

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 22nd April, 2015

The House met at 9.30 a.m.

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

PRAYERS

NOTICE OF MOTION

Hon. Speaker: Let us have hon. Sabina Chege.

ADOPTION OF REPORT ON UNPAID RETIRED TEACHERS PENSION DUES

Hon. (Ms.) S.W. Chege: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the unpaid pension dues to the retired teachers of 1997 group, laid on the Table of the House on Thursday 15th April 2015.

Hon. Speaker: Very well. Let us have the Chairperson of the Departmental Committee on Agriculture, Livestock and Cooperatives. Yes, hon. Mbiuki

MOTION

THE FERTILIZERS AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

Hon. Mbiuki: Thank you. With regard to this Bill, we received a communication from the Senate yesterday at 4.00 p.m. We are scheduled to meet today so that, as a Committee, we can discuss the same. We have not come up with a common position on this proposed amendment from the Senate. Therefore, we humbly request that this business appearing on the Order Paper today be rescheduled to next sitting of the House so that, as a Committee, we can internalise what the proposed amendment from the Senate is; we cannot support it without having on board the entire Committee.

Hon. Speaker: Your Committee received the communication from the Senate yesterday? The Mover is hon. Chris Wamalwa.

Hon. Wakhungu: Thank you. The communication that was sent from the Senate was brought by the Leader of the Majority Party, more than two months ago. Maybe the Departmental Committee on Agriculture, Livestock and Co-operatives was not aware. However, the gist of the matter is that we are only supposed to debate on the Senate

amendments. What the amendments of the Senate brought--- The parent Bill was about fertiliser and foodstuffs. They only expanded the mandate. Instead of it being called “Fertiliser Board” it be called “Fertiliser and Foodstuffs Board” because of the parent Bill. However, the Committee wants to go through it. As the Mover of the Bill, I have no problem. The amendments that the Senate did were to enhance the Bill, and I am in concurrence with what they did. Maybe, we can give them time, but it is not true that the communication came yesterday. The Leader of the Majority Party brought it sometime back.

Thank you.

Hon. Speaker: Well. I should congratulate hon. Simba Arati for assuming the position of Deputy Leader of the Minority Party. For avoidance of doubt, I communicated the Message from Senate on 3rd March 2015. That is why I have been insisting that Chairs and their deputies should always be present. This is because today is 22nd April and I communicated the Message here from the Chair on 3rd March. So, I cannot understand how that Message could then have been received by the Committee yesterday at 4.00 p.m. Something somewhere needs to be cross-checked, either at the Directorate of Committee Services or at the Clerk’s Office; obviously, that kind of communication will go directly to the Directorate of Committee Services for onward transmission to the Clerk in charge of that Committee. That is why we have come up with a system that when committees sit, they must have a system to follow up issues similar to the one that we have on the Order Paper. I hope that committees say prayers but they may not administer any oaths.

It is important that committees have something detailed showing whether they have any petitions, messages from Senate or whatever else for their consideration. This is so that they plan their diaries accordingly. That is why we have come up with a structure for working.

So, if, indeed, the Committee was made aware of this Message from the Senate yesterday at 4.00 pm, it means that somebody should answer. I am assuming that, that is the correct position – that the matter was brought to the attention of the Committee yesterday. I can see hon. Benjamin Washiali trying to catch my eye. Are you a Member of the Committee or, is it the Leader of the Majority Party who wants to comment?

Hon. A.B. Duale: Hon. Speaker, I agree with you. You read that Message on 3rd March. I have always said in the House Business Committee that there is a complete disconnect between the Committees and Director of Committees. We have a memorandum here from the Director of Committees to the Principal Clerk Assistant, who is the head of the secretariat of the Departmental Committee on Agriculture, Livestock and Co-operatives, dated 21st April, 2015, which was yesterday. So, the problem is not even the Committees, or the Chairpersons of the Committee. Somebody in the Clerk’s Office and in the Directorate of Committee Services is sleeping on their jobs. This is the same problem we are facing. When Bills are read for the First time, it is the business of the Clerk’s Office to send them to the respective Committees in order for them to abide by the 21-days rule. That is the problem we have been facing in the last two years. It is all about the administrative work in the Clerk’s Office.

Since this Bill is important and cannot be deliberated without the input of the Departmental Committee on Agriculture, Livestock and Co-operatives, I beg your indulgence that we slot the Third Reading of the Senate Amendments in next Wednesday's Order Paper. In your meetings, you need to ask the Clerk's Office and the Director of Committee Services to do their work properly. We have evidence here; the Committee has evidence as well. The Senate's Message was forwarded to the National Assembly on 3rd March, 2015. Somebody within the Clerk's Office should have sent a memorandum to the Committee on Agriculture, Livestock and Cooperatives on the same day or the following day. If that were the case, the failure would be on the part of the Committee. The head of the secretariat of the Committee should follow the proceedings of the House, or refer to the HANSARD, so that if there is any Bill, Motion or Report touching on Committees, they pick them up and act appropriately. As it is, there is a complete disconnect, hon. Speaker.

Hon. Speaker: Absolutely! It is now clear as to where the weakness or disconnect, is. It is not in the Committee. The Committee cannot be blamed. The Clerk's Office is supposed to liaise with the Director of Committee Services and come up with an explanation. For the time being, both the Second Reading and the Committee of the whole House of that business is adjourned to Wednesday next week, during the morning sitting.

*(Seconding Reading and Committee of the whole House
on The Fertilizers and Animal Foodstuffs (Amendment)
Bill was adjourned)*

BILL

Second Reading

THE IN-VITRO FERTILIZATION BILL

(Hon. (Ms.) Odhiambo-Mabona on 15.4.2015)

(Resumption of debate interrupted on 15.4.2015)

Hon. Speaker: Hon. Members, a total of 17 Members have contributed to this Bill. The 18th Member, who was on the Floor, is hon. Mary Wambui.

Hon. Mary Wambui, you have a balance of nine minutes.

Hon. (Ms.) Munene: Thank you, hon. Speaker. I rise to support this Bill because I understand that when a woman does not have a child or family, it is a big problem. Women tend to suffer more, as I narrated the other day. You remember that Hannah would cry every time she went to church, yet she had a loving husband. The wife of her husband's colleague would abuse Hannah because she did not have children, and she consistently prayed to God to help her, so that she could be removed from that shame and the ridicule of her husband's colleague's wife. God eventually helped her to get children. Hon. Millie has talked freely about how she felt as some people abused her. Therefore, I

urge the Government to agree with this Bill and let women, who cannot bear children, get children. When a woman carries a baby, that baby will always feel that they belong to a family.

Sometimes we get problems when women are told to take DNA tests. When the results of such tests show that a child does not belong to her man, the man abuses his wife. The Government should also make it cheaper for the village woman, who cannot get children to get access to in-vitro fertilisation services. It will be good for this country to start thinking beyond our cultures.

When a woman sleeps with another man and gets pregnant, they start getting problems at home. Even according to the Bible, if a woman does such a thing, she can be divorced by their husband since the act is considered adulterous. Therefore, it is better for us to go ahead and make a law on in-vitro fertilisation, so that our women can also get children.

When you adopt a child, everybody knows that you adopted that child. People will eventually tell the child that they do not belong to your homestead. But when a woman gets pregnant, everybody becomes aware that the child belongs to her. However, we want the in-vitro fertilisation to be secret. The doctors going to provide the service should help our women to ensure that they do not go round talking about it, so that the family can remain intact.

When hon. Lay cried, we felt her pain as women. If a woman does not get a child, her husband will marry another woman. Where is that woman supposed to go? Nowhere! She will be left there. Sometimes she could be sacked from her job just because she does not have a child. It is not her fault. Some men too cannot make their women pregnant. So, we should all agree that this Bill is very important for our families. When childless people become old, who will help them? They should be helped.

That is why I rise to support this Bill and thank hon. Millie for bringing it to the House without fearing what people are going to say. People should come out strongly in this country. When something is right, let us speak the truth. According to the Bible, God does not like cowards.

Thank you very much, hon. Speaker.

Hon. Speaker: Hon. Members, as you will recall, I was not on the Chair to know who has contributed, and so that I do not give the Floor to people who have already contributed---

Yes, hon. Daniel Maanzo!

Hon. Maanzo: Thank you, hon. Speaker, for giving me an opportunity to contribute to this very important Bill. I thank hon. Millie Odhiambo-Mabona for bringing it to the House. This Bill has come at a very good time. It will help many women who have challenges in bearing children. I have looked at the Bill and found that it has a very important provision, save for the fact that it has not prescribed serious penalties for breaking the law that will emanate from it. There are no penalties for those who may misuse minors, just as it has been indicated in Clause 25. It will be good for us to protect minors. There must be a severe sentence for a person who misuses the law.

It will be good to protect minors and a severe sentence has to be passed against persons who misuse this sort of law. The right to information is good, but there are no provisions as to how that information will be communicated and at what age. When it

comes to the Committee Stage, we will be making proposals to improve the law and make it even much better, so that people in this country can be served better.

Currently, what is happening is that if a woman carries a child for another woman she becomes the mother of that child by law. One has to go through a process of adoption in courts. It is a rigorous exercise to claim the child. A lot of time passes and the mother who bore the child for another mother could even get attached to this child. She actually has some rights to this child, although they are not covered by any law. With the current law, she can refuse to hand over the child and might even have to be paid for doing the job of bearing the child. There are no standards as to the minimum amount one should be paid for doing that sort of job. There is no way one can separate the surrogate mother from the child. This is because when she bears a child there is a connection which is natural, and there is every tendency for that particular woman to want to keep that child.

This law is very important and we want to support it. We want it to increase the cohesiveness of the family. It is said that before you build a nation, you have to first build a strong family, then constituencies and eventually a nation.

I support this law.

Hon. Njuki: Thank you, hon. Speaker for giving me the opportunity to support this Bill. Procreation is a biological process that occurs when an egg and a sperm get fertilized. Where it takes place is actually the bone of contention in this particular case. This is because in-vitro fertilization takes place outside the body of an animal. I am of the opinion that, and it is a fact, where the foetus grows does not change the genetic make-up, thus the role of the parents who actually bore the child. It is morally wrong in this time and age, and especially with the advent of technology, to deny women who are not naturally able to have babies the opportunity to do so. This is because the defect is not in the genetic make, the creation of the egg; the defect could be in carrying the foetus to a complete pregnancy term. It is a defect just like many other defects. An example is kidney problems which can actually be solved by one getting a kidney donor. It does not mean that you cannot be functional.

At the moment, without legalization of the whole process, mothers normally refuse to hand over the babies because the period of pregnancy is a very emotional one. This is because the woman undergoes physiological, or anatomical, changes. There is an emotional connection with the baby that one carries in their womb. It is in good faith that the moral obligation to assist people who are less fortunate in life should actually be upheld. A mother should understand that it is a sacrifice for one to use one's womb to carry a child for another, and eventually hand over the born child. However, in the event that the surrogate mothers are not able to give out those children---We are looking forward to a legal framework that will mitigate the dispute that comes after the agreement has been entered into. There is no way a woman will agree to carry your foetus without getting into an agreement with you. However, there is normally a change of heart. That is why we are saying we should have a law in place to mitigate this particular change of heart, and help those who are not able to give birth.

Morally speaking, when you help a woman who is not able to give birth to get a baby, I think that is an opportunity for you to shine. You need to give back to the community. You also need to tell God, "I am able to share what you gave me with those who are less fortunate".

When we are making law, the legal framework should include proper agreements, so that we do not have cases of people back-tracking. These agreements should have time frames. Under normal circumstances we do not have any abnormality because we know the stages of growth of a child. We should actually show at what point in time the surrogate mother should surrender the baby. From the word go, the rules of engagement must be known. What would be the roles of the natural mother? At what point do they come in? What would be the role even in terms of taking care of the surrogate mother and the children themselves during and after the pregnancy? It should come out very clearly, so that it is a complete journey, which is well entrenched in a legal framework. That way, the whole process will bring happiness to both the surrogate mother and the natural mother. These things take place every other day in Kenya. If you go to clinics you will find long queues of women who actually want to undergo this process. It should be done in the open and people should stop feeling victimized when they actually talk about it to their friends and doctors.

I strongly support the Bill.

Hon. Kombe: Ahsante Mhe. Spika kwa kunipa fursa hii ili nami nichangie Mswada huu.

Kwanza, ningependa kumpongeza mhe Odhiambo-Mabona kwa kujifikiria yeye mwenyewe na wengine ambao hawana uwezo wa kupata mimba. Hivyo, Mswada huu ukiwa sheria, utawasaidia wale tasa kupata watoto kwa kutumia njia ya yai kutoka kwa mtu mwingine likichanganya na mbegu za kiume kisha kuweza kuwekwa katika tumbo lake.

Kwa hakika, wengi huwa wanagadhabika kwa kutopata watoto, hasa akina mama. Kama tunavyofahamu, wakati mwingi watu huwa katika hali ya kuwafyolea wale wengine wasiokuwa na uwezo wa kupata watoto. Watoto ni Baraka kutoka kwa Mungu, na ndiyo maana wakati wote tuna wachukua watoto kama wasaidizi wetu. Vile vile, tunajivunia kwamba wao ndio viongozi wa kesho. Ijapokuwa mara nyingi wengi walio mamlakani husema vijana ndio viongozi wa kesho, hiyo kesho huwa haifiki. Hata hivyo, ni jambo la busara. Ningehimiza wenzangu waunge mkono zaidi Mswada huu. Utakapofika katika kamati, itafaa tuweze kufanya mabadiliko yatakayozidi kuongezea nguvu sheria hii.

Kwa hayo machache, naunga mkono.

Hon. Speaker: Hon. Winnie Karimi, Member for Kirinyaga.

Hon. (Ms.) W. K. Njuguna: Thank you, hon. Speaker, for giving me the chance to support this Bill. I want to thank hon. Odhiambo-Mabona for bringing this Bill. I know there are very many men and women who have been suffering and struggling to get children. Children are a blessing to the family and to the community. It is written in the Bible that God created a man and a woman and told them to go and multiply. So, everybody is supposed to have children. Therefore, I support this Bill.

I know that the method through which the egg is fertilized, or where it is fertilized, is neither here nor there. What matters is that fertilisation takes place and a child is born. In-vitro fertilisation is going to end struggles of families. It is also going to end the separation of families, because where families have no children there is blaming of each other and mostly men blame women, saying they are not fertile. Therefore, this is a very important Bill. We have even seen women stealing children because they have the

pain of not having a child. They go to the extent of stealing children or buying them. In-vitro fertilisation is going to end the struggles of the families because they will have children in the right way.

Men and women are in the class of animals. We have seen cows, goats and other animals get various types of fertilisation. We even have the artificial insemination, which is applied to animals. Therefore, I support in-vitro fertilization, because it is just a fertilisation method like any other that aids in the conception of children. I support this Bill because it is going to cure infertility and allow many families to get children. Such children will be a blessing to the families.

Before I end, I also consider in-vitro fertilisation as treatment. The causes of infertility are sometimes sickness or natural. If there is any treatment which can make a couple get children, let it be so. For people who get accidents and have their legs amputated, they can get an artificial leg which supports the body. So, I still think that in-vitro fertilisation is a method of treatment, which can be used by families to get children.

I support this Bill and think it has nothing to do with faith, or being ungodly. I know children are a blessing to families and communities. Those without children have the pain of trying to get them. So, let us listen to them because it is the wearer of the shoe who knows where it pinches. They have pain and if there is a cure, let it be so.

I support this Bill. Thank you.

Hon. Speaker: Leonard Sang.

Hon. Sang: Thank you, hon. Speaker, for giving me the opportunity to contribute on this very important Bill. I thank hon. Odhiambo-Mabona for coming up with a very important Bill that will, probably, help a good number of mothers and families in our rural areas and towns who cannot deliver babies.

Issues of infertility are so emotive. We are told that a good number in our population is unable to bear children because of reasons that are beyond them. I know that hon. Odhiambo-Mabona understands the issues. I saw her move this Bill and was seconded by hon. (Ms.) Lay, and both were emotional. I know a good number of families have the same problem.

There are a number of types of treatment for infertility. We are told that infertility is the inability of a couple to conceive within a year of marriage. For women who are over 35 years, they are supposed to get treatment for six months. There are a good number of assisted reproductive technologies that can assist families have babies. They include in-vitro fertilisation, which is included in the Bill that hon. Millie is trying to push through. We also have another kind called "zygote intra-fallopian transfer". There is also gamete intra-fallopian transfer and intracytoplasmic sperm injection. I wanted to give this information to hon. Odhiambo-Mabona, so that when the time comes, she will bring these assisted fertilisation technologies on board.

I want to confirm that the Cabinet Secretary for Health, a very good man, who is a performer in the Jubilee Government, has prepared a Health Bill, which I know is already in this House and may be tabled this afternoon. Most of these assisted reproductive methods have been brought on board. It is my sincere request to hon. Odhiambo-Mabona that we bring all the assisted reproductive technologies on board to assist our families have babies.

I say without contradiction that I somehow oppose this Bill unless hon. Odhiambo-Mabona incorporates it in the other assisted reproductive technologies, so that the Bill will be all inclusive as we wait for the Health Bill that the CS for Health has prepared.

As I have said, Mr. James Macharia is working round the clock to ensure that the health sector in general is functioning. The Health Bill has been brought. I know it is somewhere in this House and once it is tabled, I know most of these technologies will be there.

I oppose.

Hon. Speaker: I want to remind Members that debate on this Bill had a balance of one hour and 14 minutes and that includes the period for the Mover to reply.

Yes, hon. James Nyikal.

Hon. (Prof.) Nyikal: Thank you, hon. Speaker, for giving me the opportunity to contribute to this Bill.

I stand to support this Bill. It is important that we look at in-vitro fertilization, which is just one of the many ways of assisting couples who cannot get babies. There are other methods as has been indicated by hon. Sang. We have intra-uterine fertilization, or artificial insemination, which is slightly different from in-vitro fertilisation. In this case, the fertilization takes place outside. In the others, we transfer the sperms into the womb at different times.

Basically, you have what takes place outside and what takes place inside. The Bill, as the title indicates is, to a large extent, talking of what happens outside. It is important that we look at the whole area. These things are going on in this country without the existence of a law. These technologies have far reaching consequences apart from just helping people to get babies when they cannot. Therefore, we should not allow them to go on without some form of law.

I just want to raise a few issues that we should look at. Being unable to get a child is clear and everybody understands it. However, when you have fertilised the ovum with the sperm and the embryo is outside, that is to a large extent a human being, but it is still very much amenable to a lot of experiments. At that point, it is possible to transfer nuclear material and change the genetic make-up of the person who will result from that process. So, if we have no law, people can play around with the process. It is even conceivable that once you have the embryo outside, you can even try to introduce animal nuclear into it –experiments that will be absolutely abhorrent. We will not allow that to take place.

There is another large area we call “stem cell research”. Stem cell research is using the basic cell to produce any organ that we want, whether we want a lung or a heart, we can do that. The richest sources of stem cell research that are used are embryos that have been fertilized, but have not been used. When this thing is done, it is not normally one ovum and one sperm that are put into a petri dish. You actually use a large number of them and then you start selecting which one you will put back into the womb, so that there is viability. The question then is: What happens to the ones that are left? If we are not careful and we do not have a law, we can have a situation where we can be a country where people come and buy embryos to use for research. We need a law to address such issues.

Hon. Speaker, there is the situation that once you have many embryos and you are transferring them, you will be forced to reduce their number. Ethically, at that point that is a human being. The issue is which embryos you will destroy, which one you will use and what you will do with the rest. These are the offshoots of the good technology that is making us have babies when we cannot. There are other issues. For example, such embryos can be frozen and kept for years. We need a law to say how long these embryos are going to be kept, and if you keep them, what you are going to do with them. Who can you transfer them to? Who can use them? In whose hands should they be? We need a law to look into such issues.

Our Constitution defines sex as it takes place between a man and a woman. What is possible is that people in same sex marriage can get a baby because now we cannot only use a womb of a mother we have chosen, but we can actually hire a womb, which is surrogacy. So, you can have two males that purport to be married, go and hire a womb of a woman. In case of a male, they can extract sperms from one of them, who calls himself the father; and then they can hire the womb of a woman. They will then have a baby whose social mother will be another man. These are the areas we need to look at. We have to define by law who a parent in this situation is. There is an attempt to address this aspect in clauses 22 (1) (b) and (22) (2).

Hon. Speaker, there is the issue of dead donors. It is possible to take sperms from a deceased person immediately they die; store and use them later on. In this situation, what is the parenthood? What are the ethical issues? If we do not have a law, people will go round those things and we will not know what they will be doing. What about the issue of consent when you are taking material from somebody who is already dead? We have to look at that aspect. There is the possibility of children abuse. Biologically, from the age of 15 or 16, one is able to reproduce. Therefore, you can start to get gametes of either male or female. If you start to harvest these from children of the ages 17 or 18, how does the law protect those children? Right now, in this country, we have sperm banks. I hear that the most popular places where sperms are collected are the universities, where the clients hope that the offspring will have the same level of intellect. What law protects the young men who give their sperms, or the young women who give their eggs? I am told that even now there are people going round telling girls that giving an egg is just like donating blood. We cannot allow that to go on. These are issues that we should look at.

(Loud consultations)

Hon. Speaker: Order! Order, hon. Members! You must lower the decibels. Hon. Nyikal is making a very useful contribution.

Hon. (Prof.) Nyikal: Hon. Speaker, there is even the bigger issue of parenthood, where you have undertaken in-vitro fertilisation and you have the embryo transferred into another woman on agreement. It has occurred many times that when it comes to the time of birth, the woman declares that it is her baby. We need a law that regulates surrogacy. At what time do we give up the rights of ownership of such a child? Cases have come up where couples even go to other countries where they hire wombs and then the mothers refuse with the baby. What is the situation? Such couples will have paid a lot of money. Do we allow commercialization, so that young women offer their eggs as young men

offer their sperms for money? Can we allow the sale of embryos that are already stored in cold storage? Can they be sold? These are the issues that we need to look at.

The definition of a 'mother' has always been easy but with this technology, the definition of a 'mother' or a 'father' becomes extremely difficult. In our situation, the Constitution says that there is parental responsibility, whether the couples are married or not. Can we imagine a situation where a young man in college donated a sperm, it was kept, he has forgotten about it and in future, when he has become a very important and rich man, suddenly this child, whom he did not even know about or give consent, turns up and goes to have DNA test and proves that the rich man is the father? What are the inheritance issues that we need to look at in this situation? It becomes extremely complex. Before, it was clear who a mother was – she carried the baby in her womb. Now, it is not clear because you can hire a womb. That is extremely important.

Another issue---

Hon. Speaker: Hon. Members, I am going to increase the time for hon. Nyikal. He is making a very useful contribution and enriching this debate. Hon. Members who want to know what is happening in this Bill should pay attention. Hon. Nyikal, you have another ten minutes.

Hon. (Prof.) Nyikal: So, hon. Speaker, we have to look at areas of sex selection. It is now possible to determine the sex of the baby you want. When you have the embryos and you want to manipulate them to determine which sex you want, what are the ethical issues that are involved? What research can you do with embryos?

Can you say this is an embryo of a human being, but you want to test what happens if you cross breed a man and a dog? If we do not have a law, people will do those things. We must then say: Who has the technical capacity to do this? Having the technical capacity is not a very important thing. What about the code of conduct of people who are given the power to manipulate the human genome? Do we take any doctor who is qualified and then say "This doctor can do this"? What about his conduct in the past? You have read in the Press allegations that a doctor had been forced to do a HIV test, so that somebody could do whatever he wanted. What about in this situation where we are manipulating the human gene?

In this Bill, we have proposed--- I think I missed it in the Budget and Appropriations Committee. I agree with the Mover that this is not a money Bill and that money will be raised by this Authority from the fees that will be charged. Now, look at the area I am talking about, you can sell embryos, manipulate them and sell sperms. If that institution depends only on money it will raise from those activities, do you see the risk we are running into of these institutions being compromised? I, therefore, intend to say that this Authority should to some extent be funded by the Government. In any case, some of the people who require this service do so on health grounds. Article 43 of the Constitution says that health is for free. Now, if these institutions are working without any funds, then we are not in the right direction. I will call for an amendment, so that this institution gets some funding from the Government. There has been a proposal here that this Authority can conduct research. If we have this institution conducting research, we will mess. That will not be correct because it is the same Authority which will be regulating people who will use these materials and people for research. Some may be useful and some may not. If they will be conducting research, there will be a conflict of

interest. We may need an amendment that says that this Authority will not conduct research.

Overall, I support this Bill because we need a law on this. The only thing that I will plead with the Mover about will be that between the second stage when we have passed it and the Committee Stage when we are going to move amendments, there should be a lot more consultations. Let other people come in and give their ideas. I know there will be cultural, social and religious issues. It is important that we give that chance, so that people give their input and we make the appropriate amendments. However, we should pass this law at this Second Stage, so that we work on amendments at the Committee stage.

Thank you, hon. Speaker.

Hon. Speaker: Well spoken. hon. Soipan Tuya.

Hon. (Ms.) Tuya: Thank you, hon. Speaker. I also stand to support this Bill. The Bill is not only timely but also important. It is important for all of us to understand what the whole issue of in-vitro fertilisation, commonly known as IVF, is all about.

The gist of the Bill is provision a legal framework to protect a situation where there is difficulty in child bearing. The situation has not been commonly talked about. It has not been protected legally in this country. What we all know is the pain, suffering and agony that childless women or men, who are not able to conceive naturally, go through within our communities. Childlessness, or the inability of a woman to have children, has been a very common source of domestic violence within our communities. These women are ostracised. Childless women are shunned within our communities for a situation which they can do nothing about. It is natural and some of it is medical; we know of women who are not able to carry a child to full term. There is a lot of emotional distress for women who find themselves in this situation.

That is why as I support the Bill, I wish to say that surrogacy also comes with its ups and downs. One will be forgiven for even sympathising with a surrogate mother, because when you carry a child to a full term of nine months, you cannot fail to have emotional attachment to the baby, or the embryo. So, you find a surrogate mother having developed an emotional attachment to a child who is not legally hers. On the other hand, when this child is born, the agony and emotional distress begins for the biological mother of this child. We need a legal framework to support this in terms of the financial implications for the biological mother. We also need a law to regulate the whole issue of legal ownership of the child born out of surrogacy. We have heard of cases where a child is born of a surrogate mother and the biological mother is not able to register this child as her own at birth. You can imagine the emotional distress that goes with it. The law that we want to develop should be able to provide for this as well as the confines of the financial implications, or the amount of money that needs to be paid towards surrogacy, and, in essence, have a legal protection for IVF. We may not be ready for this as a country; I am not aware of any test-tube babies that have come out of IVF. I stand to be corrected. So, what we need to protect now is the whole question of surrogate motherhood.

It is also instructive to note that as much as most of us, or most Kenyans, may view the whole issue of IVF as a foreign concept, we know we have practices of assisted reproduction in some of our communities. I think in the Kamba community, or in other

communities where a woman is not able to have her own children, she is allowed to actually ‘marry’ a woman to get children for her own lineage and succession purposes. So, it is not a foreign concept. What I want to urge hon. Millie Odhiambo-Mabona is to find a way--- I am aware that the Departmental Committee on Health is thinking of ways of expanding this Bill, so that we are not talking of IVF only; we can expand it and include all other methods of assisted reproduction, so that women and, indeed, families can be helped. This is because when a woman within a marriage is not able to have children, it is a cause for concern not just to her but also to her husband and the entire community. So, this is something that is going to affect all of us, many families and not just women.

The other thing I wish to say is that we will need a lot of awareness creation once we have crossed the bridge of putting together a very comprehensive legal framework, so that children born out of surrogacy and the parents involved in this are not seen as unacceptable. You know there is the whole question of acceptability within the community, because this is not a concept which is very well known. That is so that we have protection, social acceptance of the surrogate mothers as well as the biological mothers, who are going to be assisted through surrogacy.

With those few remarks, I support the Bill and congratulate hon. Millie Odhiambo-Mabona for bringing here a Bill, which is going to touch very many women and families across the board in this country.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Likuyani.

Hon. King’ola: Thank you, hon. Speaker. This is Member for Mavoko.

Hon. Speaker: The Member for Likuyani is called Dr. Enoch Kibunguchy.

Hon. (Dr.) Kibunguchy: Thank you, hon. Speaker. I thought I had a double in this House.

Let me also start off by saying that I support this Bill. A lot of things that have been said are true. If you can just roll back a bit, because this is really in my field as a gynecologist, the issue of infertility is fairly broad. Where in-vitro fertilisation (IVF) comes in mainly is because the woman’s fallopian tubes have been damaged in one way or the other. That is the conventional IVF, as we know it and not surrogacy. I will touch on that later.

The idea of IVF is to bypass the damage that has been caused to the fallopian tube. That is why we harvest eggs from the ovaries of a woman and use the husband’s sperms to fertilise the egg outside the body. At an appropriate time, normally seven days later, the fertilized embryo is now reintroduced into the uterus, because that is the natural way in which nature works. The complete title for this Bill should be “IVF and Embryo Transfer”. That is something that we will also introduce through amendments because you cannot just have IVF on its own without transferring an embryo back to its natural position.

Infertility is a very broad term. I am sure the misconception in this country is that infertility is a woman’s problem; infertility is in both man and woman. In the majority of the cases, about two-thirds of the cases, it is a woman’s problem but in about a third of the cases, it is a man’s problem. A man’s problem normally comes in when some of our males cannot produce any sperms and some can produce an inadequate amount of

sperms. The IVF is also useful to a man who produces inadequate amounts of sperms, because then you can--- What is used outside is not as much as what is used in the natural way.

I accept that this IVF and ET are going on in this country. We have a doctor who was my student called Dr. Noreh. He does a lot of work in this country. We have my colleague in Eldoret called Dr. Mishra. He also does a bit of work in the field of IVF and ET. So, this work has been going on without any law. I cannot put it better than my colleague put it. We need a law, so that we can regulate what is going on. Without regulation, we can have many cases where there is a lot of misuse. We can have cases where some errant doctors, some doctors who want to do a lot of experimentation, can do these things. We can have cases where once the egg has been fertilized outside, some doctors can split this fertilised egg into many pieces and they will all grow just like what happens with identical twins. Identical twins is where the egg is fertilized in the womb and for some reason it splits into two. But this can be done outside and you get a case where you have some rogue doctor who engages in selection. He can start producing what has been called “super babies”.

Unless we have a law that can control these things, it will be dangerous for us to continue with these procedures that are still going on in this country without a law. Because of that, I agree that we need a law and let us have a law. As a member of the Departmental Committee on Health, initially when this Bill came to us, we were hesitant to pass it because of so many small pieces of law that are all over the place, but in retrospect, I now say yes, I will accept it. I would like to join others by saying when we come to the Committee Stage, we will need to introduce quite a number of amendments, and capture not just the IVF and ET- that is fairly narrow - but the whole concept of assisted reproduction. That will be important because unless we do that, we will miss out on other new forms of assisted reproduction that are practised in this country and in the world.

I would like to end by just touching on the whole concept of surrogate mothers. In veterinary medicine, the issue of surrogate mothers is widespread; it is acceptable across the board. Right now in veterinary medicine, they talk about ET. You can go through it especially for us who keep cows. To get a pedigree cow, you can get an embryo and this embryo is carried by ordinary cows but you get a pedigree cow. Once it is carried by our *kienyeji* cows, the offspring, or the calf, that will be delivered will be pedigree. So in one shot, you have got a pedigree cow, calf or heifer, whatever name you want to call it and it will give you 60 or 80 litres of milk per day. This is happening in veterinary medicine. Surrogate mothers are also happening in human medicine. As we have said, we need a law so that when it comes to the mother of a kid, there will be no controversy.

With those remarks, I support and as we said, we need to introduce quite a number of amendments when it comes to the Committee Stage.

Thank you.

Hon. Mwangi: Thank you, hon. Speaker, for giving me this moment to support this Bill. At the Departmental Committee on Health, at first we declined to support this Bill, but as an individual, I have come to think about it after seeing the Mover moving it and elaborating on it with the help of the Member for Taita. I have searched my soul and have thought of supporting it.

It is the right of every woman to have a child. As hon. Mary Wambui said, we see in the Bible so many women who were scorned by their colleagues for lack of children, but later on they were blessed with children by God. If we go on, we see that Abraham had no son with Sarah until Sarah allowed him to have a baby with their maid. Later on, God blessed them with a child. After being blessed with a child, Sarah decided that she would not love the maid's child. In this Bill - that is where my problem is sometimes - if I am the sperm donor, I would not like to see a situation where the child from my sperm comes back to my home asking for inheritance. We need protection of the law.

In normal circumstances, we have seen children coming to ask for inheritance from their fathers. We saw what happened to the late hon. Njenga. I do not agree and so we need protection in this law even when we are supporting it. I think we have to do much during the Third Stage of this Bill.

Hon. Speaker, the other issue I have a problem with is the one on those who will carry children for the others. We need to understand that if that baby is to be carried by another woman, what are the obligations of the carrier of the baby to the person she has been carrying the baby for? When it comes to the Third Stage, we need to agree so that we can see how to help and support these barren mothers to have their own babies.

With those few remarks, I support.

Hon. Speaker: Hon. Zainab Chidzuga.

(Hon. Chidzuga pressed her intervention button)

Hon. Speaker: Hon. Chidzuga, you do not need to press the intervention button when I have given you an opportunity to contribute.

Hon. (Ms.) Chidzuga: Shukrani Mhe. Spika. Nasimama kuunga mkono Mswada huu. Nampongeza sana Mhe. Millie kwa kuwa ameweza kuona yale ambayo yanawakumba akina mama haswa wale ambao tunawaita akina mama tasa. Kusema ukweli, ninazungumza nikiwa mambo haya yalinikumba kuititia kwa mamangu nikiwa mimi ni mtoto wa pekee kwa mama. Niliona jinsi ambavyo mamangu alikuwa anasikitika kwa kuwa aliniza peke yangu na hakuweza kupata watoto wengine hadi ikafikia kiwango cha kumlazimisha babangu aoe mke mwingine ili aweze kupata watoto na kuwaita watoto wake naye pia.

Lakini basi, ikiwa tunaunga mkono huu Mswada, ni lazima tuangalie sheria kwa makini haswa zile ambazo zitawenza kulinda huyu mtoto atakayezaliwa na mama atakaye kuwa amebeba hiyo mimba inayotokana na mbegu ya mtu mwingine. Tusije kufungua njia ya kuwasaidia wale ambao wameamua kuishi kinyume na maadili ya kibinadamu, kinyume na maadili ya dini na nikizungumzia hususan wale ambao tunawaita kwa lugha ya Kimombo gays na wanawake *lesbians*. Kwa Kiswahili wale wanawake huitwa msago.

Tusipokuwa na umakini wa sheria, tutawafanya hawa watu kuendeleza hizo tabia zao wakijua kwamba hata mtu asipozaa, ana njia ya kupata mtoto na kudai kuwa yule mtoto ni wake. Hii itakuwa imewapa nafasi wale ambao wanataka kuendeleza uchafu huo kuwa wanawenza kuuendeleza na itaambukiza vizazi vingine.

Hivyo basi nikiunga mkono sheria hii, nampongeza Mhe. Nyikal kwa kutufafanulia zaidi akiwa yeye ni daktari anayeelewa zaidi mambo yanayohusiana na uzazi kuititia teknolojia mpya ambayo tumeweza kuirithi katika ulimwengu huu wa sasa.

Katika hali ya kupongeza, ningependa pia tuweze kuelewa ya kwamba tutakuwa tumempa mtoto huyu ulimwengu, lakini je, mtoto huyu atakuwa mwenyewe ni nani? Ataweza kupata haki zake kama mtoto kwa nani? Kwa sababu atakuwa haelewi babake na mamake ni yupi kwa sababu anaambiwa wewe ulizaliwa kupitia mbegu zetu na yule ambaye alimbeba kwa miezi tisa atasema mtoto ni wake. Mwishowe, yule mtoto ataishi katika maisha ambayo hajielewi, maisha yake iko mikononi mwa nani?

Pia tuweze kuangalia kuwa kuna wale ambao watajitlea kutoa mbegu zao na baadaye aje aone kwamba hana haja tena ya kuweza kuwa na yule mtoto. Je, na yule aliyebebeshwa ule mzigo, ni nani atakayemtunza mpaka atakapozaa yule mtoto? Kwa sababu atakuwa anahitaji kulewa ndio yule mtoto aliye tumboni aweze kukua na aweze kuzaliwa. Katika sheria ambazo tutaweza kuangalia katika Bunge hili ambayo nina imani kuwa vichwa vilivyoko hapa ni vichwa ambavyo vinaelewa kila neno kwa ufasaha, tutaweza kutoka na mwelekeo ambao utaweza kusaidia jamii kwa vizazi vijavyo bila kuhitilafiana na dini na bila kuhitilafiana na maadili yetu ya utamaduni wetu.

Naomba kukomea hapo. Ninapongeza na hii sheria tuiendeleze tuweze kuchambua zaidi na tupate kitu mwafaka ambacho kitasimamia hili neno bila kuleta utata kati yetu binadamu.

Shukrani sana, Mhe. Spika.

Hon. Speaker: Zakayo Cheruiyot, you do not have the 10 minutes but you have three-and-a-half minutes to contribute.

Hon. Cheruiyot: Thank you, hon. Speaker, for allowing me to contribute to this particular Motion by hon. Millie and thank you for the three minutes.

First, I want to say this is an area which fires human imagination so much and generally the human race fears. You can imagine one person contributing to a whole village or a whole nation. There is a concern and even in terms of race. However, the reality is that this is something that has to take place. We have hon. (Prof.) Nyikal and hon. (Dr.) Kibunguchy who have ably given the true position. I want to say that this is a matter that is well catered for in the western world. They have already gone to all the sectors including telling the child who the donor or who the parent was. The fears about property distribution by my friend here should not be an issue. We are not going to reinvent the wheel. Why do we not borrow from other countries which have already done this particular legislation?

With those few remarks, I would like to congratulate hon. Millie for what she has done.

Thank you, hon. Speaker, I support.

Hon. Speaker: Hon. Patrick Makau, you can say what you wanted to say before we call the Mover to move.

Hon. King'ola: Thank you, hon. Speaker. I want to support this Motion because I know the Mover must have done a lot of research. I know technology is here with us. I know the stigmatization that comes from non-child bearing mothers and fathers. It could not have been put any better than the way hon. (Dr.) Nyikal has put it. I want to add a few things. Because I want this Bill to go through and I want it to be constitutional because all laws must be anchored in the Constitution of Kenya, when the time comes, I wish to bring some amendments because it looks like it is discriminating against men. There are also men who cannot bear children and it is not well addressed here.

I think it is important that the Mover includes what happens to men, surrogate fathers, and the Bill must show us how men will be involved in this. You realize that there are young men and women who donate sperms and maybe in future, they may want to marry. This law must protect them so that we do not get mongoloids because this young man might marry and the test tube babies meet in the streets. If they marry, what will happen to the products of these two people?

There is a clause here which states that if a woman, because of her career, should be subjected to--- The Constitution does not permit gays and lesbians. We must be careful and we must put in this law that gays and lesbians---

Hon. Speaker: The Mover to reply in 10 minutes.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Speaker. Hon. Nicholas Ngikor from Turkana East Constituency has said that he wants to oppose. It is good to hear his views.

Hon. Speaker: Two minutes to hon. Nicholas Ngikor. He was number three on the line.

Hon. Ngikor: Thank you, hon. Speaker and hon. Millie for giving me those two minutes. I rise to oppose this Bill because when we talk about life, we know what it is. For those who are Christians, they know the meaning of life and where life starts. So, when we accept this Bill, we take the role of God, because it is only God who knows about life. It is only God who knows this process.

I oppose the use of IVF. I want to give an example of an egg. We have two types of eggs. We have the ones by the normal way and the ones by the wind. We see the way people treat the two types of eggs. How will this child be treated? He or she will be treated in the way the eggs by the wind are treated. People will say, "You are not a human being; you just came through the backdoor to become a human being." So, it will be something different. We are going to put this child in danger. He or she will mix with other children when they are playing. They will be given so many names because they did not come through the normal way.

The other issue is the ownership of this kid. If it is known that a man and woman are barren and then they get children, how will they be treated? It will look like the child does not belong to the father or mother. Who will be the owner of this child? The other issue is how we treat the normal human being in our cultures. Some communities---

Hon. Speaker: Your time is over, Member for Turkana East. I hope the Mover will reply now and also allay your fears about those normal and abnormal ways.

Hon. (Ms.) Odhiambo-Mabona: Hon. Speaker, I had to give the hon. Member time because it is good to hear all views, so that we can address the concerns of all Members, especially at the Committee of the whole House Stage.

I want to thank all the Members for supporting the Bill. I also thank the ones who have opposed because by opposing they are actually enriching the Bill, and giving us the opportunity to look at issues of concern in the Bill.

I have listened to the Departmental Committee on Health. I am glad that Members of the Departmental Committee on Health who were originally reluctant, are coming round and agreeing with us, especially after we explained the concerns that they were raising.

I want to touch on just a few things that the Members raised. I agree with the Departmental Committee on Health. I am not a health expert; rather I am a legal expert. I said that, primarily, my concern is the ethical-legal issues, much less the scientific issues. So, I am willing to bring on board the scientific issues that they have raised, including expanding the Bill to include other methods of assisted reproduction. That is why we normally have a Committee of the Bill; it is so that we enrich Bills. That will not make the Bill flawed. It will only enable us to enrich it.

Members have raised certain issues. Sometimes they are busy and so they may read the Bill halfway. Some of the concerns that have been raised are already in the Bill. For instance, it takes into account, because of the Christians' concerns, the issue of married couples. What hon. Nicholas from Turkana East has raised about a child being stigmatised is covered in the issues of confidentiality. We cannot legislate about God being the giver of life. However, we know God uses human beings to inject us when we are sick. So, God can use human beings to assist us when we are having challenges in reproduction.

Some Members also raised cultural issues. Culture has gone ahead of us. Just the other day, I read in the newspapers about a woman who had married four other women to enable her have children because she was not able to bear children herself. So, most of our communities already engage in assisted reproduction culturally. So, we are just catching up with technology. Indeed, technology is catching up with culture in this Bill.

There are other issues that the Members have raised. I want to thank the doctors in the House like hon. (Dr.) Nyikal. Some of the ethical issues that he has raised, we have already captured them in the Bill; examples are the age of the donor and the sperms of a dead men. That also captures the concerns of our Muslim brothers. I have been talking to Members individually and they have raised their concerns. I have told them that we can bring amendments. But it is already covered that the sperms of a dead donor can only be used with prior consent when he was living. However, Muslims said that it is not allowed. We can bring amendments to qualify that. We have covered the issues of parenthood and commercialisation.

On the issue of funding, I want to say that as a Private Member, I cannot indicate that. However, I hoped that the Departmental Committee on Health would bring an amendment because the Budget and Appropriations Committee has shown willingness after discussion with the Cabinet Secretary that this institution can be based in a public university or facility. The Budget and Appropriations Committee is willing to appropriate funds so long as the Departmental Committee on Health is supportive. So, I want to request the Departmental Committee on Health to support this Bill by bringing amendments that will strengthen it.

I know the Departmental Committee on Health has been concerned that the Health Bill is coming and they were looking at a more holistic approach. I want to give them my experience when we brought the Children Bill. We had the same approach. We were very ambitious. We wanted everything to do with children to fit in one Bill. Our experience has shown that it is not possible. All health issues cannot fit in one Health Bill. Since we passed the Children Bill, we have passed the Sexual Offences Act, the Victim Protection Act, the Counter Trafficking in Persons Act and the Criminal Law (Amendment) Act that have to do with aspects of protecting children in the justice

system. So, hon. Speaker, it is almost impossible to provide everything to do with health in one Bill. Our experience has shown that.

The same applies to laws to do with women. We tried to bring them under one law. It was impossible. We also have issues of children in the Marriage Act, which we passed the other day. We have issues of children and women in the Succession Act. So, I told the Departmental Committee on Health that I cannot purport, or pretend, to know science. I am an expert in law and procedure. So, if we work together when they have their expertise and when I have my expertise, we will help the Kenyan women and men who have challenges, so that we do not have situations like that of hon. Lay, who almost broke down when she was speaking of her own circumstances. You can imagine God made it possible for her to be in the House and even weep. What about women who are not in this House and who cannot weep?

Finally, on the issue of gays and lesbians, the Constitution - not Millie Odhiambo-Mabona - does not recognise gays and lesbians. So, there is absolutely no way any law, by inference or otherwise, can provide for anything that is unconstitutional. I thank the Members.

With those few remarks, I beg to move.

Hon. Speaker: Hon. Members, just as hon. Millie Odhiambo-Mabona said, certain things are forbidden by the Constitution, but not by us. We cannot proceed to the next business until we confirm that we have the requisite quorum. I am informed that the entry of those three Members, assuming that the person standing at the entrance is a Member, will give us the requisite quorum. Is that a Member intending to come in? If you can come in, you will help us proceed. Members for Muhoroni and Kisumu Central, take your seats. There are no antics here. Member for Kisumu Central, Parliament is different from the village or the town-city that you represent.

(Question put and agreed to)

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

(Loud consultations)

Order, hon. Members! Hon. Members, the business of the House must proceed and people must be heard in silence. Those of you who want to transact other business, including canvassing for certain positions, please, do it in silence. You are exchanging words across the isles. It is not good. It is disorderly conduct.

Second Reading

THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL

Hon. Wangwe: Hon. Speaker, from the outset, I would like to share with the House the Memorandum of Objects and Reasons, which informed the preparation of this

Bill. The main object of the Bill is to amend the Kenya National Examinations Council Act, 2012, so as to abolish the examination fees payable by candidates as they book to sit for the Kenya Certificate of Primary Education (KCPE).

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

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

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Wangwe, why are you stopping?

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

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

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Millie, you cannot be shouting from the Floor. I cannot see any intervention. Hon. Wangwe, let me help Millie.

What is it, hon. Millie? Why are you running away from your seat?

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker, I stand to be corrected but I presume that the Member is moving the Bill right now. However, he is starting without moving the Bill. He has to formerly move the Bill before he gives us the history of the Memorandum. He has not formerly moved the Bill.

The Temporary Deputy Speaker (Hon. Cheboi): That is a very valid point of order. Are you moving the Bill, hon. Wangwe?

Hon. Wangwe: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Then start that the correct way.

Hon. Wangwe: Hon. Temporary Deputy Speaker, I beg to move that the Kenya National Examinations Council (Amendment) Bill, 2015, be now read a Second Time.

The Bill is informed by the Memorandum of Reasons and Objects, which states its objects and the reasons. The reason for this Bill is to amend the Kenya National Examinations Council Act, 2012, so as to abolish the examination fees payable by candidates as they book to sit for the KCPE examination and the Kenya Certificate of Secondary Education (KCSE) examination. What makes me arrive at this is recognition of Article 43 of the Constitution, which gives us the right to education under the social and economic rights, and Sections 48 (h) of the Kenya National Examinations Council Act, which defines the powers of the Kenya National Examinations Council (KNEC) to set the examination fees for various institutions.

From the outset, I will introduce the Bill in terms of the history of education in Kenya. The gist of the Bill is to allow us to have more students and pupils accessing basic education. The history of education in Kenya dates back to the 15th Century when missionaries came to the Coast of Kenya. Western missionaries first visited the Kenyan Coast in 1557 and settled on Mombasa and Lamu islands. They included Ludwig Krapf of the Church Missionary Society, who established British rule through Christian missionary engagements in this country.

In the 19th Century, there were various joint committees that were formed through the various missionary boards of education, represented by all the protestant missions in

the British Protectorate. In 1909, there were representations of the protestant missions in the British Protectorate, who set up the Church of Scotland Service as their Chair. After the missionary perspective, the First World War came; it was a concerted effort by the British to develop African colonies that were established at the coastal region of Kenya. The British began re-examining and re-evaluating education in the African territories.

In 1923, the British Secretary of State established a committee chaired by the Parliamentary Undersecretary of State to advise on the education affairs of Kenyan Africans. This period marked the beginning of the three-tier education system in Kenya. There were racially segregated schools for Europeans, Asians and Africans. It was also the starting point of a joint venture between the colonial government and the missionaries, whereby missionaries led the way for colonialism.

After Kenya attained Independence, the three-tier system developed into three-tier types of schools – government schools, private government schools, formerly reserved for the whites, and private schools, which were the best equipped. The missionary schools continued to exist although some of them were converted into government schools.

Hon. Temporary Deputy Speaker, that is just the preamble on how formal education came about in Kenya.

Allow me to go into what really made me feel that examination fees should be abolished in Kenya.

These are the various challenges that our country continues to experience as and when the system is moving. The Kenyan education system faces various challenges. One major challenge is the provision of education for all in Kenya which goes through cultural issues. Kenya has 42 tribes and not cultural rights. Out of the 42 tribes various cultural issues arise. The culture or lifestyle of some groups forbids some gender from proceeding or enrolling in educational institutions. If a child drops out of school because of lack of school fees, the cultural issues will antagonise the child so that he or she does not proceed with education. So, it is better we do away with the challenges facing the child in order for the parents not to say: "Our child is not going to school because this or that is happening."

There are also religious issues. Some religious denominations discourage education for some gender at a certain stage. This disrupts the policy of education for all. They have instilled values so that the child is not able to attain personal goals in education. By removing examination fees, we are simply giving leeway for the child to proceed and make sure there is no hindrance whatsoever that would stop the child from proceeding with education.

There is also the challenge of mismanagement and misappropriation of funds. The people in charge of the education sector use the monies meant for education for other functions. This means that education services and facilities are greatly hindered. Some institutions increase fees to levels that parents are not able to raise it. Instead of channelling the funds to the intended functions, they misappropriate them and say there is no money available. By removing this levy, no one will get an opportunity to say that there is no money.

There is also the challenge of high pupil to teacher ratio, meaning that one teacher has to serve many pupils. This leads to low quality services thereby denying the pupils

the opportunity to proceed with their education. The money parents pay as examination fees could go towards reducing the pupil to teacher ratio. It would be an advantage to the pupils.

There is also the issue of inadequate facilities. Infrastructure in schools in the country is not well established. This means that some areas miss out on necessary school buildings. Assuming that all parts of the country are equal, which is not the case, and we levy Kshs1,000 per pupil for examination fees, it is not easy to raise the money from various parts of this country. Raising Kshs1,000 in Nairobi is possible. However, in my local area of Navakholo, raising Kshs1,000 is not easy for parents across the whole constituency. Most of my colleagues here will agree with me that inadequacy in facilities is a big issue.

There is also the issue of inadequate funds which leads to inadequate facilities. The Government, through the Ministry of Education, Science and Technology does not allocate enough funds in the national budget. The services provided are not quality since the tutors have to engage in other activities for their upkeep. Instead of getting the money from various sources, if we are going to keep this money in our budget as it is today, it will be easier for the Government to budget and plan rather than leaving it in its disengaged form as it is today.

In addition to the challenges which we have, what has also informed the need to remove examination fees is the importance of examination to our education system. Why do we do examinations? It is a question which most of us need to know or find out. Exams are a way to test our knowledge. By encouraging our pupils to do examinations, we are simply testing their knowledge. Testing implies that we have taken our children through a system and we are letting them know the level to which they understand. If we levy examination fees, only the few who will afford that money will be able to be tested and know the extent to which they understand the knowledge acquired. So, it is important because exams are the way to test the knowledge students have acquired.

It is also important to note that students will get motivated towards their studies through achievement in the examination. Motivation is the key issue in any given establishment. Even in this august House, without motivation we would not be doing other things such as achieving knowledge, setting standards for our constituencies and the country. Therefore, examinations motivate students in their studies. Examination is also important for students because it teaches them a lot of things. It trains them on various things like punctuality, writing skills and expressing thoughts and opinions. This is a way of life. Once you are determined to have done examination, you appear to understand training on various issues like the ones I have mentioned. In this Parliament, for instance, we know that at 2.30 p.m. we must be seated and ready to welcome the Speaker. That is punctuality. Whoever comes in after is not observing punctuality. It is very important to examine our students and pupils on all these issues.

Another importance of education is that it is a formal system that needs to be in place. What it depicts of a person is the academic competence and intelligence that is straightforward to measure. No method would fully capture the scope of students' ability. The fact remains that we need some formal system, otherwise the academic system will not work. Setting of examination gives us an opportunity to understand the training our pupils and students have gone through in the formal system of education.

Finally, it is also important to note that examinations are important because they compel students to learn. Compelling does not mean pushing. Compelling simply means giving the students the mind to think and see what is expected of them in society. Therefore, without examinations most students would not learn. They would know very little about the world. They would only do subjects in which they have interest and ignore the other subjects which are thought to be difficult though they are very important in the modern age.

There are also some incentives that have come along with education. The introduction of Free Primary Education (FPE) in 2003 is a great achievement for this country. When the National Rainbow Coalition (NARC) Government introduced the FPE, the enrolment shot up. As an appreciation to strengthen the Basic Education Act and to actualise the right to education, it is important that we develop this incentive that was started in 2003 and make sure we complete the cycle. This is because a person is deemed to have gained sufficient education when he has achieved basic education as per the Basic Education Act. Why should you go to school only to come out and be told to prove that you went to school and you are not able to simply because you did not appear for examination?

Therefore, as a complement to my Bill, it is important to note that the establishment of Free Primary Education (FPE) in 2003 was really a great move in this country and it is what informs me in the moving of this Bill. It is also important to note that in as much as we go to school and other learning institutions we must keep in mind that, that helps students to overcome beliefs and superstitions. Superstitions are baseless and may affect life negatively. Illiterate and uneducated people often tend to hold certain superstitions and beliefs. Education and awareness are the ways to combat superstitions and replace such beliefs with reason.

Hon. Speaker, once somebody has achieved, at least, basic education, he is able to position himself in a level of reason and logic and, therefore, deal with any kind of superstitions and beliefs. It is also important to note that as we push for education, there are various extremes that keep up with the world. For example, we live in an ever-changing world that is full of technology and if you do not want to be left behind, one must keep up with it since it is moving very fast.

Hon. Speaker, you cannot be technologically correct if you do not have the right education. You must engage yourself in education so that you understand where the world is moving from. You should now be able to understand, in terms of technology, where the world is today, since we are moving from one level to another. Today it is very easy to transfer money from Kenya to any other destination using the simple technology of *M-Pesa*. We are also able to do the RTGS systems of financial transactions and to communicate to the whole world using WhatsApp and various technologies and should you not be well informed in terms of education, it is very clear that you will not be able to achieve, understand or adhere to that change.

Education and healthcare cannot be separated. Illiteracy often breeds ignorance which may prove to be dangerous when it comes to healthcare. Educated people know better about preventive methods, which protect them from a number of diseases. An illiterate and ignorant person is more likely to ignore the symptoms and avoid seeking medical aid unless the problem becomes very serious. It is important to understand

yourself; even if you have a headache, you must explain to a doctor the extent of your headache. Therefore, you cannot fail to underscore the implication of education and healthcare.

Hon. Speaker, Sexually Transmitted Diseases (STDs) and Sexually Transmitted Infections (STIs) are transmitted very easily and if you can understand the importance of your health, you will be able to save the larger economy.

There is also the issue of one's respect. Everybody likes a wise and knowledgeable person. Learned and educated people are considered highly reputable in the society. There is the prestige one carries himself with when he or she attains a certain level of education. Since you understand what is around you it is better and important that you carry yourself with that esteem which you will not want to lower. Therefore, those who have, at least, basic education will be able to understand the environment in which they exist.

We need to also note that education helps us understand the world in which we live in. Education is what you need if you want an answer to "what", "how" and "when". You often get questions from the Members here asking you "why" and "how". They seek explanation of a few things here and there. That is an indicator that those people who are talking to you or the Members here are educated. Therefore, having education is something to be proud of and it makes all of us equal. Education puts you and I at par despite the fact that maybe one could be ranked at a different level. The education that one has helps him to be recognized and enables one to communicate with each other in the society.

Education makes one confident. Educational degree is considered as a proof of knowledge by many. This is attained after the basic education, which is beyond the Bill we are talking about. However, what is the aim of attaining basic education? You aim at getting a degree or diploma or further studies in your course. If you are educated, you have more chances of being heard and taken seriously.

Hon. Speaker, you will notice that in the previous Bill, we were referring to doctors and they were talking in this House in a medical language. That is proof that they actually went to school well and for those who understand medical language, the better for them. Education makes one confident. Finally, the society has a big role to play in terms of education. We all live in one society, which has its own set of spoken and unspoken rules and one of them is education. The society expects you to go to school, college, get a job and settle down. In fact, education helps you to become a useful member of the society. These are common issues, which we see on day-to-day basis, but they are not obvious until we give them the opportunity to flow. Otherwise, they are not very much obvious to that extent.

I want to get back to the incentives of this Bill. I had talked about the FPE. In as much as it is an incentive to making sure that a great number of students have joined school, it still remains a challenge. It has various challenges which, through this Bill, we should be able to bring on board and understand. In as much we are actualizing the Bill on free primary and secondary schools examination fees, we take note of the challenges which have faced FPE, so that in future we should also be able to understand them. There are various challenges which really inhibit the FPE. There is the issue of delays in funds disbursements. The road to true learning is thinking and children have no spare

time to engage in this necessary practice known for creation of knowledge, development of social skills and recognize growth.

You find that delay in disbursement of funds by the Government to the education sector is working negatively on the FPE. We need more students to enroll in various institutions. If the Government continues delaying funds, it means working towards making examinations of Class Eight and Form Four free difficult.

There is also the challenge of shortage of teachers. It is important that the Government addresses the issue of teacher to pupil ratio. For instance, it emerged in some schools that the ratio is 1 to 70, which is beyond the recommended maximum ratio of 1 to 40. This is something that we need to look into.

The Government needs to look into it and address this issue of teacher to student ratio. That is a big challenge and an issue which we need to look into. In as much as we get it right by having the Basic Education Act complete and having the right to education complete or anchored properly, it is still a challenge that the Government must now look into. The Government also needs to look into the learning facilities. There is an issue associated with learning materials as a major challenge facing the system. Under the Free Primary Education programme, every pupil is entitled to free writing materials which are pencils, pens and exercise books which we do not see.

The Temporary Deputy Speaker (Hon. Cheboi): You should be winding up hon. Wangwe. You have two minutes.

Hon. Wangwe: Thank you. It is important that learning facilities are improved through the FPE. This is because, for you to attain the main objective of this Bill, FPE must be actualised to the letter and all the incentives and provisions must be provided.

Without going so much into other details as I will be doing during the reply of the Bill, I beg to move and ask my colleague, the MP for Ikolomani, hon. Bernard Shinali to second.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, hon. Shinali.

Hon. Shinali: Hon. Temporary Deputy Speaker, I stand to second this Bill. At the outset, I want to congratulate hon. Wangwe for the efforts that he has put to ensure that this Bill is on the Floor. The Constitution of Kenya 2010, Article 53 (1)(b) has well defined the right of a child to free and compulsory basic education. Article 43 (1)(f) states: "Every child has the right-

(f) to education."

In Kenya this right has been grossly violated in the sense that students at primary and secondary school levels are unable to realise new horizons of knowledge simply due to their inability to afford the Kenya National Examinations Council (KNEC) examinations.

The KNEC was established in 1980 after the collapse of the East African Community (EAC) in 1977. Soon after the collapse, the names of the examinations were changed from their regional identity to national identity. The East African Certificate of Primary Education (EACPE) became the Certificate of Primary Education (CPE). The East African Certificate of Education (EACE) became the Kenya Certificate of Education (KCE). The East African Advanced Certificate of Education (EAACE) became the Kenya Advanced Certificate of Education (KACE). The Kenya Certificate of Primary

Examination (KCPE) came into being barely five years after the establishment of KNEC in 1980.

The 2011 KCPE marks the 26th edition of the KCPE examination since its inception in 1985. The KCPE which replaced CPE, was first administered in 1985 and coincided with the introduction of 8-4-4 System of Education. The KCPE is offered in November each year for Standard Eight pupils. However, a few private candidates sit the examination at selected centres at the county level.

The 2010 KCPE candidates were the first cohorts of candidates who benefited from a full cycle of eight years of FPE after it was launched by the Government in 2003. The introduction of FPE in 2003 enabled the country to realise a significant growth in primary school enrolment from 5.8 million in 2003 to 8.6 million in 2010, representing 47.7 per cent growth. The examination fee for KCPE was reviewed in 2009 from Kshs 300 to Kshs500 per candidate. In 2013 candidates for the examination were paying Kshs 800.

The Kenya Certificate of Secondary Education (KCSE) was administered under the 8-4-4 System of Education in November 1989. Then candidates sat a minimum of ten subjects. Today a total of 72 papers are offered and a candidate can sit a minimum of seven KCSE subjects. From the year 2013, the fee for candidates taking the least seven subjects is Kshs 4,500 per candidate. Nearly 1,500 candidates risked being locked out of national examinations last year. The Standard Eight and Form Four---

The Temporary Deputy Speaker (Hon. Cheboi): I can see there are two points of order. Let us allow hon. Shinali to finalise and thereafter I can propose the Question. After that I can give you and see what points of order you have.

Hon. Shinali: Thank you. Nearly 1,500 candidates risked being locked out of national examinations last year. The Standard Eight and Form Four candidates owed KNEC Kshs 8.3 million in registration fees long after the normal registration deadline had lapsed.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Member for Shinyalu, what is it?

Hon. Anami: I will go by your guidance.

The Temporary Deputy Speaker (Hon. Cheboi): What is it that you had because if you have a valid issue we could work on it now?

Hon. Anami: Given the universality of this topic and the interest that it generates amongst Kenyans, I was going to request that we reduce the time of contribution to five minutes so that as many of us as possible can be able to contribute to it.

The Temporary Deputy Speaker (Hon. Cheboi): Okay, that will come after. What is it Member for Igembe North?

Hon. M'uthari: Thank you. I wanted to request that we reduce the time of discussion given the importance of this Bill. It touches on the lives of so many Kenyans. Many Members would like to ventilate on this issue. If the House allows, let us reduce the time for debate.

The Temporary Deputy Speaker (Hon. Cheboi): Well, it will be your decision. Hon. Shinali, you have three minutes. Wind up and then we will propose the Question and then you will make the decision as Members.

Hon. Shinali: I would want to note that Kenya participated in the world conference titled “Education for All” which was held in Jomtien in Thailand in 1990. At the conference it was understood that it was by making basic education free that poor children would be included in the education system. This goal was to be achieved by the year 2000. Attainment of education related to Millennium Development Goals (MDG) in Kenya is largely hinged on availability and appropriate use of financial resources to acquire supportive inputs to the education process.

Three years later, the promise of education for all is still a challenge that stands out amongst disadvantaged poor populations, who cannot finance their own education. Even when children start school, they are forced to drop out due to factors related to the cost of schooling such as examination fees and other costs. Quite often, they drop out even before acquiring the basic skills required for one to make useful contribution to national development.

In Ikolomani Constituency, we have 3,985 candidates in Standard Seven. In 2014, we had 3,792 students, of whom only 2,493 sat for their examination. This means over 200 students were locked out.

The Temporary Deputy Speaker (Hon. Cheboi): You have 30 seconds!

Hon. Washiali: Hon. Temporary Deputy Speaker, although I still have a lot to say, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, we will also have to dispose of the proposals by the Member for Shinyalu, who was supported by hon. M’eruaki. As we do that, I must point out that the proposals are properly before the House, because it is at the beginning of this particular debate.

For your information, hon. Members we have 24 requests. That tells you that the issue that they have indicated has quite some interest amongst hon. Members. It is, therefore, perfectly valid.

(Question, that debating time be reduced, put and agreed to)

Five minutes it is! We will start with the Member for Siaya. I can see an indication by the Chairperson of the Committee that she also wants to speak, which is perfect. However, I might have to consult her and agree whether it is proper that she speaks now or towards the end of this debate, so that she can hear the views of Members. I will ask her to approach the Chair, so that we can deliberate on that issue.

Proceed, hon. Ombaka

Hon. (Ms.) Ombaka: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Motion.

The examination fee being charged is too high for many students. We need to abolish it even though this Bill may have come a bit late. Only recently, the Ministry of Education, Science and Technology indicated that they will be taking care of examination fees. That decision has not yet been effected even though it looks like it will be the next

step this year. So, I do not know whether this Motion has come a little bit too late. However, the matters raised herein are very important. Many students cannot afford fees being levied by schools. Currently, the fees include examination fee, development fee, tuition fee, boarding fee and lunch fee. So, school fees have become too high for many students.

Hon. Temporary Deputy Speaker, zeroing-in on examination fee, there is a lot of unfairness on the part of the school administration in some cases. There is always a deadline for submission of examination fee to the KNEC. The most disturbing thing is that some head teachers do not remit the examination fee in time, to the extent that some candidates miss the examination. That has been really unfair. No action has ever been taken against heads of schools that do not remit examination fee to the examination body. Students have to wait for another year to sit for the examination simply because a mistake was made by the school head teacher, by failing to submit the examination fee to the KNEC. We need to be very firm. Head teachers who do not remit the examination fees on time and consequently make students fail to sit for examination should have been charged for messing up the education of the students.

Another thing is that the examination fee has been very high. It is so high that many parents cannot afford. I suppose that the Government is coming in to take care of that problem. As to whether they will implement it or not, that is another matter. I have read it in the Press many times that the Ministry intends to take care of examination fees in public schools. If that is the case, it is a good move because it will ease the burden on parents. That is part of free education. It may be “free” because education is actually not free in this country. It is said to be free but parents still continue to pay some fees. What I would like to emphasise is that, apart from the school fees that students find difficult to pay, the school system is still very expensive in many ways. Even if the money is paid, the education structures of schools are not satisfactory. I have seen many schools in my area that lack proper infrastructure. The fee that is charged should be properly utilised. We should begin to see or evaluate how much fees is being paid and what development is going on in each school.

Some schools do not have desks in the 21st Century. Students still learn under trees and sit on stones. If you walk into some school compounds over lunch hour, you will see students eating under trees. You should see the kitchens; they are terrible. Although we are in the 21st Century, some schools look like they are in the 1950s, when schools had been established. They are still not established to this day yet parents continue to pay a lot of money. There are no improvements seen in schools in terms of infrastructure. That is why a lot of emphasis should be put on this matter. If the Jubilee Government wants to succeed, education is one area that they should put effort in and ensure that every aspect of education is properly addressed, including availability of teachers in terms of numbers. Parents pay salaries to some teachers because the Teachers Service Commission (TSC) has not employed enough teachers. The entire education sector in this country is in total mess.

With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): We will now hear the Member for Njoro.

Hon. J.K. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker, for giving me the chance to contribute to this debate. I support this Bill.

This Bill is timely having come at a time when parents are channelling a lot of their resources towards educating their children. The problem is that majority of them cannot afford school fees and examination fee. It is very painful for a parent who spent their entire life educating their children to realise that they cannot afford examination fee. Parents can hardly cope and their children end up not sitting for the examinations. The few students who sit for the examinations do not perform well and, therefore, their lives end up in a mess.

Other than scraping the examination fee, we should look into ways of improving our education standards. Our education system used to be ranked among the best in East and Central Africa but, with the introduction of free primary education, so many children enrolled in various learning institutions.

With introduction of free primary education in Kenya, there were so many children who enrolled in various learning institutions. That number increased so much to the extent that the Government could not cope with enrolment. Currently, there are so many students who are enrolled in primary and secondary schools. However, we have very few teachers in our primary and secondary schools. That burden has been left for the parents and guardians to carry.

Hon. Temporary Deputy Speaker, we need to re-look at the education system of our country. This is because if we are not careful, we will end up producing very weak students who will not be marketable in our local and international labour market. Why am I saying this? It is because many learning institutions have a lot of students, but they do not have enough teachers. I am wondering whether the Ministry of Education, Science and Technology, when it came up with that strategic plan, had foreseen a situation whereby it would be overwhelmed. Right now, there are so many schools but the burden of hiring teachers is left to the parents. It is high time the Government went to the drawing board to ensure that it employs enough teachers. The idea is noble, but it is not being implemented well.

Lastly, as I wind up, when you look at the other programmes, especially the one on electrification of primary schools, the Government has spent a lot of money on it. It is good to supply electricity to all primary schools in the country. The idea of laptops, surely, has not been looked at and we need to re-look at it. What is the point of us buying laptops yet we have not trained our teachers on how to use them?

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for Turkana East.

Hon. Ngikor: Thank you, hon. Temporary Deputy Speaker. I support this Bill because it touches on issues that have affected Kenyans for all this time. It regards problems facing our schools. When you look at the issue of Free Primary Education and Free Secondary Education, you will find that in some areas, it looks like a fiction story. In some areas in this country, parents believe that education is only meant for the boy-child. Even if you tell them that the law requires them to take their children to school, they do not believe it. This issue of paying examination fee has made some pupils not to be able to continue with their education because they have no money to pay this fee. So,

the abolishment of this fee will give them a chance to continue with their education. In some schools, you will find some students repeating classes because they cannot afford to pay this examination fee. They are forced to drop from school. Those communities that believe that education is meant for the boy-child and not the girl-child use this as a scapegoat. You will hear some parents saying, "I have no money to pay the examination fee and that is why my kid is at home." So, if we can abolish this examination fee, they will have no reason to keep their kids at home. This will help those communities to take their kids to school.

The other issue is on girl-child education. In some areas, the girl-child has been adversely affected. Some of the reasons the parents of these girls give is that Free Primary Education has no meaning to them. So, I support this idea of abolishing the examination fee in primary and secondary education. Parents will have no reasons to keep these girls at home. In communities like Samburu, Turkana and Pokot the girls are always at home because their parents have no money to pay this examination fee. The abolition of the examination fee will help us to take these girls to school.

We want the Free Primary Education to be really free. We need to abolish the examination fee, school fees, and all the other fees that are paid by pupils in the course of their education. Under Article 43(f) of the Constitution, 2010, all children have a right to basic education. I support this and I want all the levies paid in schools to be abolished so that our kids can have access to education at all levels because it is their constitutional right. This will make the communities I have talked about realize that education is also one way of them eking out a living. They will understand that education is the key to life.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Cheboi): We will have the hon. Member for Keiyo South.

Hon. Kiptanui: Thank you, hon. Temporary Deputy Speaker. Allow me to thank *Mheshimiwa* Emmanuel for this Bill. As he has said, the objective of this amendment Bill is to abolish the examination fee payable by candidates doing their exams in primary and secondary schools. As we debate this Bill, this directive has already been given by the Government and I am sure it is already being implemented. By us discussing it here, I believe by the end of the day we shall turn it into law and in future no candidate will be forced to pay examination fee.

Hon. Temporary Deputy Speaker, over the years, the previous Governments, especially the Government of Hon. Kibaki, introduced the Free Primary Education and Free Secondary Education programmes. In the last few years the current Government has continued to increase the capitation fee payable by students or by the Government on behalf of students. This implies that, indeed, if the Government is paying a lot of money for students in schools, then the parents should be paying less. However, that is not the case. If you look at the budget of the Ministry of Education, Science and Technology, you will realize that a lot of money has been factored in for capitation for pupils in primary schools and those in secondary schools. Surprisingly, the fee structures in most of the schools show that parents are required to pay more money every year.

We have been discussing about free primary education and free secondary education, however, my question is: What is free education?

We cannot say that we have free primary or free day secondary education if students are still being forced to pay examination fees. They are forced to pay fees for schools management to employ more teachers. That is not free. Students in primary and secondary schools are still forced to pay fees for extra curricula activities so we cannot say that it is free. I believe that if the Government continues to increase capitation per child in primary and secondary schools, maybe, in a few years to come, we shall be pleased to hear that primary and secondary schooling will indeed be free.

Hon. Temporary Deputy Speaker, as we support this Bill as Parliament, we also need to look at the budget for the Kenya National Examinations Council (KNEC). If, indeed, we are saying that students should not pay for their examinations, we must provide some budget for the KNEC. This body must set examinations and mark them and at the end of the day they require a lot of money. I urge this House to factor in a lot of money for the KNEC so that they can take care of these exams.

There is a new directive from the Government that students who have sat for examination in primary and secondary schools should be given their certificates. Many schools principals in this country have not adhered to this directive. We have quite a number of students from needy backgrounds who have sat for their Kenya Certificate of Secondary Examination (KCSE) and the Kenya Certificate of Primary Examinations (KCPE) but to date, they have not received their certificates. We ask the Ministry of Education, Science and Technology to implement this directive. If there are principals who are not following this directive, we should be informed because we have quite a number of students who are suffering.

Finally, I thank you, hon. Temporary Deputy Speaker. I support this amendment Bill.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, I am going to exercise my prerogative and I will give hon. Janet Teiya who is not among the top ten here, an opportunity.

Hon. (Ms.) Teiya: Thank you, hon. Temporary Deputy Speaker. I also want to thank the hon. Member for bringing this Bill to this House. It is a Bill that touches many people especially those in the rural areas.

The Ministry of Education, Science and Technology has done well in trying to pay for the pupils' examination fees but most of the pupils cannot make it for that examination because their parents cannot sustain paying their school fees. The school fees is too high. If we pay examination fees and pupils do not sit for that examination, it will not make sense. So, I urge the Government to reduce school fees so that every child can get that right to education. Most pastoral communities do not have teachers. Parents employ teachers and it is hard to employ a teacher and pay school fees.

I support the Bill and urge the Government to strictly make primary education free for the sake of those who are unfortunate so that they can benefit.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): I will give the chance to the hon. Member for Emuhaya.

Hon. (Dr.) Ottichilo: Thank you, hon. Temporary Deputy Speaker. I rise to support this amendment Bill. I thank my colleague and friend hon. Emmanuel Wangwe for bringing this very important Bill.

This Bill is going to be of major use to our people because examination fees have been a major burden to our children and families. Every time examination fee is required in both Standard Eight and Form Four, most Members of Parliament have always been approached to help. This has always been a major problem.

Article 43(1)(f) is clear that education is a constitutional right and is also a human rights element. Therefore, it is important that when we say that we have education as a constitutional right, we have to make every effort to see to it that we provide education for our children. The Basic Education Act of 2013 is very clear that basic education in this country should be provided for free. It is important that this amendment Bill goes a long way in ensuring that education is provided for free particularly when it comes to examination fees. The ultimate end of our children going to school is finally to sit for examination. In many cases when it comes to sitting for the examinations, you find that most parents cannot afford the fees charged. In that case you find that quite a number of pupils and students do not sit for the examinations because the examination fee is quite high. If this Bill goes through, it will be a big relief to our parents and communities.

I want to make it clear that the Government has clearly indicated that it will and it is willing to provide examination fees for our students. But for now it is for students in public schools. Students in private schools have been left out. This is discrimination. We need to ask our Government to consider when they are giving a waiver for all the examination fees, to do it across the board so that every child in this country can benefit. It will give everybody a level ground.

In conclusion, I thank my colleague for bringing this Bill. I believe that all of us are ready to support it. I am a Member of the Departmental Committee on Education, Research and Technology and I will ensure we support it.

With those few remarks I support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Since I had given two Members to the right of the Speaker, I am going to give two to the other side. So, I am going to give hon. Onyango Oyoo of Muhoroni.

Hon. Oyoo: Thank you, hon Temporary Speaker, for giving me this opportunity. I am opposed to this Bill by my good friend not for personal reasons but I believe that we are going to precipitate the intention of Kenyans wanting free things a bit too far.

The Government has demonstrated by action that it is unable to finance many facilities that are very necessary and we must be prepared. Soon we will even try to bring a Motion to the House to abolish dowry payment, which is bad.

(Laughter)

There is no way we can expect students to go to school up to Standard Eight and expect them to sit examinations without paying for it. It is not necessary more so at times when the Government, by word, has demonstrated that it is able to sustain free education. When you go to the schools, several levies are done through the backdoor and the parents have had to contend with the heavy levies that are not made public.

The schools where these students sit for their exams, where the Government is supposed to pay school fees on their behalf or instruct the KNEC to ensure the examination levies are not accepted, are reeling under financial difficulties such that

every other day, as leaders, we have been approached to organise *Harambees* to augment Government efforts to provide physical structures for the schools. Every other time, more so after the KCPE, we are told that the intake has been increased so that a school that had a capacity for 40 students accommodates 90 students.

The same officers who are increasing the intake have not made any arrangements for infrastructural development. I wonder where the money is going to come from. By extension, this will lower the quality of education because we will have substandard facilities in schools. Therefore, the examinations will be a formality. Examination fraud will be common since it will be happening every day and everywhere. We would not like to do such a thing. The charges that we have been paying to KNEC for schools have been good enough. They are a bit considerate. At least, we should have parents paying something. Every one of us here will be very proud to pay some nominal dowry for you to be complacent that you have a wife. However, I do not think you will even have respect for a wife you got for free.

This brings me to the second option, which is that we have had students who are half-baked since the introduction of free education. If you engage many of the 8-4-4 university graduates today, you will realise that their level of conceptualisation is very low because of mass production. So, we are going to have people coming from the village and going to school for free, courtesy of the Government; and sitting for examinations which they will not have paid for and then the quality of education will go down. We want students who are taught not to pass examinations but who are taught to look really clever. They should not be book-clever but they should be people who can go out there and meet challenges. They should be fully prepared.

I oppose this Bill and ask those who are concerned with education, more so the Departmental Committee on Education, Research and Technology, whose membership is here; that after the exit of hon. Kazungu Kambi from the Ministry of Labour, Social Security and Services, the other maverick Cabinet Secretary that should have exited like yesterday is the Cabinet Secretary for Education, Science and Technology. This is because he is bringing down the standards of education by making maverick statements every day and doing very little to improve the standard of education.

With those many remarks, I oppose the proposed abolition of examination fees.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Member for Samburu East, hon. Letimalo.

Hon. Letimalo: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill.

The main objective of this Motion is to abolish examination fees payable by KCPE and KCSE candidates. We must really appreciate what the previous governments have been doing to make education accessible and affordable. We remember that the Kenya African National Union (KANU) regime, under former President Moi's leadership, introduced the free school milk programme, which was actually important because it enabled children from poor backgrounds to have milk and concentrate in classwork.

The National Alliance Rainbow Coalition (NARC) Government, under the leadership of former President Kibaki, introduced free primary education and subsidised secondary education. Now, with the Jubilee Administration, the exemption of payment of

examination fees is actually an indication that the Government wants to make education affordable and accessible to all.

This has a lot of advantages. One, the payment of examination fees by the Government helps to minimise cases of dropouts. It is possible that a child may be able to continue with education but when it comes to sitting for examinations, they drop out because their parents failed to pay the examination fee. It is actually a disadvantage.

Secondly, it has improved the transitional rate of students, specifically from primary to secondary school and ultimately to university education. So, it is actually a very big contribution.

That has also helped schools to plan for examinations early enough to ensure that materials required for practical subjects, like sciences, will be available when the examination is due. The increase in the number of candidates involved in examination irregularities each year is a major concern. Now that the Government has contributed in the payment of examination fees, KNEC should formulate policies that will eradicate examination irregularities.

There is nothing painful than a student spending eight good years in primary school and have their results cancelled due to cheating. The same applies to one who goes through four good years of secondary education and then end up having their examination results cancelled due to examination irregularities.

Thirdly, we know that our education policy is examination-oriented to the extent that one is not able to progress to higher levels of education unless they have performed well in the examinations. It is important that these irregularities are addressed to ensure that students are not affected at the end of the education course.

Another issue of concern is the withholding of academic certificates and school leaving certificates by school administrators. This is particularly because of lack of payment of examination fees. Now that the Government has taken over that responsibility, I believe this is going to be overcome. My appeal to school administrators is that schools should make provisions for release of academic certificates immediately the examination results are released, to enable students participate in the job market, like the recent police recruitment. We are aware of cases where students who sat for examinations last year have result slips but due to lack of academic certificates, they were not able to participate in that exercise. A remedy should be found to ensure that they get their academic certificates and other accessories as they leave school.

Finally, with the payment of examination fee by the Government, the responsibility of providing physical facilities will rest with parents. With the Constituencies Development Fund (CDF) being there---

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over. Let us hear the Member for Butula, hon. Onyura.

Hon. Onyura: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill. I wish to also thank hon. Wangwe for the initiative and the effort.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Kabando wa Kabando, what is it? I can hear you with my long ears. I had indicated that I would be giving Members to my left two chances because I had already given two chances to the Members to my right. So, I am repaying the left side.

Proceed, hon. Onyura.

Hon. Onyura: Thank you, hon. Temporary Deputy Speaker. Thank you very much hon. Wangwe, for your effort and initiative. I support the Bill strongly because it makes sense. With the free education policy in place, we should do away with paying of examination fees because it would not make sense. For example, somebody gets free primary education from Standard One to Standard Eight, only for them to fail to sit for examination because they cannot afford the examination fees. We shall not have assisted such a person very much. Examination fees are, by no measure, not small. They range from Kshs4,000 upwards. For the ordinary rural person, this is not little money. We, as leaders, have come across many cases of desperate mothers running around, trying to look for examination fees, which have a deadline. If they do not pay the monies within a certain deadline, their children are not registered for examinations. This has also been one of the reasons for school dropouts. Abolishing examination fee is a move in the right direction.

It is easing the burden on parents particularly those who are not well to do and it will discourage school dropouts. We also know that education is a constitutional right as it has been mentioned by a number of colleagues here. It is anchored within the Constitution and this is one way of encouraging it. My reading and understanding of this Bill is that it is going to cover all the children, not only those in public schools because it refers to Kenyan citizens. It is saying that no examination fees or other examination charges shall be levied from Kenyan citizens. It does not say that it is only going to apply to public schools. I expect that every Kenyan citizen who will otherwise be charged will not be charged.

I will also want to urge the Kenya National Examinations Council (KNEC) to examine their processes and themselves because we have been having various issues of concern like exam irregularities which has been mentioned. KNEC needs to do its work professionally and with integrity. It should also address the issue of examiners. I have interacted with some examiners who have been complaining and grumbling about the way they are treated by KNEC. That is an area that they should look at. I hope that this Bill will be implemented when we pass it because very often we have seen directives from the Ministry of Education, Science and Technology being ignored. I hope that this will not be ignored.

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

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Member for Sigor.

Hon. Rotino: Thank you very much, hon. Temporary Deputy Speaker for giving me the opportunity to join my colleagues in supporting this very important Bill.

At the outset, this Bill is very important. It has come at the right time because it is meaningless and futile for a student to study for four or eight years in school and then not sit for the examination finally because the parents could not afford the examination fee. When the Government has given the offer to make the school programme free, they should also make all examinations completely free for all levels from Class Eight and Form Four. Most of us who come from Arid and Semi-Arid Lands (ASAL) areas have a lot of challenges. Even as we speak, many of the children in my constituency, about 100 of them never sat for examinations last year except Form Four examinations because their parents could not afford examination fees. Those who paid could not meet the deadlines. This is because schools give deadlines of paying examination fees. They were

not able to meet those deadlines and they lost. Imagine when you have stayed in school for four years and at the end of it all you cannot sit for examinations when you are supposed to. All those years are wasted and getting school fees to go back to school again is very demeaning.

I will also talk about infrastructure in our schools.

(Hon. Serut stood up)

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Serut, you are actually out of order. You are completely out of order.

Hon. Rotino: Hon. Temporary Deputy Speaker, when we talk about schools we have it is because we have a lot of expansion of schools. Many secondary schools are being opened but the staffing of the schools is so much wanting. You find that there are only six teachers against 12 streams in a secondary school. It makes our schools sub-standard. It makes us produce people who are half-baked. I want to plead with the Government that as much as we speak about free education, we should make sure that staffing and infrastructure is important because many of the students we produce nowadays from the 8-4-4 System of Education are half-baked people. They are not like the old people who used to do the 7-6-3 System of Education.

The Temporary Deputy Speaker (Hon. Cheboi): Order! What is it hon. Injendi, the Member of Parliament for Malava Constituency?

Hon. Injendi: Thank you, hon. Temporary Deputy Speaker. I would like the hon. Member to clarify why he says the 8-4-4 System of Education produces half-baked people. Does he have facts to prove this?

An hon. Member: Withdraw.

Hon. Rotino: Hon. Temporary Deputy Speaker, I---

The Temporary Deputy Speaker (Hon. Cheboi): Well. Hon. Rotino, you must understand that you are treading on very dangerous grounds because probably half the number of your colleagues belongs to that lot. I can see a very agitated hon. Melly there.

Hon. Rotino: Hon. Temporary Deputy Speaker, I can imagine that many of my colleagues are beneficiaries of the 8-4-4 System of Education. Some of us are the old guards of the older system. I beg to apologise if it offends some of them. What I meant to say is---

The Temporary Deputy Speaker (Hon. Cheboi): Did you withdraw or not?

Hon. Rotino: I have withdrawn.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Proceed.

Hon. Rotino: I want to say that many of us who come from ASAL areas are so much disadvantaged because of the terrain and the area. We want to thank the Government for giving us free education. However, as I have said, we should be able to make everything about education free including the examinations that our children do.

We thank the Government for providing electricity. We have electricity in most of the schools. Apart from the infrastructure which the Government must insist that we have in our schools, we are moving on well.

With those few remarks, I thank you for giving me the opportunity.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the hon. Member for North Imenti.

Hon. Dawood: Thank you very much, hon. Temporary Deputy Speaker. At the outset, I want to support this Bill. It is a good move for Hon. Emmanuel Wangwe to bring it.

When the Member for Muhoroni mentioned Prof. Kaimenyi, I think he should have known that Prof. Kaimenyi is one of the best Cabinet Secretaries we have ever had for the Ministry of Education, Science and Technology. A few gaps here and there do not qualify him to be the worst.

I support this Bill in the sense that it is good that we do not pay examination fees. We have seen instances where examination fees are paid by the students in some of the schools but the principal runs away with the money and never registers the students. At the end of eight or four years of secondary school education, the students think that they are going to do the examinations whereas the principal has run away with the money. They discover that they cannot register though they may want to. It is high time the Government paid for this. However, I think we are doing it in a lopsided manner, in that it is just being proposed for public schools. We do not take our children to low cost private schools out of choice. It is because we do not have public schools in some areas or we have some public schools which are not doing very well because of teacher absenteeism and all that. So, though we take our children to low cost private schools we need the same extended even to them because it is very important and they are all our children. It is enshrined in the Constitution that education is a basic necessity but it does not say that it should be private or public. If this Bill will be amended, it should include the private schools.

Regarding the education standards in our country, those in my constituency have gone up. However, we have a problem. The other day we had an intake of police recruits and students were asked for school leaving certificates and results certificates despite the fact that some schools hold certificates of those who have finished school. We have heard it from the Departmental Committee on Education, Research and Technology. The Vice Chairperson was here and one of the members of that Committee, hon. M'eruaki is here. They categorically stated in this House that even if people have not paid school fees, they should be given their certificates.

Hon. Temporary Deputy Speaker, that is not the case at the moment because many people have not been able to pay their school fees and they cannot access their certificates even after the Deputy President said it many times in public rallies. It is like the policy from the Ministry of Education, Science and Technology has not trickled down. We would want to know from the Departmental Committee on Education, Research and Technology whether this is just to hoodwink Parliament and the people that certificates will be released even if payment of school fees is not done. If it is not, then let it be actualized because many of my people who went for recruitment of police but they could not be taken in because they did not have the certificates in hand.

Regarding free primary and free secondary education, we need to come up with clear guidelines because free is not really free. A lot of things are being done which are not possible. To go for exams you need to study. We have lost two weeks of studying in strikes and yet we are not allowed to go for tuition. The Ministry of Education, Science

and Technology should come out clearly. Where we have lost time in strikes, we should compensate that with tuition which should be allowed for the two weeks.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Cheboi): Member for Kathiani.

Hon. Mbui: Thank you, hon. Temporary Deputy Speaker, for this opportunity. First, I want to thank hon. Wangwe for bringing this Motion for debate. That is why we are elected to this House, to find reasons and issues that affect our constituents and find ways of sorting them out. This issue of exams poses a very heavy burden on parents. It is one of the things that are affecting people who are already being weighed down by very high cost of living.

I want to support the abolishment of national examinations because it will give our parents an opportunity to spend their money on other more pressing issues. Recently, the Government, through a proposal, said that they are getting rid of those exams but the proposal that came from the Ministry of Education, Science and Technology was that they would pay fees for children who attend public schools. This is completely discriminatory because there are no private or public children in this country. All the children who go to our Kenyan schools and they are Kenyan citizens have a right to what the Constitution allows. As we abolish exam fees, we must abolish it for all the children so that even the ones in public schools and private schools do not pay for exams.

I have also noted that there are some other fees that are charged in our schools not just the ones the Kenya National Examinations Council (KNEC) charges but fees are paid every term. A case study in Kathiani shows that every term we pay for one exam. But then you go to schools and find that parents are being charged for three or four exams for every child from Standard One up to class Eight and from Form One to Form Four. This is also a very heavy burden and it is something that we need to get rid of as a House.

Finally, I want to talk about the KNEC. While we are proposing these amendments, I have also noticed that there is the issue of the conduct of exams. The conduct of exams by the KNEC has been wanting for the longest time. Every year, we have issues of irregularities in the exam management. We want to propose amendments so that we can come up with ways by which these exams can be made foolproof so that every year we do not have exams cancelled. We should ensure that the results that we get are authentic and can be respected.

I beg to support. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Wanyonyi is on top of the list. I am wondering whether I should give him an opportunity or cross to the other direction first. Well, proceed anyway because I have mentioned your name. I will compensate on the right of the Speaker.

Hon. F.K. Wanyonyi: Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill because basically it is abolishing examination fee.

Hon. Speaker, in essence I am affected. Last year, 19 pupils in my constituency missed examinations because of poverty. They were locked out and I do not know if they are going to repeat but what I know is that 19 of them were locked out because they could not pay for the examination fee.

Secondly, as somebody mentioned, it is true, it is discriminative because you can imagine a student in Alliance High School being charged the same amount as a student in

my constituency. The fee of Kshs4,000 is a bit too high. It is discriminative and I think we should charge this according to the area. Above all, my suggestion is that the examination fee should be pegged on the school fees so that when a parent pays school fees for the first year, second year, by the time he pays for the fourth year, he would have completed paying the school fees if the Government is not taking over.

I am told the Government is supposed to have taken over the paying of school fees. If that is not going to be done then let it be in such a way that when a parent pays school fees from Form One to Form Four, examination fees is included. Most of these parents are not able to pay and we can cover that in our bursaries as well.

Last but not least, the examination fee is not helping us at all because in cases where we have problems with shortage of teachers, the Government does not take up the matter. We have problems out there. Parents are moving up and down and I can tell you that in my constituency, parents line up for bursary. In the middle of the year, they again ask for the examination fee. It is a problem. We are also paying for teachers because of the shortage of teachers. Parents are paying for teachers and some of those teachers are not even trained. Untrained teachers are paid to fill up the gap because of the shortage of teachers.

Lastly, most of those principals are crooks. They run away with some of those fees. There was a case in Kitale, where I come from, where a teacher took examination fees but failed to remit it. The students thought they had been registered only to find out that their examination fees had not been paid. Let us do away with this and if it is a matter of readjusting, let it be paid with the school fees.

There is also an issue of the Kenya National Examinations Council (KNEC) having a problem with raising funds and I do not know where it is going to come from. As we do away with examination fee, we should also look for ways and means of assisting the KNEC. At the Third Reading, we should have an amendment on this Bill to take care of KNEC.

I support the Bill and let us do away with this so called examination fee because it is not productive.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, we will have the Member for Kajiado North.

Hon. Manje: Thank you, hon. Temporary Deputy Speaker, for giving me a chance to contribute to this Bill. I want to support this amendment Bill because I know the importance of education in this country.

The process of curriculum development is very simple. It is three- phased. There is curriculum development that is implemented by the Government through the Kenya Institute of Curriculum Development which is a Government parastatal and it is free. Then there is curriculum implementation that is normally done by the Teachers Service Commission (TSC) that is, the teachers implementing it. The teachers are paid by the Government. Primary education is free and since the Government is giving capitation for secondary education, it will also be free in the second phase of our curriculum development.

Lastly, the curriculum, after implementation by the teachers, is then evaluated by the Kenya National Examinations Council (KNEC). Therefore, it is prudent for the same to be free so that the whole process is free. When it is free, it will increase the

accessibility of education to our people. Therefore, it will improve the level of literacy in the country. This should be for both public and private schools. There is the tendency of benefitting only the students in public schools forgetting that we also have students in private schools in this country.

The importance of education is very well known. This is the only thing that can break the poverty cycle in our country. Education improves national cohesion. When you have voters who understand, then it is good for you as a politician because you can easily convince them. An educated person is able to adapt to an environment very quickly. He can fit anywhere in the world. He or she also appreciates the changes in the environment like Information and Communication Technology (ICT). Therefore, those are some of the benefits of education.

When we introduce free examinations, we should not compromise the quality. We have a tendency of making everything free. We then make it to be of very low quality. So, even as we make it free, we should check that we do not compromise the quality of education. KNEC should try to improve and curb examination cheating. There has been a lot of cheating in examinations. This is lowering the acceptability of examinations in Kenya. Long time, I used to hear people say that examinations that are normally given in this country are acceptable internationally. However, we are now getting a lot of cases of cheating in examinations. This lowers the quality of the academic certificates offered. We should introduce a Bill in this Parliament that will ensure that there is a contract between the person who is doing the examination and KNEC. The person being examined should get the certificate as opposed to going for the certificates and then the head teachers insist on retaining them if the students have not paid fees.

With those few remarks, I support the amendments.

The Temporary Deputy Speaker (Hon. Cheboi): If Members will be contributing like that, we will get time for one more Member. Let us have the Member for Marakwet West.

We are doing very well. We have saved quite a number of minutes.

Hon. Kisang: Thank you, hon. Temporary Deputy Speaker. I rise to support the amendments to the KNEC Bill for about two or three reasons. One, I am one of the products of free education. I remember in 1974 when most of us had not been born, His Excellency Mzee Kenyatta compelled all parents to take children to school. Two years before then, my elder brother had dropped out of school because my father could not afford to pay Kshs30 for my brother to go to Class One. So, I am a product of free primary education that started in 1974. Otherwise, I would not be here.

Secondly, I support the Bill because it proposes that the Government of Kenya pays all the examination fees for Kenya Certificate of Secondary Education (KCSE) and Kenya Certificate of Primary Education (KCPE) candidates. It does not make sense to say that we are offering free primary education for eight years and then when the candidates reach Standard Eight, they drop or do not sit for the examination. So, it is a waste of resources to put students in class for eight years and then when they reach Class Eight, they cannot afford to pay examination fees. It is the same for Form Four candidates. Between February and March, we have a lot of challenges because many parents call us requiring examination fees for their children. However, now that the

Government has agreed to waive the examination fees, we believe that these students will sit for the exams.

There is a directive by the Government to ensure that all certificates for the Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) candidates are released, but there are challenges. There are some candidates who have sat for examinations, and who wanted to be recruited into the National Police Service but they could not because the head teachers and principals have not released their certificates. During the Third Reading, I intend to introduce some amendments to ensure that we put this into law so that principals do not hold the certificates of former students who have completed school.

Finally, we have the issue of examination leakages. It would be very sad for somebody to study for eight years, then four years and then after Form Four, he is denied his results because of examination leakages. We want to ensure that we tighten the process and ensure that the employees of the KNEC are paid well. Perhaps the reason as to why they leak examinations to principals and other institutions is the pay. We need to support the KNEC to ensure that their employees are paid well, so that they do not get tempted to leak examinations for additional funds.

With those few remarks, I support the Kenya National Examinations Council (Amendment) Bill.

The Temporary Deputy Speaker (Hon. Cheboi): I will give a chance to the Member for Nyamira, hon. Chae. Depending on how many minutes each Member takes, the following are the Members who are going to speak: Hon. Ronald Tonui, Hon. Anami, Hon. Kabando wa Kabando and Hon. Johana Ngeno.

Hon. (Ms.) Chae: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support the Kenya National Examinations Council (Amendment) Bill, 2015. At the same time, I would like to thank hon. Wangwe for the good thoughts that he has brought forward to ensure that our children, mostly the ones who come from poor families, access the education that they try to look for eight years as well as those who get to Form One and sit for examination at the end of Fourth Form.

My opinion on this is that, as we try to abolish the examination fee in Standard Eight and Form Four, we also ensure that all the problems that are surrounding education right now are dealt with, so that teachers can be comfortable at their work stations. Their working conditions should be looked into by the Government, and their complaints listened to. We want to ensure that the competencies, skills, abilities and knowledge that they impart to students are of quality. At the moment, they are de-motivated instead of being motivated so that they can work hard to ensure that they give the right knowledge to students. It may be a waste of time. Let this House ensure that teachers are taken care of, in terms of their working conditions, so that they can give what is expected.

This is a cry answered for the poor. Many times, we say that education is a constitutional basic right to every Kenyan but you may not get the dreams of your day. However, this is going to ensure that the few people who never went beyond Standard Eight can now be assured that they will do Form Four examinations.

Another issue that we need to think about is the certificates. We need to ask ourselves why school principals do not listen to the directives given so that they can give their former students a chance to actualise their dreams.

They need to go to middle-level colleges or universities. So, we need to know what is going on. This directive should work so that we can know that the systems of the Government are working. They should be adhered to so that things can go in the right way. So, these parameters are going to open up the education system to every individual in the Kenyan society to ensure that they have acquired the knowledge they want.

With that, I support.

Hon. Tonui: Thank you, hon. Temporary Deputy Speaker, for the opportunity to support this Bill. I want to appreciate hon. Wangwe for coming up with this Bill. It will actualise the aspiration of the Jubilee Government to ensure that education is accessible.

The Temporary Deputy Speaker (Hon. Cheboi): Order. I can see a ranking Member, hon. Nyenze. I am tempted to give you an opportunity because that is what the Standing Orders say. However, I want to plead with you to come when this debate resumes so that you can have sufficient time.

Yes. Proceed, please.

Hon. Tonui: Thank you, hon. Temporary Deputy Speaker. I want to note that poverty in this country is on the increase. A large section of the society is facing tough situations when it comes to financial issues. Once this Bill becomes law, I believe registration expenses for Kenya Certificate of Primary Education (KCPE) which is about Kshs900 and for Kenya Certificate of Secondary Education (KCSE) which is around Kshs5,000 and which many households may not afford will be dropped. I believe that will ease the burden on the parents. So, this Bill is well intended.

I must note education is a basic human right which is well enshrined in our Constitution. Therefore, this Bill is in line with actualising this section of the Constitution, more so given that the Kenyan economy is improving. During the time Kibaki took over power, the budget used to be around Kshs250 billion. Now we are talking of a budget of Kshs1.8 trillion. That is a very massive budget which should be able to accommodate about Kshs5 billion or so which the Kenya National Examinations Council (KNEC) requires to effect free examinations. So, this Bill is coming at the right time.

I also want to appreciate the Government for the Free Day Secondary Education and Free Primary Education Programme. This is very good for our nation so that access to quality education can be expanded to all levels. I believe we now need to address the issues of pre-school and nursery education. They should also be made free. It does not help when we have free primary and secondary school education while at the level of pre-school parents still need to meet the expenses. This needs to be addressed.

On the other issues which are related to examination--- Students do not simply come and sit for examination. They must first of all cover the syllabus. They must go through certain details in class. We need to address issues like teacher shortage in our schools. Without the adequate number of teachers in our schools, we cannot have quality education. The Government needs to factor the recruitment of more teachers in the budget. Right now we are having a shortage of about 100,000 teachers which is too massive for the size of our education system. We need to address that. Also in line with that, we need well motivated teaching staff. If we do not have well motivated teachers, the quality of education will be compromised.

On the issue of infrastructure in our schools, many are in pathetic situation. We are grateful that we have the Constituencies Development Fund (CDF) which is improving the state of classrooms, but it is yet to address the pathetic conditions in our classrooms.

The amount of money that is allocated to Constituencies Development Fund (CDF) to take care of the infrastructure in schools needs to be adjusted upwards.

On the Kenya National Examinations Council (KNEC) front, I believe the funding to this body needs to be adjusted accordingly so that examiners, invigilators and supervisors can be well taken care of. I know, for example, examiners are paid an out of pocket allowance of Kshs100 only. This is too low and needs to be addressed. Teachers, as professionals need to be treated, just like other professionals. I know in the current Government certain professionals are paid better and favoured. Teachers must be treated the way engineers are treated.

The Temporary Deputy Speaker (Hon. Cheboi): Actually, you have exhausted the time that other Members could have utilized.

Hon. Member for Shinalu.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker. The levels of poverty in this country are on the rise because of skewed education opportunities. I support this Bill because it is going to provide an equal opportunity for everyone to access education and participate in productivity in this country. We know that education is a very important equalizing tool, especially as is promoted by our Constitution, which promises Kenyans equitable distribution of resources. Therefore, we should be anxious to create an enlightened society; a society where everyone cares for each other and all have equal opportunities to be productive and to promote what we have promised Kenyans through the devolution process. The greatest frustration therefore, is when our students go through the education process, but are not evaluated. Therefore, I support this Bill to ensure that all people who go through an education process enjoy the benefit of evaluation, then we can set standards. This is very important. Then we will also remove the frustration of people never knowing really, what kind of human resource we have.

Hon. Temporary Deputy Speaker, let me say just one thing about the Executive decision that was made by the Cabinet Secretary (CS) of Education. They have shelved the payment of examination fees. This is good, but it is also important for us as Parliament to rise to the occasion and anchor this in the legislative process, and include other facilities that may be packaged together with this law.

I would also like to underline the importance of keeping students in schools. Many head teachers and school authorities have the tendencies to suspend their students when they are not able to pay their school levies. This is a primitive behavior and we should be anxious to keep children in school so that they do well in exams and we will have high standards.

Thank you, hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. Cheboi): I can see hon. Kabando has removed his card, so I will give hon. Ng'eno, but it has to be only one minute.

Hon. Kipyegon: Thank you, hon. Deputy Speaker. Although I wanted to make very serious contributions towards this particular Bill, I will take only one minute. The

question of free registration of Kenya Certificate of Primary Education and Secondary Education---

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Ng'eno! You will, therefore, have your four-and-a-half minutes when debate resumes. You will then make your serious contribution.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, the time being 1.00p.m., this House stands adjourned until this afternoon at 2.30p.m.

The House rose at 1.00 p.m.