the idea of ensuring that coconut and the cashew nuts are given due attention. So, the issue of public participation as enshrined in the Constitution has already been done in this House. The Chairman of the Departmental Committee on Agriculture and Livestock then spoke of the cashew nut and coconut. Hon. Wangwe, please, whip the Members to support this amendment. I would like to urge every Member here to support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Do not address the Members directly, but address them through the Chair.

Hon. Owen Baya (Kilifi North, ODM): So that we find favour to help the people at the Coast. The people of the Coast are the mass of this House today to ensure that we revive an ailing sector and open up the many factories that had been set up, but are now shut down. This will give hope to the people in terms of jobs and growth in the economy.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We will have a few Members to speak to it. We will start with those Members who have not spoken.

Hon. Kisang', you have the Floor.

Hon. William Kisang' (Marakwet West, JP): Hon. Temporary Deputy Chairman, I rise to support what Hon. Baya has said because he has convinced us that already two Motions have been passed in the House.

Secondly, we need to support the people of the Coast, so that these two crops are moved from Schedule III to Schedule I, so that when people come to support the crops, they find them among the top ones.

That part of the country has been neglected for a long time. I ask Members to support the Member so that our people from the Coast can join the rest of the country.

Thank you. I support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will open it up for a few other Members. Let us start with those who had not spoken on the first one. Hon. Wamalwa, you will get a chance, but let us start with Hon. Owino.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Chairman. I rise to support the two.

At the outset, cashew nuts and coconuts are not only domiciled at the Coast. I want us as a nation to move from the notion that when an area is rich of a product, then it is a product of that area. Let us pass this and nationalise it. It will help the whole country.

Having gone through the Motion, that is enough on public participation. I support this and urge all Members to rally behind it and pass it. Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us now hear Hon. Iringo.

Hon. Kubai Iringo (Igembe Central, JP): Thank you Hon. Temporary Deputy Chairman for giving me this opportunity.

Unlike the first amendment, the one by Hon. Baya has gone through the right stages. It is important we recognise the two cash crops from the Coast and they are the mainstay of the people from the Coast. Each region has its cash crops. I would like to support it because the people of the Coast supported us in the 11th Parliament when we were struggling to have *miraa* classified as a cash crop.

I support.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I cannot tell who that Member is at the far end because of the mask. He looks very persistent. Yes.

Hon. Jones Mlolwa (Voi, ODM): Thank you, Hon. Temporary Deputy Chairman. I want to support. My name is Jones Mlolwa, the Member for Voi.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I got you now. Wear your mask now.

Hon. Jones Mlolwa (Voi, ODM): Thank you, Hon. Temporary Deputy Chairman. I support Hon. Baya's amendment because coconut and cashew nuts are the mainstay of the coastal people, especially in the coastal strip. This has really helped the coastal people, but because the crops are not recognised, they are not getting full value. So, I support. I am not just supporting because it is a coastal matter, but because it is a national matter for everybody.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have Hon. Waluke.

Hon. John Waluke (Sirisia, JP): Thank you, Hon. Temporary Deputy Chairman. I support the amendment by Hon. Baya. The coastal region does not have many agriculture-based parastatals. There are only two crops which he has mentioned that, as a House, we need to capture. I am not supporting the amendment because the two crops are in the coastal region, but because we need to support the efforts of the people of the coastal region.

I support the amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well. Let us have two other Members and then we close this matter because we must make progress.

Hon. Ali Fatuma, you have the Floor.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Deputy Chairman, I support Hon. Baya's amendment because it has gone through all the stages. In the spirit of inclusivity and accommodating each other, it is good that we promote the people from the Coast region because they are good people. We must also support all regions in such a good initiative. So, I support and urge the other Members to support this amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Wamalwa, what is this new piece of information that you say you have?

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Hon. Temporary Deputy Chairman, one cannot say that we are supporting others and leaving others for purposes of inclusivity. That is a very vague reason. When a Motion or Bill comes to the House, we look at its merits and demerits.

There is a difference between Hon. Gitonga's amendment and Hon. Baya's amendment, and this clarity needs to come out. The product of Hon. Baya is already scheduled. That is one thing that we need to know. It is already scheduled. It is only that he is trying to move it from one category to an upper category for purposes of prioritisation and maybe to rejuvenate the economy of the Coast region, unlike Hon. Gitonga's which has not been scheduled. So, the two are totally different.

Secondly, we need your direction on Hon. Baya's amendment because under Hon. Gitonga's amendment, we have rejected the *Bixa Orellana*. However, Hon. Baya's amendment also includes the same and, in fact, when he was moving, he only gave a justification of the coconut and cashew nut. He did not justify the scheduling of *Bixa Orellana*, which had been rejected earlier. So, what happens in this case? Does it mean that we amend by rejecting the *Bixa Orellana* and then we move forward with coconut and cashew nuts? How do we go about this?

I seek your direction.

The Temporary Deputy Chairman (Hon. Patrick Mariru): We will move clause by clause.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Exactly, Hon. Temporary Deputy Chairman. I thought so because even in his justification...

The Temporary Deputy Chairman (Hon. Patrick Mariru): I got you, Hon. Wamalwa. In fact, you have raised a fundamental question. Hon. Murugara dropped his amendment and as a consequence to that, Part (c) of what Hon. Baya has raised will not arise. So, for clarity, I will raise clause by clause, so that it becomes very clear.

Hon. Members, let us make progress. Hon. Baya, what information do you need? Let us make progress. You have one minute.

Hon. Owen Baya (Kilifi North, ODM): Hon. Temporary Deputy Chairman, bixa is the main amendment which was debated here for three hours and passed for this Bill to get to this stage. So, it will be very unfortunate that it suffers any other consequence. Hon. Tandaza brought the amendment and this is his Motion. What we attempt to do is to make amendment within the amendment that he is making. Therefore, we should not disadvantage Hon. Tandaza because this was the main amendment. There was a lengthy debate on the achiote or mrangi or bixa. So, it should be voted on its own.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Probably, Hon. Tandaza needs to make that clear.

Hon. Owen Baya (Kilifi North, ODM): Hon. Temporary Deputy Chairman, that was the main Motion.

Thank you.

(Loud consultations)

Achiote continues to move on because that was the main Motion and there was general agreement during the debate on it.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Thank you for explaining the matter for Members to be very clear. Hon. Murugara had raised two parts. One was about the mag beans; the green beans or *dengu*. There was also a small aspect of achiote, which was the subject of Hon. Tandaza's Motion. Hon. Baya has still reemphasised Hon. Tandaza's amendment. So, in that case, the two are not in contradiction at all. Nevertheless, I will specifically raise clause by clause just for that to be very clear.

I proceed to put the Question on Clause 2 (a).

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

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, I now put the Question on Clause 2(b).

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

The Temporary Deputy Chairman (Hon. Patrick Mariru): Lastly, I put the Question on Clause 2(c).

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

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are done with the consideration of this Bill.

Hon. Tandaza, you have the Floor.

Hon. Kassim Tandaza (Matuga, ANC): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Crops (Amendment) Bill (National Assembly Bill No.25 of 2019) and its approval thereof with amendments.

(Question put and agreed to)

(The House resumed)

[The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu) in the Chair]

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Chairperson to report to the House.

CONSIDERATION OF REPORT

THE CROPS (AMENDMENT) BILL

Hon. Patrick Mariru (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Crops (Amendment) Bill (National Assembly Bill No. 25 of 2019) and its approval thereof with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. The Mover to move agreement with the Report. Give him the microphone.

Hon. Kassim Tandaza (Matuga, ANC): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Owen Baya to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Owen Baya (Kilifi North, ODM): Thank you very much, Hon. Temporary Deputy Speaker. I would like to express our sincere gratitude to this House and thank every Member who has contributed in the journey for this Bill go through all these paces until it reached this level. I would like to say that this should be one of the happiest days for the people at the Coast and Kenya in general, that these crops are now recognised and put in a place where they can get Government funding, and marketing, and, therefore, spur a whole economic sector that has been going under.

Therefore, I would like to say to everybody who contributed to this Bill, debated and made it possible that we start the journey to revive these crops and give achiote (mrangi) or *bixa orellana* a chance to be a scheduled crop for the general growth of the local economy of the Coast and the general growth of this country. I want to say thank you very much and I sincerely appreciate everybody. I thank you and congratulate every Member who has participated.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): From where I sit, we have no numbers to put the Question for agreement with the Report. I order that the Question on the same be deferred.

(Putting of the Question deferred)

Next Order!

BILL

Second Reading

THE LAW OF SUCCESSION (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let me have the Chairperson, the Mover, Hon. Peter Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker. With your blessings, I am becoming a Chairperson very soon. We always make a step every time you have spoken well.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I bless you.

Hon. Peter Kaluma (Homa Bay Town, ODM): I am moving the Law of Succession (Amendment) Bill (National Assembly Bill No.75 of 2019).

This is a very small proposed amendment to the Law of Succession Act, but an amendment with very far-reaching and material consequences. Hon. Temporary Deputy Speaker and Hon. Members, I am largely looking to amend Section 29 of the current Law of Succession Act. If Members would care to look at the current Section 29 and how we are redrafting it, this is what we seek to achieve. A look at the current Section 29 indicates that husbands, where wives die, are not entitled to seek inheritance of their wives' estate unless they can go to court and prove that the wife was maintaining them or they were dependants of the wife. The current Section 29 is, in terms of categorising or defining dependants, only limited to wife or wives, or former wife or wives.

What I am doing at the first level, Hon. Members, is to remove "wife or wives, or former wife or wives" and having in their place "spouse", so that whether you are a husband or a wife and your partner is dead, as a spouse, you may be entitled to succession. If you look at the amendment I am proposing, I am also deleting the current Section 29(c) which says: "Where the deceased was a woman, her husband will only be a dependant if he was being maintained by her immediately prior to the date of her death." So that when my wife dies, I pray that does not happen, I do not need to prove that I was depending on my wife, the property of my wife is a property I can, as a spouse, seek to administer for the benefit of our family and children. Essentially, I am removing the discrimination in terms of the architecture of the current provisions of Section 29, so that either spouse, whether a husband or a wife, can seek to inherit, not that for a husband, you only seek if you prove you were a dependant.

If you look critically at this amendment, at Section 29(a), the manner in which the spouse or wife or wives, or former wife and wives, are defined is very vague. It may lend itself to things which are not appreciated or accepted in our legal regime. Things like gay marriages and lesbianism, can be accepted under this broad definition. That is why I am also proposing an amendment to the definition of "spouse". What I have proposed there, before I say much about the

motivation, is that “a spouse” shall mean husband or a wife or wives as recognised under the Marriage Act. We passed the new Marriage Act in the last Parliament and we have not brought the Law of Succession Act to be attune to it. So, I am saying any spouse can inherit where their spouses die and they can administer the estate for the family. However, the spouse must also be the spouse as defined in the Marriage Act, not a bare frame that we currently have which can make a man coming to this country with a fellow man claiming they are spouses for purposes of succession.

On the face of it, that is what I am seeking to do. I am seeking to align the Law of Succession Act to the Marriage Act which we passed and it is a very detailed law. We want to make it non-discriminatory in terms of husbands also inheriting.

The definition of “spouse”, when looked at that way, may appear light. However, this is the ramification I spoke about. You have seen too many cases, currently, where a person dies. The person is either married under customary law, in which case the bride price has been exchanged, families have known one another, they are staying together or, they may be married under statutory law in which case you have gone to the Attorney-General Chambers or you may have wedded. You have seen cases where people die, especially men, and people who do not qualify to be spouses under the Marriage Act, while your wife, the widowed is mourning and burying you, the person who is not qualified at all, in fact, possibly a girlfriend who was infringing on your family, is busy petitioning in another court elsewhere and the person who was hiding with you away from your family now petitions and because of the current broad definitions of “wife” under the Act which I am replacing with “spouse” gets entitled and disinherits the family. This is something that will be cleansed.

As a very young lawyer, I did the matter of the estate of Ambrose Adongo Adeya and I want to request Members to look at it because it is a reported case. This gentleman was duly wedded in church. Now, that kind of marriage under the Act, then and now, is strictly monogamous. When the former secretary of Kenya National Union of Teachers (KNUT) passed on and was being buried by his sole wife somewhere in Siaya, a lady was busy petitioning in Nairobi. The lady went to court and said that Adongo bought her tea and was taking care of her. If you read that case, you will discover that the lady was duly wedded and was living with another man with whom she had children.

There is an improper definition of “wife” and that is why I am replacing it with the word “spouse”. We appeared before Judge Martha Koome who ordered that a lady who depended on you, that is, even if you just took tea and a photo once, confirms that she is your wife. That case will confirm that the Adongos were ordered to give that lady a third of his estate. People may think that he did not have much, but he had properties all over Nairobi. We found the husband to this lady in Usenge and he brought the marriage certificate and was surprised to see his wife claiming to be Adongo’s wife for purposes of succession. Because of the improper definition of the word “wife”, just by taking tea and pictures with Adongo, the lady was given a third of his estate which consisted of millions of money and properties in Blue Sky and Mountain View. You will get the details in the case.

We were to appeal, but for decency the family of Adongo agreed that they did not want to pursue that route. It is because their father had served the country well in the teaching profession. That precedent has been in existence and it is only after late last year that Lady Judge Asenath Ongeru - May God bless her - said that we now have a Marriage Act that properly defines a spouse. Whatever you are doing with someone in their lifetime, when he dies, just as you were hiding, let it die with him and allow his family to inherit his property, and that is what I am seeking to do here.

Hon. Temporary Deputy Speaker, there was a gentleman called Chacha whose name floated around Parliament the other time. I just want to confirm that it is possible for him to go to court and claim money and he will be granted. The female Members are lucky because the mischievous males are not bold enough to go to court. If Chacha was to go to court, assuming those things were a reality, we will be in a very messy situation.

In good faith, I am seeking to open inheritance of the estate of a deceased spouse to any spouse, irrespective of their gender. I am opening inheritance of the estate of a deceased person to all his children whether or not they depended on him. If a child can prove that Kaluma is his father, just in line with Article 53 of the Constitution, he or she should be allowed to inherit my property.

Hon. Temporary Deputy Speaker, I am seeking to define the word “spouse” for purposes of going to court so that my wife should not be mourning and another woman I met in a retreat is in a court to disturb her after I am dead. When I am dead, please allow me to rest in peace. We are allowed to marry many women because we passed the Marriage Act that recognises polygamy and even allows for issuance of certificates. If we agree and follow the parameters and my wives are at peace, then they can inherit my property, but any other woman I am sneaking around with should not disturb them when I am dead.

I beg to move this Bill. We should make it clear such that the judges who have been ruling that they cannot allow everyone to claim to be the wife because it is defined in the Marriage Act, can now appreciate they are doing a good thing.

I want to request the Chairman of all Catholic MPs in the country, Hon. Chris Wamalwa, who believes in the protection of the family and only those within the family, to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Chris Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimilili, JP): Thank you, Hon. Temporary Deputy Speaker. The law of succession is important. We have seen cases where when a man dies, there is a lot of intermeddling with the property. The law of succession must give a clear framework on what should happen to the property of the deceased. This amendment seeks to harmonise the Marriage Act that was passed in this House which recognises the five systems of marriage, namely; Civil, Christian, Hindu, customary and Islamic. It is only the customary and the Islamic marriages that have a potential of polygamy. It is only after a person dies that we see people emerging to reap where they never sowed.

Hon. Temporary Deputy Speaker, this amendment seeks to bring some clarity that in the event that a person dies, there is proper protection of the spouses, children and the legitimate people who are supposed to be the beneficiaries. We have seen instances where children of the deceased are chased from school because the ruling on the succession matter has delayed.

We now have a total paradigm shift which will be treated by the term “spouse”. In the traditional days men were supposed to take care of women, but women are now taking care of men as we saw in the case of the Keroche family. It was trending in the social media that young men are now looking for sponsors. When you talk of a spouse, it does not just refer to a man taking care of a woman and you do not need to prove that because the old Act states that if a man was being maintained by a woman prior to her death, it is automatic that he becomes the beneficiary of her estate. The Marriage Act states that both the husband the wife have equal rights. This is an important amendment that will add a lot of value by protecting the spouses and children so as to deal with those who want to reap where they never sowed by rushing to courts.

Thank you, Hon. Temporary Deputy Speaker. I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Didmus Barasa.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support this important Bill. I know we will have an opportunity during Committee of the whole House to enrich it further. While we support men inheriting their spouses' property, we need to take note of men who have become animals. They marry ailing widows for the purpose of only taking over their property. There was a judgement in Eldoret in which the court warned widows against one particular person who had made it a tradition of marrying widows to fleece them of their hard-earned property.

I want to really thank Hon. Kaluma. These are the brains that the family division of the High Court has been missing. It does not make sense that after the death of a spouse, members of the extended family masquerade as beneficiaries and they end up tormenting widows. This Bill has come at the right time.

I want to urge Members of this House who believe in family values and the sanity of the family to support and approve this Bill. This is so that tomorrow, if one loses their spouse, the one who remains behind should not mourn in double jeopardy. We have widows who mourn their deceased husbands as they also mourn about what awaits them because their in-laws begin to claim the properties that the couple has worked very hard to get. We need to make it very clear that I have no business with the property belonging to my brother or sister. That property belongs to him or her and his or her spouse.

There are very many families suffering. There are many widows living on the streets because they are poor, not because they never worked hard in their youth, but because a lazy person in the name of an in-law came in after the death of the spouse and claimed nearly all of the property. Some are even thrown out of their land. Because of our judicial system, these families are unable to get justice in a court of law. The cases drag on and on until they end up dying. So, this is a Bill that we should all support. We look forward to the Committee of the whole House so that we can propose further amendments to make this law a saviour for families in this country.

With those few remarks, Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I take this opportunity to thank my brother Hon. Peter Kaluma for coming up with this Bill. There are wars and battles out there. Once a spouse passes on, a problem begins. I thank Hon. Kaluma for coming up with this clarity so that we know exactly who is supposed to claim the estate of a deceased person.

There are different types of marriages: Islamic, customary and Christian. The shortcoming is that we have not had clarity. Once a man dies, brothers, step-brothers and cousins come in to be part and parcel of the family. They go to the extent of even going to court and because of corruption, they ensure that they inherit the estate. Even the family's piece of land is subdivided. This Bill is very timely and should be supported by this House to provide clarity on what should happen. As lawmakers of this country, people are looking up to us to come up with this kind of law. When we get to the Committee of the whole House, we will bring amendments to make the Bill even better than it is.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Sirisia, Hon. Koyi Waluke.

Hon. John Waluke (Sirisia, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill by Hon. Kaluma because it affects us as Members of Parliament and the country as a whole.

Marriage is very vital to everybody. For many years, many families have been affected because of property wars. There are people out there who are out to take over other people's property. Love is always blind. Somebody can make love and then his or her property goes. The family and especially children are left without anything. So this Bill is very important to us. I can use my own example. I have two wives and both require to be recognised. They must equally share my property when I die.

I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Dennitah Ghati.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for the opportunity to support this Bill. I want to thank Hon. Kaluma, Member for Homa Bay Town, because he has brought a Bill for posterity.

I speak as a woman of this country. You know that 90 per cent of people who are caught in succession and inheritance quagmires are women. Women of Kenya or women of the world do not have access to land or property. We have seen cases where immediately a husband dies, the family pounces on the woman, snatching everything as if the woman did not get into the marriage with anything. That is why it is very important to look at how to quantify the work that a woman brings into a marriage. It is not necessary that she has to be the breadwinner.

Hon. Temporary Deputy Speaker, this Bill is going to save women. It is a remedy to the women of this country because they are basically affected. It is high time people normalised writing of wills. I do not know why people fear writing wills. This is so that upon their departure, we avoid what is happening in this country. We have seen women suffer disproportionately upon marriage because we do not have clear laws that protect them even in marriage. When women enter into marriage, the domestic work they do is not quantified. We must price what women bring into marriages and unions.

When you get married in the United States of America and you find your spouse with a certain property, it belongs to him or her. What you acquire together in marriage belongs to both of you. We need to think of how to protect women upon marriage. I am looking forward to creating more awareness on issues of inheritance and property rights, especially for women, so that we save them.

When you switch on your television sets, you see women being disowned by families upon death of their spouses. Before a woman buries her spouse, the husband's family is already into her property as if she contributed nothing in their union. This Bill is extremely important. It is for posterity. It seeks to protect women as it recognises their contribution in the union called marriage.

With those remarks, I support and thank the Member for Homa Bay Town for bringing this Bill to the House.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Garissa Township, Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, last night I read this Bill together with the Marriage Act. At this stage, I rise to contribute to the Second Reading of the Law of Succession (Amendment) Bill. I want the House to listen to me. As I listened to Hon. Dennitah Ghati, I noted that probably she has not read the Bill. I had a chance to compare this Bill with the Marriage Act, 2014 and the Law of Succession Act (Cap. 160). Hon. Kaluma

seeks to deal with what he calls, in the Memorandum of Objects, “opportunistic schemers”. These are people who seek to disenfranchise the legitimate heirs.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Duale, I can see the passion you have on this Bill. As we agreed in the morning, please, put on your mask.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, the people around me are wearing masks. If you watch the House of Commons proceedings, you would know that if the Members around you are wearing masks, you are allowed to speak without one. Yesterday, the Minister for Health was surrounded by the Council of Governors.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Duale, there was a ruling by the Speaker before you arrived that, Members should wear masks. We cannot change the rules.

Hon. Aden Duale (Garissa Township, JP): I have lost the momentum. Hon. Kaluma is dealing with something called “opportunistic schemers” who, in his opinion, seek to disenfranchise the legitimate owners when somebody dies. This proposal must be well thought out so that we do not pass a law that will disenfranchise legitimate heirs to the properties of deceased persons. We must be very careful. This law must balance the intended objectives, taking into account proposals and scenarios that may arise in any case.

We have a number of issues. I want him to convince us. He is seeking to introduce a new definition of the term “spouse” as used in the Marriage Act. Hon. Ghati, you should be number one. What is the difference between his definition of a spouse in this Bill and the one in the Marriage Act? Unless my understanding of the law is wrong, I ask Hon. Kaluma and other learned friends in this House to confirm that Clause 2 of this Bill does not refer to the correct definition of “spouse” as defined in the Marriage Act. Please, get me right; it is erroneous. The definition of “spouse” in Clause 2 is not in tandem with the way it has been done in the Marriage Act and hence is erroneous. We can change it during the Committee of the whole House.

Secondly, Clause 3 of the Bill seeks to amend Section 29 of the Law of Succession Act. Hon. Kaluma, you are amending Section 29 of the Law of Succession Act in Clause 3. You are substituting the definition of “dependant”. By the time I finish, women in this House will oppose this Bill. Hon. Kaluma’s Bill wants to exclude a former wife or wives as dependants. What happens with this law once passed? For example, you were in marriage with a woman for 30 years. She bore kids with you but you, unfortunately, divorced each other. A year after the divorce, you married again and shortly thereafter you pass on. It will mean that the woman you spent 30 years with as your legally married wife shall not be recognised by law. A woman you were married to for 30 years but divorced and re-married for two years and, unfortunately, you die cannot access any of your properties.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Duale, let us hear from Hon. Kaluma. Is it a point of order or information? You already prosecuted your issues.

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Deputy Speaker, from the manner of his presentation, he is seeking information.

I am rising on a point of order to ask whether he is right to mislead the House as regards to what the Bill seeks to do in terms of definitions. He says the definition of “spouse” is different from what is in the Marriage Act. In this Bill, I am saying “spouse” shall have the meaning as in the Marriage Act. I have borrowed the definition from the existing law.

Hon. Duale says that a former wife should inherit a deceased person’s estate. I want to remind him that among the matters a divorce court deals with is distribution of property between spouses. As one divorces, one goes away with one’s share of the property that was obtained during

the marriage. So, there is no reason for a former spouse to come for a share of the deceased. You do not understand these things. Allow us to explain to you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Kaluma! He has also read the Bill. It is important for you to seek for the right way to clarify.

Hon. Aden Duale (Garissa Township, JP): I have read this Bill. I want to go on record. The House can pass or reject it, but the fact that today I can go to the *Hansard* recording room and listen to what Tom Mboya said 50 years ago makes me to also want be on record. I want the people coming after me to also listen to my contributions in the future.

Hon. Temporary Deputy Speaker, I have asked, this law once passed, will it mean that the wife you spend 30 years with shall not be recognised? Could you call your former wife who has spent her entire life with you not a legitimate heir to your property?

If you allow me, Clause 3 of the Bill is also very ambiguous. I want Hon. Kaluma to listen to me. I am told the law is not drafted in plural, but rather in singular. However, my view is that the existing Section 29 is clear than what is being proposed in Clause 3 of the Bill, which only refers to a spouse. The existing Section 29 of the Bill makes it clear; wife or wives. We need clarity. It is important for the Member for Homa Bay Town to make it clear.

Finally, please give me an extra one minute. The proposed Section 29(2) does what we call “give and take” which if you see in any Bill, is a sure recipe for ambiguity.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Please give him one more minute as his time was consumed by Hon. Kaluma.

Hon. Aden Duale (Garissa Township, JP): On Section 29(1) he defines who is a dependent and on Section 29(2) he gives a provision that one is not a dependent unless he or she can prove that they were maintained by the deceased for two years.

Hon. Temporary Deputy Speaker, why include a former wife and allow a person who can prove you were maintaining her for two years before your death to claim property? This Bill is giving legitimacy to “come we stay”. The women you keep in apartments can inherit your wealth while the woman who lived with you for 30 years and has your children cannot get a penny.

Finally, these are pertinent issues that Hon. Kaluma needs to address otherwise the existing law in my opinion, the Marriage Act, which took us along time, is far much better than what is being proposed. I have no problem because I am of the Muslim faith. Our inheritance is documented in the holy Quran, but as a Kenyan I have voters who are not Muslims and I must protect them. The women in my constituency who are not Muslims must be protected from the bad laws that Hon. Kaluma wants to sneak in.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, it is important for us to read these Bills so that we debate from an informed point.

Let me have Hon. Adagala, the Member for Vihiga.

Hon. (Ms.) Beatrice Adagala (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support the Law of Succession (Amendment Bill) National Assembly Bill No.75 of 2019 by Hon. Kaluma.

Actually to say the truth, it has been very difficult for women of this country when the husbands pass away. We have seen several cases coming up; more than 10 women rushing to courts and demanding to get a share of the deceased’s property. This has been painful. I have witnessed many cases and seen on television women crying and lamenting how they have lost their bread winner only for us to realise that somebody who masquerades or had just taken a photo with the husband claims to be the wife.

This is causing pain to families and is an embarrassment to the deceased, especially if he was a re-known member of the society. We have seen many such cases like what Hon. Duale is claiming. We also blame the men who go masquerading with girls. They should stop. They should not think that Hon. Duale is propagating the idea that they should claim for properties.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Order! The Hon. Members who are not wearing their masks, like the Member behind the one contributing, I will rule you out of order.

Hon. (Ms.) Beatrice Adagala (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker. Hon. Duale wants to look like he is protecting some girls out there.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Elisha, you are not wearing your mask.

Hon. (Ms.) Beatrice Adagala (Vihiga CWR, ANC): He is very near me. Thank you for the protection.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are very near the Member contributing.

Hon. (Ms.) Beatrice Adagala (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker for protecting me because he is so close to me. With the third wave, it has become too much.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes, we made a decision this morning. In fact, the Members who will not be wearing their masks the rules have not changed. You will be ruled out of order.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Duale let me hear your intervention.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker. I do not want to interrupt my good friend, Hon. Adagala. She is saying I am protecting girls. Which girls when I only have four boys? I have not given birth to a girl. I am not protecting girls. I do not know if I heard her clearly. If that is true then she needs to withdraw. I do not protect girls. Even in my home the only girl there is my wife.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You can also protect her.

Hon. Aden Duale (Garissa Township, JP): Of course, I protect my wife. She is saying that I am protecting girls. I do not play with those girls in apartments, the come we stay. I have no business with them.

Hon. (Ms.) Beatrice Adagala (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker. I would want to tell Hon. Duale that I am the only girl in a house of boys, right from where I was born up to where I am now. So, I have to protect these men from those promiscuous fellows you think you can protect. Hon. Duale you are making me to start talking of other things.

Hon. Kaluma has brought this Bill at the right time. These amendments have to be made. If a man is allowed to have many wives, let them be known by the other spouses. Not to just hide them and when he is dead, they come to claim for properties and other things. Therefore, I support the amendments to the Law of Succession Bill by Hon. Kaluma.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. You support. The Commissioner, Member for Taveta, Hon. Shaban Naomi.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Thank you, Hon. Temporary Deputy Speaker. First of all, I want to add my voice in congratulating Hon. Peter Kaluma for bringing these amendments to the Law of Succession Bill. This is very important because of the confusion that is there.

Just to give a background, the Marriage Act was an issue that was discussed for many years, from the time we had our first President to our third. Just when we were transitioning to the fourth President, His Excellency President Uhuru Kenyatta, I was the Minister for Gender. We sat down with the Attorney-General after President Kibaki asked us to deal with the Marriage Bill once and for all. The religious leaders together with the Attorney-General, Prof. Githu Muigai did a good job. We sat together and all agreed why we do not want to see women running helter-skelter after being asked when they got married.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Taveta, it is across the House that we all wear our masks. I know it is uncomfortable.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Being a medic I am very sorry. That stalemate was then resolved and in 2014 we got the Marriage Act.

Hon. Temporary Deputy Speaker, so many women were crying that they have been married customarily and that the ones who had marriage certificates were the only ones who were being recognised.

Like Hon. Duale was saying, a woman had been married for 30 years, but because it was under customary law, at the end of it maybe they divorced or they separated at that time and since there was no law to take care of that person once somebody else had a marriage certificate, they were actually left destitute. So, this was solved by the Marriage Act.

However, when it comes to succession, again I just want to kindly ask that as much as Hon. Kaluma has brought this amendment, it is important for us to be very clear on certain things. As we sit here as Members of Parliament and even the ones outside there, we take care of so many people including people who have been depending on us and the villagers. We have helped children of our domestic workers and all that. Clause 3(2) of these Bills says:

“A person not named in this section shall not be a dependant for the purposes of this Act unless the person proves that they have been maintained by the deceased for a period of two years...”

Supposing this is a child of a villager you have been assisting, do they have a right to your property? We have to ask those questions. I think it will be good for Hon. Kaluma to bring that amendment and remove that particular bit so that it is not every Tom, Dick and Harry who walks in and tries to claim what is not rightfully theirs.

However, again we need to protect the children and spouses of the deceased. I think it is very important that spouses are recognised. You do not have to even prove that you are being maintained. For as long as you are a spouse, do you have to prove? You do not have to prove. It is important for us to be very clear. A spouse is a spouse. Once you have owned that spouse and everybody knows that is a spouse, they only have to get what is rightfully theirs.

With those few remarks, I thank Hon. Kaluma for bringing this amendment.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): We have the Member for Westlands, Hon. Tim Wanyonyi.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to also speak on this Bill. At the outset, I support the amendments. I also

want to say that it is important that as much as we enact and legislate on these laws, we also need to put our houses in order before we depart from this planet.

As Hon. Dennitah said, we fear to write wills. In fact when you tell an African man to write a will, he thinks he will die tomorrow. I believe that once you have made yourself clear, you will distinguish between pretenders and genuine people who can claim your estate.

We have seen many times when people die, many people pop up, some you have not heard of and some are even foreigners. They come and want to claim. This happens especially to people who have properties. I have never heard that people come and claim from men who die poor. We just want to make sure that there is clarity.

A will provides some leeway to people who have not been recognised in law. They can now be captured in this amendment so that no one will just pop from anywhere to come and lay claim. You have seen people who have been associated with the deceased sometimes tend to behave like they have a claim in his estate.

This amendment is going to bring sanity in these succession laws and also protect families. Sometimes families are disgraced by these people who just come around to lay claim to the estate of the deceased because of their association with him. I just want to say that this is a good amendment. If passed, even with clarifications and amendments that will come at the Committee of the whole House stage, it is going to improve what is already there. As I have always said, it is always good to put your house in order before you depart from this earth, so that you can protect those that you have left behind.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Member for Turkana South, Hon. Lomenen Ekomwa.

Hon. James Lomenen (Turkana South, JP): Thank you, Hon. Temporary Deputy Speaker. I support the Law on Succession (Amendment) Bill. I have listened to the Members who have spoken before me and I really want to understand. When you marry two wives and one gets 10 children and the other one gets two, what happens when you leave this world? Do they divide your property equally between the two wives? That is what I would want to understand because it is very important.

The other thing is, in customary law, particularly in my culture, if a woman is married officially, she will remain the wife to her husband for the rest of her life, even if she divorces or remarries. She will still remain the wife of the person who married her officially. Even if she bears other children to her second husband, those children will be considered children of her first husband. I do not know whether Hon. Kaluma has taken care of that because the Constitution respects culture and there is diversity in culture.

Now that Hon. Kaluma is not here, I do not know who is taking care of this?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): It is true, the Mover should be here to listen to contributions and make clarifications.

Hon. James Lomenen (Turkana South, JP): Hon. Temporary Deputy Speaker, we are all mature people and most of us are married. Hon. Duale said he is protecting his constituents. It is very true that we represent people; the disadvantaged and the advantaged. Scientifically, women are not allowed to marry more than one man. However, men are allowed to marry more than one wife. Scientifically, the number of women is higher than that of men. It is the X chromosome against the Y chromosome. So, what do we do? Since genetically, we are allowed to marry more women, what do we do to these many people? They need men to inherit, they need to be married. Can Hon. Kaluma take care of that? In generations to come, how will we take care of these people?

For now, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I am sure Hon. Kaluma will make the clarifications as sought by the Member for Turkana South.

Let us have the Member for Loima, Hon. Lomorukai Ekamais. That is a very nice name. How do you pronounce your last name?

Hon. Jeremiah Lomorukai (Loima, ODM): Ekamais Lomorukai.

Thank you, Hon. Temporary Deputy Speaker. I rise to support this very important Bill by Hon. Kaluma. Hon. Kaluma is my good friend.

This Bill has come at the right time. Those women and men out there who are seeing us discussing this very important Bill will be extremely happy because it takes care of the interests of every spouse, including men. Hon. Kaluma has replaced the term “wife” with the term “spouse”. That means that the interests of all spouses will be taken care of.

I am a pastoralist. Pastoralists suffer a lot when a spouse passes on. The culture and tradition of pastoralists, just as my colleague from Turkana South has mentioned, is a bit complicated. When a husband dies, even the uncles of the wife will come and take all the property that should have been taken by the spouse who has lost her husband. The Bill takes care of the disadvantages that haunt those who remain after their spouse has died.

In our Turkana culture, and even most of the neighbourhood, including the Pokot, a person is officially married if he or she is traditionally married. They do not consider a church wedding. When you have not married your spouse officially or traditionally, even your children will not be yours until you follow those important stages of marriage, such as killing a bull. Only then can you claim your children. This law tries to take care of such issues so that every spouse, even a man, has the right to inherit the property of their spouse.

I take this opportunity to support this Bill. It is timely and takes care of every spouse.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Trans Nzoia, the County Member for Trans Nzoia.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this chance. I also rise to support the Bill.

Some of us are victims. When I lost my late husband, according to our tradition, I was asked to mention each and every thing that we had so that the brothers and sisters of my late spouse could benefit. Having this law in place will help many people.

My colleagues who have spoken to the Bill talked about widows. It is true. Widows have really suffered. Some of them normally come to us as leaders and ask us to come to their rescue.

Hon. Temporary Deputy Speaker, I know very well that people have so many problems when they divorce and spouses pass on. This law will help them. If the two of you pass on and you leave your kids, I ask Mr. Kaluma to tell us how the beneficiaries will benefit out of that.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Trans Nzoia, we address each other as Hon. Members but not as “Mr.”

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Speaker. Suppose the two spouses pass on and they leave their kids behind, who are the beneficiaries? Some of them are married. I want Hon. Kaluma to tell us how they will handle such a case.

My worry is about our spouses who are men. They can marry as many wives as they can. A man can have 10 wives. How will you divide that property to these spouses? I want Hon. Kaluma to look into that issue, so that everybody will be comfortable when he or she loses a spouse.

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Jared Okelo.

Hon. Jared Okelo (Nyando, ODM): I thank you very much, Hon. Temporary Deputy Speaker.

(Hon. Patrick Makau and Hon. Richard Tong'i stood in their places and raised up their hands)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Who are these Members who are upstanding? You should not raise hands in the Chamber, Hon. Members. Hon. King'ola and the Member for Nyaribari Chache who does not have a mask, you are out of order! You should not raise hands in the Chamber.

Carry on, Hon. Jared Okelo.

Hon. Jared Okelo (Nyando, ODM): I hope that they have not eaten into my time. Hon. Temporary Deputy Speaker, I support the intent by Hon. Naomi Shaban to delete the last clause that talks about anyone who has been in your custody for the last two years to be included in the wealth distribution.

I support this amendment.

The industrial revolution brought so many issues like holding wealth and having money in the banks. That is what has necessitated the problems we experience today. In the olden days, our fore bearers had herds of cattle. That was all they had. They could marry as many wives as their homes could contain. Therefore, there were no many issues around who owns what and at what time. The Law of Succession (Amendment) Bill which was brought forward by the Member for Homa Bay Town seeks to clarify and complement the Marriage Act.

It is true that there has been trouble for widows and widowers to assume ownership of estates when one member of that family passes on. It has become very difficult even for courts of law to come up with a ruling on exactly who is eligible to own the deceased person's property. That is why when you read several judgements; each and every judge has his or her own way of understanding succession. This Bill will put a lot of clarity on who is capable of owning the deceased person's property. It has gone further to clarify who then becomes a spouse. By our understanding, stemming from Christianity as well, a spouse is a man and a wife who live together for procreation.

(Several Members spoke off record)

Yes, they have put it clearly. So, that is the definition and I think when there will be need for wealth to be distributed, a court of law, just in case they will be seized of this matter, will be able to know exactly who is eligible to assume ownership.

Hon. Temporary Deputy Speaker, widows have lost property to shadowy women who contributed zero to acquisition of wealth. This House, to me, seems jinxed. That when a Member of this House passes on, particularly male, the issue of people mushrooming as girlfriends or wives and coming forward is not a matter of 'if' but 'when'. We have consistently seen this happening. What we have before us here today will put to rest the discord that we have continued to see. But, again, as one Member did allude, you will seldom find such complaints when it comes to people who have left nothing in the name of wealth in our societies. They just die. They are buried and

everything is quiet. If they had wives and children...Whatever little that they have, but commonly there is none, affords them a lot of peace and tranquility during that period.

Several pronouncements have been made by judges but I think that this is going to have the matter put to rest. This is also a warning shot to these women calling themselves 'slay queens'. That their days are numbered and what was otherwise a very rosy picture painted on wealth is now going to be no more. Now they need to know that as they enjoy the trappings and the opulence, they should do so while it lasts. This is because there will be absolutely nothing for posterity here, going forward.

Hon. Kaluma talked about a woman who was married. She was claiming wealth of the deceased man just because he was wealthy. They had just previously sat in a restaurant and she was given tea and *mandazi*. They had related for a very short period of time and that does not qualify anyone to seek to acquire the wealth of any deceased man.

I support this law in its entirety. I will, of course, agree to that slight amendment on the last clause so that families can also have some peace. When people die and families are left behind, they are left mourning and grieving. They do not have the latitude, time and audacity to start fighting in court cases. In the past, we have put a lot of pressure, for absolutely no reason, to families who should be given ample time to mourn their loved ones.

Hon. Temporary Deputy Speaker, I thank you for your time and I entirely support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Mogotio.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this particular amendment to the Law of Succession Act. Many Members have outlined that we are witnessing a lot of acrimony every time a person dies; the issue of sharing property becomes a major problem. This matter mostly surrounds various women who surface during burials wanting to be included in the burial arrangements. After the burial, the issue of succession comes up. They always want to be included in the sharing of property. This law seeks to minimise these intruders. They are not the official or legally married spouses.

For us Kalenjins, we had clear way of sharing property whenever a spouse died, especially the husband. Whether one had one, two or several wives, it was clear how the wives and sons would share the properties. Normally, a ceremony would be conducted after one or two weeks after someone passes on to arrange a way of sharing the properties belonging to the man. Every legal wife was assured of being part of the property-sharing process. In this case, we are going to have a clear law that stipulates those who should benefit from the estate of the departed. This amendment Bill will safeguard the spouses: the legal wives of the departed person.

It is good to put it clearly because it has become a serious problem. Every time somebody passes on, even before he is buried, people rush to court to stop the burial just because they are looking forward to the day after the burial and succession takes centre stage. This Bill will help a lot in terms of curtailing those who are not true beneficiaries of a deceased person's estate.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Mavoko, Hon. King'ola Makau.

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I start by wondering why all the family related Bills touching on women and children, and now on succession, emanate from one Member by the name of Hon. Kaluma. I do not know why. Is it because Hon. Kaluma, as he says, is a great grand-child of the famous "Akuku Danger" or is it because of his wisdom?

Traditionally, it has been thought that it is women who are supposed to inherit or succeed the husband. I submit that this amendment, which seeks to replace the word “wife” with the word “spouse” is progressive because there is no one time we have ever heard men fighting at a woman’s burial or funeral claiming to be husbands of the late women. It was only one place during the burial of the late Wambui Otieno, the wife of Mbugua. The people then told the young man who was living with Wambui Otieno, prior to her death that he was not the husband. That is the only case where we had a man being told that he had nothing to do with the lady. What Hon. Kaluma has done, as other Members have said, will put to an end the kind of fighting that takes place at funerals as *mipango ya kando* demand to be recognised as spouses of deceased persons.

The Kamba people, to whom I belong, believe in the first wife. The property of a deceased husband is divided amongst his wives. Even if one had four wives, and one wife has 10 children while another has one child, the property is divided amongst the widows. If any of the wives dies before the man, the man inherits everything from the woman. Assuming I had married a magistrate, a banker, a pilot and a retired teacher and they all die before me it means I will be a very rich man. So, this law is very encouraging now that the ratio of men to women is increasing. There are more women than men. It also encourages us, Christians, to look at the Muslim tradition with regard to marriage. A Muslim is encouraged to marry up to four wives. It depends on the performance of the women. If one man can marry four women, one is within the religious beliefs. However, as an august House, it is important for us to look at

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Performance of the women or the men?

Hon. Patrick Makau (Mavoko, WDM-K): There is no provision for women marrying men in this country. We are speaking of men marrying women. This amendment is seeking to remove the word “wife” and replace it with “spouse”. It is progressive by all means, and it is a good law that is going to solve the grapples and fights that we have seen.

Hon. Temporary Deputy Speaker, I support this amendment. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. I second that because you have said that men are the ones who are marrying the women, therefore, men are the ones performing.

The Member for Nyaribari Chache, Hon. Tong’i Nyagaka, you have the Floor.

Hon. Richard Tong’i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker. One of your qualities is fairness in your ways of doing things. I am among the first people who came to the House today, but just because somebody was called and used my card, I was disconnected. I am sure that took me to the last number. However, I have been around and I am grateful that I have gained a lot from the contributions from my colleagues, which makes me a better person by that extent.

I rise to support this Law of Succession (Amendment) Bill by Hon. Peter Kaluma. It makes a lot of sense. It is progressive by its nature because, for the longest time, we have taken the husbands to be the head of families without including the wife. For the longest time, whenever succession issues come up, we have only dealt with them in isolation of the wives as if they are not empowered enough to have resources. It took one powerful lady by the name Hon. Judge Asenath Ongeru to make this determination that a spouse can either be a husband or a wife. A beneficiary of the estate of the deceased can also either be a husband or a wife. Before then, it was assumed that any wealth which is out there to be shared can only be emanating from a man, but now we have very powerful ladies.

Madam Temporary Deputy Speaker, you are a testimony to the world that you are a very powerful lady with resources. If anything happened today and you were to share your wealth – I hope that does not happen because I have big dreams for you, and hope that someday you will become a more powerful person than where you are right now – where would your wealth go to? Is it fair that your husband should not have a share of it or to share with your children? The law is progressive and we need to include everybody. Husband and wife should be treated in the same way. We have had some philosophies and arguments over the years beginning from the Beijing Conference that we need to empower women. We have empowered them and they should also be treated the same way men are being treated.

I would like to acknowledge one of the facts that there are ladies out there who are absolutely doing nothing, but only trading their beauties and waiting for a misfortune to happen to their partners who have wealth and then they quickly rush to courts notwithstanding the pain the family is going through. It takes a long time and it is quite a process for men to build the kind of empires that they have. In this case, an empire does not mean that you have to own a bit in Nairobi. Even if you have a shop in the village or some shares in the stock market, you should be given a chance to share the wealth that you have built with your wife in a fair way that does not discriminate your family who supported you.

I was looking at some posts during the International Women’s Day, and some analyst gave an example and explained the kind of contributions ladies make in our lives. They do not have to work in the formal ways that we know. If today you take into account how much ladies are sacrificing for their families to stand, you will start appreciating their contributions.

(Applause)

This is a lady who when everyone is tired and the husband is watching television, will say: “I am tired, and I need to go to bed,” but in actual sense goes to the kitchen to cook and also prepare for the next day by ironing her husband’s clothes and hers as well, so that they are ready without drama. She prepares the children to go to school. The next day she makes sure she is singing them a lullaby before they sleep and switches off the lights in the house. She is the first person to wake up. She does all those things. If you want to quantify all that contribution, probably they make much more in terms of helping the family and the man to have the peace of mind which then helps him to make the kind of money he makes out there. So, the least this lady wants is that when the unfortunate happens and her husband passes on she is exposed to drama by another *kagirl* somewhere in Nairobi who claims to have had tea with the man and, therefore, qualifies to be part of the family. That should not happen. I think this law will help us to address some of those concerns because in the past there have been complaints and misunderstanding that your children who are above 18 years do not qualify to benefit from your estate. That should not be the case because your children might be above 18 years, but they are not lucky, they are not settled and they do not have resources. They need to be given some seed money to start their business and that can only come from the parents, be it a mum or a dad who has passed on.

We were going through some cases yesterday and we were shocked. In Parliament, there are some of our colleagues who passed on many years ago, more than 10 years ago, some more than 15 years and some going to even 20 years ago and the cases have not been determined. That is a replica of what is going on in the country. Because of disagreement between spouses, their estate has not been given out, to date. As an investment banker, I will tell you that the value of money today is not the same as it will be tomorrow. Finally, they will be given the money. The

lawyers will not finish it on court bills, but they will not do much when they are given that money, like they would have done if they were given the money the first day.

Most of these cases are coming up because of that quagmire, misunderstanding and lacuna which has been there in the law. It is not clearly defined who a spouse is. It is not clearly defined who a husband is. It is not clearly defined who a wife is. This is a progressive Bill from Hon. Kaluma even when we all agree that Kaluma is known for brilliance. He has majored mainly on laws dealing with ladies, spouses, divorce and children who have issues. That is what a family is. I wonder because he is a grandson of one of the famous men in this country who had more than 100 wives and he managed them very well and he was able to share his wealth in a very harmonious way without any drama. Maybe that is an example. Maybe that is something that all of us need to learn from.

The Seventh Day Adventist (SDA) church in which I fellowship has a provision on how to help families which are going through difficulties of sharing out the wealth. No wonder honourable Judge Onger Asenath was able to use the wisdom of the training she had in the SDA church. She used it to clear the lacuna which had been in the law in terms of the definition of a husband as a principal beneficiary of the estate of the deceased wife. She was able to define that a spouse is a person you have lived with for many years.

My colleague and a senior Member, Hon. Duale, said that you might have lived with a lady for 30 years or more and, unfortunately, things happen and you divorce during the last one year before you die. But the law has provided for such a case. It has taken into account and provided for that. When you divorce, the estate that you have will be shared with your divorced wife. So, there is no injury. There is nothing that the divorced wife is going to miss.

I would have been happier if Hon. Kaluma was here and we find out exactly how we have taken care of the children of the divorced wife because those are the people we really need to take into account and ensure that they are also provided for. We should be careful not to encourage dependence where our children are going to wait for you to die. Some have gone to a level of taking, say, a loan by using as a guarantee your estate in anticipation of your death.

I support. I think it is a progressive law. It is not perfect, but it is going to address that. It is a step in the right direction. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, great contribution. I wish Hon. Kaluma was here, but I am sure he has left Hon. Kajwang' to take notes. I saw him doing so.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Members. Hon. Members, the time being 1.00 p.m., this House stands adjourned until Thursday, 11th March 2021, at 2.30 p.m.

I thank you all.

The House rose at 1.00 p.m.