

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th April, 2015

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. (Dr.)
Laboso in the Chair]*

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, we do not have quorum. Can we have the Division Bell rung please?

(The Division Bell was rung)

Hon. Members, we are now properly constituted. As soon as we have the proper guidance, we will be guiding on the process of apology - It is a new one for us. We will be giving you the details. So, given yesterday's resolutions, the Members involved should not be in the House. However, we will move on with business of the House and at the appropriate time, we will give you the guidance.

MOTION

TRANSLATION OF LAWS OF KENYA INTO KISWAHILI

THAT, aware that Kiswahili is the national as well as official language of the Republic as enshrined in the Constitution; further aware that equality and freedom from discrimination and access to information are fundamental rights; cognizant of the fact that democracy and public participation of the people is a national value and principle of governance as per Article 10 of the Constitution; deeply concerned that a section of Kenyans have a low level of knowledge of their legal rights and laws passed by this House as a result of the existing language barriers; convinced that unless we, as a nation, lay down mechanisms for translating the Constitution and laws passed by Parliament and County

Assemblies into Kiswahili, most Kenyans will continue being partially aware of the law; this House urges the National Council for Law Reporting to progressively translate the laws of Kenya into Kiswahili.

(Hon.(Ms.) Lay on 25.3.2015)

(Resumption of debate interrupted on 25.3.2015)

Hon. Deputy Speaker: We have a balance of 35 minutes for this Motion. Hon. Ombaka had finished her contribution. Any Member can take up this chance. The first one on my list is hon. Harrison Kombe.

Hon. Kombe: Ahsante Mheshimiwa Naibu Spika kwa kunipatia fursa hii ili nami nichangie Hoja hii. Ni dhahiri kwamba wengi wamedhulumika kwa sababu ya kutofahamu sheria kwa sababu sheria zimeandikwa katika lugha ya kigeni, Kiingereza. Kwa hivyo, watu wengi wanapata ugumu kufahamu sheria za nchi.

Nikikumbuka vyema, kuna wakati ambapo kulikuwa na mapinduzi ya Serikali kwa masaa machache mnamo mwaka wa 1982. Wale ambao walishikwa walisomewa mashtaka na kuambiwa wayajibu. Walidhani waliyajibu mashtaka hayo sawa lakini walishtukia wameyajibu visivyo kwa kudai kwamba hawakuhusika wala hawakiri mashtaka yote. Mmoja wa watuhumiwa hao alisema: *"I am not guilty of all those"*. Hii ina maana kwamba siyo yote anayoyakiri lakini baadhi ya hayo anayakiri. Hiyo ni hali ya kwamba hakuwa anaelewa ni nini kilichomkabidhi hapo mahakamani. Hivyo basi kuna madhara mengi ambayo wananchi wa Jamhuri ya Kenya wanayapata---

Hon. Deputy Speaker: Are his five minutes over? It appears like he has done only two minutes. Give him the microphone. There is a problem with your microphone, hon. Kombe.

Hon. Kombe: Kwa haraka, nitapitia suala la Katiba. Sio wengi walipata kuifahamu Katiba. Kwa haraka tuliipitia na kuipitisha. Laiti wangejua yale madhara ambayo yanguwakumba kama yanavyotukumba siku ya leo, Katiba hatungeipitisha kamwe. Tungeisimamisha, tuirekebishe kisha tuipitisha.

Miezi michache iliyopita katika sehemu za magharibi ya nchi hii, kuna bunge lililopitisha kwamba watu ambao wamefuga kuku na paka watozwe ushuru. Watu walilalamika ilhali wao walikuwa wanatekeleza yaliyomo katika Katiba. Vile vile, walipitisha Katiba bila kufahamu kwamba nyumba wanazolala ndani zitatozwa kodi. Hilo likitendeka nina hakika Wakenya wote watalalamika. Hivyo basi kuna umuhimu sana wa kuhakikisha kwamba Katiba na sheria zote za nchi zinatafsiriwa kwa lugha ya Kiswahili na kwa lugha nyepesi. Nikiwa mtaalamu wa lugha hii ya Kiswahili niko tayari kushughulika katika harakati hiyo ya kutafsiri Katiba na pia sheria za nchi. Naunga mkono.

Hon. Dido: Hon. Deputy Speaker, I rise to support this Motion by Hon. Lay. Even though Kiswahili is a national language, we have not really put down issues in Kiswahili for the nationals of this country to understand, follow and transact the issues of this country in the language they understand appropriately. At one time, Kiswahili was almost being considered to be the language of the African Union (AU). East Africans were not able to take up that mantle to fight and make it the official language of the AU. Kiswahili is also among the top 20 languages that are used by Google which is an international service that is used by all and sundry across the world. That indicates the importance or the popularity of the Kiswahili language. It is currently spoken across East

and Central Africa and a good part of South Western Africa, making it the major language within the African continent.

Our population is not participating in governance and making good laws in this country because we have cut almost 70 per cent of our population from effective engagement in their country. The Constitution is the single most important living document of any land or State in the world. When everything in our Constitution is written in English---For example, Chapter 6 talks about leadership and integrity and, therefore, citizens must challenge those who must ascend to certain important offices. However, they have very little understanding of how to go about it. This is because most people cannot effectively read and understand English. Another area of interest is Chapter Four of the Constitution on the Bill of Rights. Here, every citizen has rights under the sun for what they have been allowed by the Constitution. Under Chapter Five on Land and Environment, all of us are stakeholders in land matters. However, our citizenry does not understand what is contained in the Constitution because it has not been written or translated in the language they can adequately understand and transact with.

Chapter Eleven talks about Devolved Government. Had that chapter been in Kiswahili, most of the things that we hear today within the devolved units such as corruption, embezzlement of funds and bad employment practices would not come before this House or the Senate. The citizenry would take such matters to court.

As I conclude, the Kenyan court system operates in English. A majority of the citizens who attend court sessions can only speak and transact business in Kiswahili. That potentially explains why most of the people behind bars are not those whom we may consider elite or affluent members of the society. This is an important Motion. In the translation of the Constitution, we should also have the audio part, so that it can even be broadcast.

I beg to support the Motion.

Hon. Mwashetani: Asante sana, Mhe. Naibu Spika kwa kunipa fursa hii kuchangia Hoja hii ya leo ambayo inaomba kutafsiri kwa lugha ya Kiswahili.

Lugha ya Kiswahili ni lugha ya muda mrefu sana. Imetokana na shughuli zilizokuwa zikiendelea wakati tulipokuwa tukitafuta hali ya kufanya biashara katika mabandari yetu ya Afrika Mashariki. Kiswahili ni mseto wa lugha tofauti kimaneno. Imechangiwa na lugha kama Kihindi, Kireno na Kijerumani. Ukiangalia yale maneno ambayo yako katika lugha ya Kiswahili, ni lugha ambayo imechanganyisha makabila mengi ya Kibantu. Karibu asilimia 70 ya Wakenya wanaielewa lugha ya Kiswahili vyema.

Hoja hii iliyoletwa na Mhe. Joyce Lay inalenga kutafsiri Katiba ili ieleweke na wananchi. Katiba ni muhimu katika mwongozo wetu wa kukaa salama na kuongozana kwa njia sawa. Kwa upande wa sheria, watu wetu, haswa wale tunaowakilisha, wamekuwa na matata sana wakati wana kesi kortini kwa sababu wakati hukumu inatolewa, wale wanaofuatiliza kesi hizo hawazielewi. Hukumu zote ambazo nimeshuhudia zinatolewa kwa lugha ya Kiingereza, ambayo ina utata sana.

Kwa upande wa mahojiano katika kutafuta kazi, watoto wetu wengi wana stakabadhi na wamesoma. Lakini kwa sababu ya kutoweza kujieleza kwa lugha ya Kiingereza kwa sababu ya sehemu wanazotoka ama wanazokaa, inakuwa vigumu wakati

hawa watoto wanapoitwa kuhojiwa ili kupata kazi. Wengi wanakosa kazi kwa sababu wameshindwa kujieleza kwa lugha ya Kiingereza ilhali wamesoma, wako na stakabadhi na wamepita. Ndiposa unaona inakuwa shida kwa watoto wetu kupata kazi haswa katika Serikali na sehemu zingine ambazo si za Serikali.

Wale wanaowakilisha nchi yetu ya Kenya kama Mabalizi kutoka Ulaya na Uingereza, kabla hawajatumwa hapa, ni aula kwao kufundishwa ama kujifundisha lugha ya Kiswahili ili wakija hapa waweze kuwasiliana na wakaaji wa nchi yetu ya Kenya.

Lugha ya Kiswahili inatambulika katika Afrika Mashariki. Ikiwa tutaendelea katika Muungano wa Afrika Mashariki, itakuwa muhimu kuitambua lugha ya Kiswahili na tuipatie kipao mbele ili iwe katika zile lugha ambazo zinasikika. Mbali na Kiingereza, Kiswahili iwe lugha ya pili au ya tatu. Hii ni lugha ambayo inatambulika katika eneo kubwa.

Naunga mkono Hoja hii. Tukiipitisha, tutaleta Mswada hapa Bungeni ambao utawafaa Wakenya wengi.

Hon. Letimalo: Nakushukuru, Mhe. Naibu Spika kwa kunipa nafasi hii ili nami niichangie Hoja hii.

Ni wazi kwamba lugha ya Kiswahili inatumika wakati wowote. Inatumika ofisini, katika biashara, kwa mashule na sehemu zinginezo. Haka kama mtu hakuhitimu kwa masomo, bado anaifahamu lugha ya Kiswahili kuliko Kiingereza. Kwa hivyo, ni muhimu tuitafsiri Katiba yetu na sheria zingine ili Wakenya wote wafaidike.

Katiba yetu inasema kwamba ni lazima wananchi wahusishwe katika mipango yote ambayo inawahusu. Kwa hivyo, Bunge ina sababu ya kuwahusisha wananchi kama tunavyosema katika Kiingereza, *public participation*. Inakuwa muhimu kwa wananchi kutoa maoni yao. Lakini kwa sababu haya yote yameandikwa katika lugha ya Kiingereza, inakuwa ni vigumu sana kwa wananchi, hata ikiwa wangekuwa na maoni, kuyatoa. Ni vyema, hasa katika sehemu zingine ambapo masomo yako katika hali ya chini ili wananchi kutoka sehemu hizo wahusishwe.

Ukiangalia maadili au sera za Serikali, zote zinatoka katika Katiba. Wale ambao wanahusika, kama vile maafisa wa Serikali na viongozi wa siasa, wanatumia mikutano ya hadhara kuelimisha wananchi. Inakuwa vigumu ikiwa kila kitu kitahitaji kutafsiriwa ili ilete usawa. Kama Katiba imeandikwa kwa lugha ya Kiswahili, itakuwa rahisi kuwaelimisha wananchi ili waelewe wajibu wao.

La mwisho, ambalo mara kwa mara linakuwa tatizo na kama vile mwenzangu amesema, mshtakiwa anapelekwa kortini, mashtaka yote yameandikwa kwa lugha ya Kiingereza na haelewi Kiingereza na wakati mwingine, Kiswahili chake ni duni. Inabidi huyo mshtakiwa kufungiwa hadi wakati korti litapata mtu ambaye ataweza kutafsiri kwa lugha ambayo mshtakiwa anaelewa. Jambo hili hutatiza. Itachukua muda mrefu kwa mshtakiwa kupata haki yake. Ni muhimu Katiba yetu na sheria zote zitafsiriwe kwa lugha ya Kiswahili ili wananchi wafaidike.

Hon. (Ms.) Sunjeev: Thank you, hon. Deputy Speaker for giving me this opportunity to contribute to this Motion. In as much as I would like to express myself in Kiswahili, I would like to admit that I am not so proficient. When I started speaking Kiswahili, people laughed at me. The fact of the matter is that many of us, even though we have passed Kiswahili in Form Four, with good grades, if we are asked to speak in Kiswahili proficiently, it will sound as if we are not Kenyans. So, I apologise for not

contributing to this Motion in Kiswahili. I have a few points which I think will be appreciated.

At the outset, I would like to congratulate hon. Joyce Wanjalah Lay for bringing this Motion. Sometimes you wonder why some hon. Members bring some Motions which have no big sense. This Motion tells me one thing: If you take away the language of a group of people in a country, you take away their culture and when you take away their culture, you break down the community. When you break down the community, you are infiltrating their unity. A country that is not united is divided.

Translating the Constitution into Kiswahili, as many of the hon. Members have said, is very right. We need citizens out there to understand the translation of the Constitution into Kiswahili. I would also like to take this further. Kiswahili is being spoken by more than 100 million people in the Eastern African region. The region being one of the main business and economic hubs in Africa, it is very important for investors and business people in total. So, having this common language is going to be highly beneficial for the business people.

Having been taught Kiswahili in high school and letting it go is leaving something very important behind. I remember when I went to France, I realized that even if some people know and understand English, they will not speak to you in that language. They will speak to you in French. It makes you feel displaced. Where are we going wrong? Why are we forgetting our language? So, as a nation we should also put our feet down and get ourselves more involved in trying to promote our national language.

Lastly, bringing our national language into the forefront and within every culture is breaking the barrier of ethnicity which I think is one of the biggest problems. It is the biggest vice of violence. So, I fully support this Motion. I once again thank Madam Joyce for bringing this Motion.

Thank you very much, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Cyprian Iringo, you can have two minutes before I call the Mover to reply. Hon. Cyprian Iringo, are you there?

Hon. Kubai Iringo: Thank you, hon. Deputy Speaker, for giving me this opportunity. I rise to support this Motion. At the outset, I want to say that I will not speak in Kiswahili because I am not very fluent in it. However, I support the Motion so that at least it can benefit other members of our society, those who are not well versed in English. Let us appreciate the fact that Kenya has got so many members of its population who are not well versed in English. When the Constitution is interpreted to them, they do not appreciate or get the nitty-gritty in it properly. At the end of the day one might end up making the wrong decision.

I strongly support that we should have the Constitution translated into Kiswahili. If we look back when we were passing this Constitution, most of the people who were campaigning for or against it used some terminologies to interpret it to the citizens to the extent that many of them were just carried by the wave. They did not exactly know what was happening. If it is translated into Kiswahili, I strongly believe that people can know what they are voting for, their rights and what it entails for them to take a certain stand on an issue. Even in the Parliaments of the neighbouring countries, Kiswahili has been taken seriously. We, in Kenya, should also take it as seriously because it is our national

language. We can even have Motions debated in Kiswahili on some days so that some of us can also get acquainted with the same.

So, I strongly support this Motion. Let it be done progressively so that it can fit into the country's budget. Other issues which appertain to the same can be carried simultaneously so that at the end of the day it is interpreted.

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

Hon. Deputy Speaker: I now call upon the Mover to respond. You have your ten minutes, but you are at liberty to be generous and magnanimous to your colleagues, if you want to give a minute or two.

Hon. (Ms.) Lay: Thank you, hon. Deputy Speaker. I want to be generous and donate a minute each to my colleagues, starting with *Mheshimiwa* Shakila, *Mheshimiwa* Mwadime, *Mheshimiwa* Mwanyoha, *Mheshimiwa* Chanzu and *Mheshimiwa* Nyaga. It is one minute each.

(Loud consultations)

Hon. Deputy Speaker: Unless you do not want any minutes to be left for yourself---

Hon. (Ms.) Lay: I will have four minutes left for myself because they are six Members.

Hon. Deputy Speaker: Okay. That is enough. It is going to be difficult to contribute in one minute. Hon. Mwadime.

Hon. Mwadime: Shukrani kwa kunipatia dakika moja. Kwa ukweli kama ndugu zetu upande ule mwingine husema: "Kiswahili kilizaliwa kule Tanzania, kikaanguliwa Kenya na kikafia kule Uganda." Itakuwa ni dawa ya huu usemi. Vile vile lugha huchangia pakubwa kwa kuboresha madili na mila kwa wale ambao wanaongea hiyo lugha. Ingekuwa ni vyema zaidi kutafsiri hizi sheria kwa lugha zetu kwa sababu hii itakuwa njia ya kuziboresha, pia tutakuwa tunaboresha mila zetu za Kenya. Lugha ya Kiswahili---

Hon. Deputy Speaker: Hon. Andrew Mwadime, your time is up. Hon. Shakila, just use hon. Mwashetani's microphone if yours is not working.

Hon. (Ms.) Shakila Mohamed: Asante, Mhe. Naibu Spika. Naomba nichangie Hoja hii ya Kiswahili. Kitu muhimu ningependa kusema ni kwamba lugha ya Kiswahili inafaa itukuzwe. Kama tunavyojua, Wakenya wengi hawajasoma kamili. Ikiwa tutaweza kutafsiri sheria zetu kwa Kiswahili, itakuwa ni jambo la maana kwa sababu watapata kuelewa haki zao. Wengi hawaelewi haki zao kwa sasa hususan wale ambao wanapatikana katika hali ya kisheria kama kortini, jelani na sehemu ambazo zinawaletea shida kwa kutojua haki zao za kisheria. Kwa hivyo, naunga mkono Hoja hii. Ni muhimu Serikali iitilie maanani na ihakikishe hizi sheria zimetafsiriwa ili watu waelewe haki zao kikamilifu na wasipate---

Hon. Deputy Speaker: Let us have hon. Mwanyoha.

Hon. Mwanyoha: Asante sana Mheshimiwa Naibu Spika. Kwanza nataka kumtangaza Mheshimiwa Joyce kama mtu mwenye maono ya hali ya juu sana kwa sababu jambo hili lilikuwa linatajikana liletwe mapema.

Hon. Deputy Speaker: Hon. Ken Obura and hon. Shakila, can you follow your Standing Orders?

Hon. Mwanyoha: Nisaidie Mheshimiwa Naibu Spika .

Hon. Deputy Speaker: You are standing between the Speaker and the person on the Floor. Hon. Ken Obura you must be ---

Hon. Mwanyoha: Kwa hivyo, ninaunga mkono na ningeomba kwamba baada ya kupitisha Hoja hii basi kila kitu ndani ya Bunge hili kitafsiriwe kwa lugha ya Kiswahili. Vile vile, Serikali ihakikishe ya kwamba inapeleka walimu katika kila kijiji na iwe ni lazima kila mtu afundishwe Kiswahili. Jambo hili litafanya watu kujua haki zao na kujitetea---

Hon. Deputy Speaker: Your time is up. Let us have hon. Yusuf Chanzu.

Hon. Chanzu: Ninampongeza Mheshimiwa Joyce Wanjalah kwa kuleta Hoja hii. Kenya ni nchi ambayo iko na makabila 42 na mikakati ambayo tumeweka kila wakati haijanufaisha umoja wa Wakenya, lakini tukiwa na lugha ambayo inaweza kuzungumzwa kutoka sehemu zote ni njia moja ambayo inaweza kutusaidia kuweka Wakenya pamoja. Kwa hivyo, iwe ni lazima kwa shule zetu kufunza kwa lugha ya Kiswahili. Vile vile, Kiswahili kifunzwe katika vyuo vya uwalimu ili tuwe na walimu ambao wanaweza kufunza Kiswahili. Kila mikutano ya kisiasa na kokote tuendapo tuwe tukiongea lugha ya Kiswahili ndipo tudumishe lugha ya Kiswahili.

Kwa hivyo, ninampongeza Mheshimiwa Joyce Lay.

Hon. Deputy Speaker: Your time is up. Let us have hon. Janet Nangabo.

Hon. (Ms.) Wanyama: Asante sana. Mimi pia nataka kuchukua fursa hii kumushukuru dada yangu Mheshimiwa Joyce Lay kwa ajili ya Hoja hii. Tunapotafsiri Katiba yetu katika lugha ya Kiswahili itatupa nafasi nzuri ya kuelimisha watu wetu, hasa kuhusu mambo ya ndoa na jinsia katika nchi yetu ya Kenya. Vile wenzangu wamesema, hata mkiwaona vijana wetu wanaoendesha *pikipiki* ama *bodaboda* unajua hawaelewi Katiba yetu. Itakuwa ni vyema kuona kwamba Katiba yetu imetafsiriwa katika lugha ya Kiswahili na hiyo itatupa nafasi nzuri sana. Ninamshukuru dada yangu, Mheshimiwa Joyce Lay kwa kuleta Hoja kama hii katika Bunge.

Ahsante sana.

Hon. Deputy Speaker: Hon. Lay, you can have your three minutes now.

Hon. (Ms.) Lay: Thank you. I want to thank every hon. Member of this House for contributing to this Motion. This is history in the making.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! The consultations are too high.

Hon. (Ms.) Lay: As we make sure that people understand the laws that we make in this House, I am sure the nation will be a better place to live in, the reason being that we have so many good laws that have been made by previous Members of Parliament. Even now we continue to make good laws but because people do not understand them you find that implementation is very slow. When we make people understand laws, I am sure the push for their implementation will come from the people themselves. As we regionally integrate through the East African Community, it is good to know that translation of laws into Kiswahili will not only be beneficial to Kenyans but to everyone in the region. This is because we have over 60 million Swahili speakers in this region.

With that I want to thank you. I am sure after this we will be able to bring a Bill that will be brought in Kiswahili for everybody to understand. I beg to move.

(Question put and agreed to)

Hon. Deputy Speaker: Can the Members get seated? I have a Communication to make. Members standing, can you please be seated or retreat from the House? Hon. Omondi, please get seated in the nearest chair if you do not mind so that we can get on with this process.

Hon. Members, I want to give some guidance on the new procedures that have been introduced to our way of doing things.

COMMUNICATION FROM THE CHAIR

ALLEGED BREACH OF PRIVILEGE BY MEMBERSHIP OF PUBLIC ACCOUNTS COMMITTEE

Hon. Members, you will recall that on Tuesday, 14th April 2015, the Report by the Committee on Powers and Privileges on the alleged breach of privilege and/or code of conduct by membership of Public Accounts Committee (PAC) was debated by the House and adopted without amendment.

Hon. Members, pursuant to my earlier Communication following the adoption of the Report, I wish to guide the House on the procedure for reprimanding a Member as recommended and adopted by the House as follows:-

First, all Members mentioned are considered strangers until and when they have been reprimanded and tendered a suitable apology to the House.

Secondly, each Member will be called to the Bar, which will be drawn and will be reprimanded by the Chair while standing at the Bar.

Thirdly, the Chair shall thereafter proceed to reprimand each Member before they take their seats in the House.

Fourth, each Member shall tender his or her apology.

For information of the House, the Members will be reprimanded for the following reasons:-

First, Hon. Ababu Namwamba, MP, for failing to substantiate within the required period serious allegations of breach of privilege and / or code of conduct allegedly committed by some members of the Committee contrary to Standing Order 91. Secondly, for contemptuously discussing proceedings of the Committee of Privileges in the media contrary to both Standing Order No. 86 and the Speaker's ruling of 11th March 2015.

Second, Hon. Ahmed Abbas, MP, for failing to substantiate within the required period serious allegations of breach of privilege and /or code of conduct allegedly committed by some members of the Committee contrary to Standing Order No.91.

Third, Hon. James Bett, MP, for failing to substantiate within the required period serious allegations of breach of privilege and / or code of conduct allegedly committed by some members of the Committee contrary to Standing Order No. 91.

Fourth, Hon. Omondi Anyanga, MP, for failing to substantiate within the required period serious allegations of the breach of privilege contrary to Standing Order No.91 and for contemptuously discussing proceedings of the Committee of Powers and Privileges in the media contrary to both Standing Order No. 86 and the Speaker's ruling of 11th March 2015.

Fifth, Hon. Samuel Arama, M.P. will not be reprimanded but is required to tender an apology for contemptuously discussing proceedings of the Committee on Powers and Privileges in the media, contrary to both Standing Order No. 86 and the Speaker's ruling of 11th March, 2015.

I now ask the other Members who are not mentioned in my list to get seated, and then I will ask the orderlies to close the Bar.

Orderlies, lock the doors and close the Bar.

(The doors were closed and the Bar drawn)

What is your point of order, hon. Cecily?

Hon. (Ms.) Mbarire: Hon. Deputy Speaker, it is a point of clarification.

Hon. Deputy Speaker: Your name is not here. What is your clarification?

Hon. (Ms.) Mbarire: Hon. Deputy Speaker, I thank you for giving me a chance. All of today's newspapers have reported that I am one of those who are supposed to apologise in this House this morning. Therefore, I would like you to clarify whether it is true. If it is not, please, clarify the same for the sake of the media.

(Loud consultations)

Can you relax? I have a right to raise this matter.

Hon. Deputy Speaker: Hon. Cecily, you have heard me read out the names. You are clearly not one of the Members whose names I have read out.

Hon. Members, we shall now begin with the first person. I now order hon. Ababu to approach the Bar.

(Hon. Ababu approached the Bar)

Hon. Members, by authority of the House and powers conferred to the Chair by the adoption of the Report of the Committee on Powers and Privileges, and the Speaker's Rules contained in Sessional Paper No.2 of 1966, I hereby reprimand you, Mr. Ababu Namwamba, and inform you that this House expresses its displeasure on your conduct of bringing the integrity of PAC into disrepute by failing to substantiate allegations within the required period. This conduct constitutes a breach of privilege conferred upon you, as a Member. Your conduct brought ridicule and disrepute to the House and its membership. I, therefore, reprimand and require you to tender an apology to the House forthwith.

Hon. Ababu: Hon. Deputy Speaker, allow me to make a brief statement. I will start, if you allow me, with your kind indulgence; by making reference to a matter you had mentioned earlier, in respect of a correspondence or a letter that I had authored and submitted to hon. Speaker.

I want to confirm to you and to this House that indeed a letter had been written. That letter was written in good faith and the subsequent withdrawal of that letter was similarly done in good faith; and the withdrawal of that letter was motivated by the realisation that the investigation initiated by the Ethics and Anti-Corruption Commission (EACC) was not about me. I confirmed that the EACC did not consider me a suspect or a subject of investigation, and that I was merely required to participate in those investigations as a witness to offer information within my knowledge. I considered that, as witness, I did not have any obligation to vacate my responsibilities as a Member of this honourable House. Therefore, that letter was withdrawn in that context.

Hon. Deputy Speaker, allow me to now address myself to the matter of the request or the demand for apology. I consider myself a ranking Member of this honourable House. I respect the rules, the practices, the traditions and customs of this House. For the eight years I have served in this House, I have not been found to be dishonourable or disrespectful to this House and its traditions or its practices. Therefore, I would be the last person to violate the Standing Orders and the honour of this House.

Having said that, the provisions of Standing Order No. 86 that require Members not to discuss in public, matters under consideration by a Committee, is a rule of this House. In furtherance of that rule, the Speaker made a ruling that required those of us who were party to these proceedings not to discuss these matters in public. This matter was already a matter of public notoriety, as those of us in the legal profession would say. It was already in discussion. Our names were being dragged through the mud. It was necessary for us to make clarifications. I made clarifications in that context; but in respect and honour of Standing Order No. 86 and the Speaker's ruling and in consonance with my tradition as a respector of the rules, the customs and the traditions of this House, I tender an unqualified apology for having discussed this matter in public.

(Applause)

Hon. Deputy Speaker, in respect of the matter of the information that I shared with the Powers and Privileges Committee – that was intended to help that Committee to arrive at a considered verdict on this critical matter – I want to say the following: Yesterday, I did not have the opportunity to address this House on the Report of the Powers and Privileges Committee. I respect the process that the Powers and Privileges Committee went through but I do not agree at all with the procedure, the findings and recommendations of that Committee. Indeed, I consider the whole process to have been something very akin to a Kangaroo court that was merely intended to confirm a pre-determined verdict. That Report is a pack of contradictions that would not stand the test of any judicial inquiry.

The Report and the proceedings of the Powers and Privileges Committee have now been submitted to the EACC for purposes of inquiry into allegations of bribery. I have made a commitment on the Floor of this House. I have made a commitment in public. I had made a commitment to the EACC, to assist to them in getting to the root of this matter. I believe that the PAC has been made a sacrificial lamb. I believe that if, indeed, this House is committed to fighting corruption, then it must allow the process that the EACC has initiated to go on to its full conclusion.

I would like to quote the words of a man greater than myself, Mahatma Gandhi, who once said: “Many people want to punish you for speaking the truth, being correct and being you”. Never apologize for being correct or for being years ahead of your time. If you are right and you know it, speak your mind even if you are a minority of one. The truth is still the truth.

Hon. Deputy Speaker, it is my submission to this House that the information I submitted to the Powers and Privileges Committee; information that is now subject to an inquiry by the EACC is information that was shared in good faith. I believe it is information that should be allowed to guide the EACC to get to the root of this matter. I wish to tell Members that if this House wishes to assist the EACC in executing its constitutional mandate, then, we should not engage in any activities that will amount to interfering in the work of the EACC. Let it interrogate the information they have which includes what I have shared. To withdraw that information here will, in my opinion, compromise the investigations by the EACC. Therefore, I declare, for avoidance of doubt and without an iota of fear, that I shall not apologise for that particular information. I place myself at the pleasure of the Chairperson in terms of the attendant sanctions. I say that with full confidence that my respect for the rules and honour of this House is unimpeachable. However, my commitment to stand for the truth and to help the fight against corruption, not through political witch-hunts and Kangaroo processes, but rather through real processes, still stands.

I submit and thank you.

Hon. Deputy Speaker: We had a resolution in this House which was adopted on failure to submit. The House resolved that any Member who fails to submit to any of the resolutions of the House under Paragraph 316 to Paragraph 318 be suspended from the House for a period of four days, including the day of suspension. Therefore, that shall stand with effect from now. Hon. Ababu, you may withdraw until the expiry of four days as recommended.

Hon. Ababu: Most obliged.

Hon. Deputy Speaker: The hon. Abdi Abass! It seems he is not yet in. Hon. James Bett! Please, approach the Bar.

Hon. Members, by the authority of the House and powers conferred to the Chair by the adoption of the Report of the Committee on Privileges and the Speaker’s Rules contained in Sessional Paper No. 2 of 1966, I hereby reprimand you, Mr. James Bett, and inform you that this House expresses its displeasure on your conduct of bringing the integrity of PAC into disrepute by failing to substantiate allegations within the required period. This conduct constitutes a breach of privilege conferred upon you as a Member. Your conduct brought ridicule and disrepute to the House and its membership. I, therefore, reprimand you and require you to tender an apology to the House forthwith.

Hon. J.K. Bett: Thank you, hon. Deputy Speaker. I take this opportunity to say that I am here because of an allegation I made. It has been said here that I could not substantiate my remarks. When we were prosecuting the proceedings in PAC, I said the report on the Judiciary, which was under our investigation had been leaked to *The Star* Newspaper by our Chairman. I was to prove that later on. When I came back, the same Judiciary Report was exclusively run in *The Star* Newspaper alone and not in the *Daily Nation* or *The Standard*. I was asked to prove that it is only the Chairman who leaked the

Report on the Judiciary. Although I may not have proved that it is exclusively the Chairman who leaked the Report to the Judiciary prior to our completion of the Report and in compliance with the rules and procedures of this House as spelt out by the Powers and Privileges Committee--- If you read the Powers and Privileges Committee Report on Page 55, it is exclusively captured that I tendered my apology within the specified time. I am here now to give an apology which I do not know falls under which Standing Order or which Article of the Constitution.

I also want to take exception with the *Daily Nation's* headline of today that the five of us are being removed from the PAC Committee because of bribery reports. It has nothing to do with bribery reports! It has to do with the allegations that we made during PAC proceedings. To cut the long story short, I would like to give my unqualified apology and say that I will abide by the rules of the House.

Hon. Deputy Speaker: Hon. Bett may be admitted to the Chamber. Hon. Omondi Anyanga! Please, approach the Bar.

Hon. Anyanga, by the authority of the House and powers conferred to the Chair by the adoption of the Report of the Committee on Privileges and Speaker's Rules contained in Sessional Paper No. 2 of 1966, I hereby reprimand you, Mr. Omondi Anyanga and inform you that this House expresses its displeasure on your conduct of bringing the integrity of PAC into disrepute and by failing to substantiate allegations within the required period. This conduct constitutes a breach of privilege conferred upon you as a Member. Your conduct brought ridicule and disrepute to the House and its membership. I, therefore, reprimand you and require you tender an apology to the House forthwith.

Hon. P.E.O Anyanga: Thank you, hon. Deputy Speaker. I stand here to apologize based on the adoption of the Report yesterday afternoon. As a former Member of PAC, which has been investigated by the Powers and Privileges Committee on the directive of this House; and bearing in mind the recommendations of the said Committee that the Members mentioned on Paragraph 316 should apologise, I wish to tender my apology for having made allegations without apologising within the time limit.

I hereby tender my unreserved apology.

Hon. Deputy Speaker: Hon. Anyanga, you may now be admitted to the House.

I now would like Mr. Samuel Arama to approach the Bar. You are not getting a reprimand, that by the authority of the House and powers conferred by the Chair and the adoption of the Report of the Committee on Privileges and the Speaker's Rules contained in Sessional Paper No.2 of 1966, I hereby require you, Mr. Samuel Arama, to tender an apology to the House forthwith.

Hon. Arama: Thank you, hon. Deputy Speaker. I stand here to apologise. But before I do that, what made me to go against your orders that time was that the Chairman of the Public Accounts Committee was hopping from one media house to another talking about the tape and the recording. So, I was forced to reply. I apologise for having done that.

Thank you.

Hon. Deputy Speaker: You may now be admitted to the House hon. Arama. As soon as hon. Abass is in the House, he will have to undergo a similar process. That brings us to the end of that session. We may now continue with our business.

Next Order. Can we draw apart the bars and open the doors, so that we can continue with business?

BILL

Second Reading

THE IN-VITRO FERTILIZATION BILL

Hon. (Ms.) Odhiambo-Mabona: Hon. Deputy Speaker, I beg to move that the In-Vitro Fertilization Bill, 2014, be now read a Second Time.

Before I go into the details of this Bill, I want to indicate that I have already spoken---

(Loud consultations)

Hon. Deputy Speaker: Order, Members! The level of consultations is too high. Those withdrawing to Committees, please, do it quietly.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Deputy Speaker. The excitement is about the apologies and non-apologies. For me, my hero is hon. Ababu. I am glad he did not apologise. You must always stand with the truth no matter what.

As I move this Bill, I want to indicate that I have already spoken to the Committee on Health. I have seen their report. The Committee has given very strong recommendations. I do not know whether the Chairperson of the Committee on Health is present.

(Loud consultations)

Hon. Deputy Speaker: Order! Order Members! The consultations are too loud, hon. Members! Too many Members are standing along the isles. Please, settle down. If you are moving out to the Committees, please, do it silently, so that we can listen to the Member who is on the Floor.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Deputy Speaker. I was hoping to get the ear of the Chairperson of the Committee on Health, but she was consulting with you. I want to have this go on record. I have already spoken to the Committee on Health. They have given very strong recommendations. You will notice that the Bill's name is "The In-Vitro Fertilisation Bill, 2014" and the strong recommendation from the Committee on Health is that there are many other forms of assisted reproduction. They have singled out one. However, technology perhaps has changed since I first conceptualised the idea.

My suggestion to the Committee has been that there are certain recommendations that we can deal with by way of amendment. I am agreeable to amending the Bill and even its title, so that it is not just on in-vitro fertilisation, but on assisted reproduction. I sat with the Committee on Health and looked at it substantively, but I have recommended to

the Committee that we move the Bill and then I can meet with the Committee before the matter comes to the Committee Stage.

This Bill will be an Act of Parliament for the regulation of in-vitro fertilisation, to prohibit certain practices in connection with in-vitro fertilisation, to establish an In-Vitro Fertilisation Authority, to make provision in relation to children born of In-Vitro Fertilisation process and for connected purposes.

I want to start off by indicating that very many women in this country have challenges having children through normal reproductive processes. A sizeable number of the Kenyan population, because of advances in technology, have opted for assisted technologies. It is not unlawful in this country, yet there is no legislative framework. That, therefore, means that if we do not pass a law that provides a legislative framework, the practice will continue save that there will be no legislative framework. Therefore, you will find a situation where women who have given birth through these processes face legal challenges, especially when they use surrogate mothers.

Instances have appeared before a court recently where even the court requested Parliament, as a matter of urgency, to pass such a law, so that they are not inundated with cases where a woman leases her womb for purposes of reproduction and once the child is born, because she feels that she has a bond with the child for whatever reason, she decides that she does not want to let go of the child. The courts are then forced to make a decision. In this matter, the courts have gone way ahead of us as a country.

We have Members in this House who are facing the same challenges. Hon. Joyce Lay has indicated in the past that she has got a child through assisted reproduction. The child is her biological child. For medical reasons, she could not have the child normally. After she delivered the child, she was forced to go to court for an order to adopt her own child. Those are the ridiculous situations that we find ourselves in.

I do not have a child. One of the reasons I have not had a child is due to my lifestyle. I am married to a non-Kenyan and I do not want to have a child with another man and present it as my husband's child. Because of the distances and my age, we could not have a child naturally unless we want to go the biblical times of Abraham and Sarah. Miracles are in short supply nowadays. Because of that, I have delayed getting a child until there is a legal framework. I do not want to have a child and after that go to court and start struggling with whether it is my child or not.

Having said that, even if I do not have a child, I am proud. I want to tell all the women in this country who do not have children that it is neither a crime nor a shame not to have a child. I am indicating it here because some of our Members made very unfortunate remarks when we were politicking. One of them actually mentioned me as a barren prostitute because we had disagreed on an issue of politics. Once I came into this House as a woman, I knew that I would always be hit below the belt. Please, look for more innovative ways to attack us, as women because we are used to being hit below the belt. It will not hinder us. It will not stop some of us, who want to come forward and deal with issues of reproduction, from raising them. God gave me a special opportunity to be in this House at this time. For purposes of speaking to women issues, I will--- I am sure that the other women in this House will be "Esther" for the purposes of other women. Without fear or favour, I will be the voice of the many women who have challenges in having children. When I was confronted with this issue, my concern at that point was not

even myself because I was too busy serving Kenyans in the civil society to be bothered about having children.

(The Deputy Speaker (Hon. (Dr.) Laboso) left the Chair)

(The Temporary Deputy Speaker (Hon. (Ms.) Shebesh) took the Chair)

I know that my good friend, Dr. Shaban, has been on this issue with me like forever. She has been following me and telling me that I need to have my own child. I have promised her I will. Even if I do not have my own, I will adopt because I have been a mother to many children in this country, as the director of Cradle.

Hon. Temporary Deputy Speaker, having said that, I have met several women and that is why I am reassuring women in this country that it is not a crime to be childless. Neither are you any less wholesome because you do not have a child. I met women who have cried before me. Many of them are women in the church, especially the ones who have very strong conscience and who are strong believers, who do not want to go through *panya* routes to have children. I have sat with them and they have given me the horrors they have gone through while trying to get assisted reproduction. Many of them have tried three to six times. The average cost as at the time I was talking to them was about Kshs300,000 per session. Some of them have gone up to South Africa. It may cost you up to Kshs1 million to be hospitalised and go through just one process. When it fails, the money is not refunded. You have to go through the entire process all over again.

As I have indicated, the courts have gone ahead of us and requested this Parliament, as a matter of urgency, to pass a law on assisted reproduction because a lot of Kenyan women who are not able to have children normally are suffering.

When this matter came up, I saw a lot of comments, especially from religious leaders, who are saying that this is against the order of nature. What we have tried to do here is to be sensitive to religious wishes while at the same time looking at the issues which are here with us. I want to actually tell the religious leaders that even if we do not pass this law, the truth is that it is not unlawful to undertake assisted reproductive systems in Kenya. Therefore, it will go on. The only challenge is that the courts will be forced to litigate conflicts every now and again. What we are saying is that instead of giving the courts that mandate, we need to give it to Parliament. I am very willing and able to meet the religious leaders to address their concerns. I usually listen very keenly to what religious leaders say. I have walked with them through the constitutional review process; even when some of them had concerns in relation to the constitutional review, I invited them to Parliament and we addressed them.

I was disappointed when only one person showed up when we were passing the Treaty Making and Ratification Act, which was addressing some of the concerns that the church had. We passed it in this House and at the point when we were passing it, I was very sad that they did not appear. This time round, I tell the church and religious leaders, including those that are not Christians, that I am able and willing to sit down with them and discuss their concerns in this Bill.

Hon. Temporary Deputy Speaker, I just want to give a brief overview of the Bill. Because I know we have a heavy legislative agenda, let me not get drunk with my own brew. I want to just give an overview of what the Bill has. Part I is preliminary, which in most Bills is basically about definitions.

Part II provides for the establishment, powers and functions of the In-Vitro Fertilisation Authority. This is the authority that will be setting standards that will deal with regulations. Basically, it will be the main body that will deal with issues of in-vitro fertilisation.

Part III talks of prohibited activities, including use of embryos, consent of parties, posthumous use without consent and in-vitro fertilisation for procreation purposes. This is an attempt to deal with some of the issues of concern to the church – that we will not use in-vitro fertilisation for reasons other than procreation. I know it creates--- Researchers would want a little more space to do a bit more research but because, as a country, we are at a point where we are not very willing to embrace research, we need to concentrate on the issue of in-vitro human fertilisation for procreation purposes.

I have also indicated circumstances for undertaking in-vitro human fertilisation. You notice in the Bill that the circumstances are limited. Hon. Members have raised some concerns to me over the limitation. During the Committee Stage, after we agree with the Committee on Health, we will propose exhaustive amendments. The Bill also talks about the use of an embryo in a woman, gametes obtained from a minor, authority to use licence and use of the gametes. In dealing with the issue of minors, we want to ensure that we do not violet the rights of children. A child who by law is not allowed to have children should not be used as a donor.

Part IV provides for the rights of parents, donors and children. Even though I know that I am wading into the area of science, my primary concern is actually the legal aspect. This has actually given me a lot of interest. I was speaking to one of the young lady interns when I was the director at the Cradle, who has been inspired by this initiative. The father, Dr. Noreh, is one of the great experts in this country, in this field. I was speaking to him the other day. The daughter has actually done a PhD degree in this area, but from a medical-legal aspect. I was discussing with her. I am actually considering doing my PhD but not on the medical-legal aspect but the ethical-legal aspects of this area.

This is not the first time I am wading into an area that is a bit of legal and scientific. My thesis at the School of Law in the University of Nairobi was on intellectual property rights in plant genetic resources. I have really waded into the area of plant genetic resources before. Now I have moved from plant genetics to human genetic resources; this is really about genetic resources of humans.

Part IV talks about a lot of issues, including use of sperm after the death of a man, parties to a marriage, rights to accrue to a child and surrogate motherhood. Even as I move this Bill, I am aware that my ‘sister’ in the Senate has moved a reproductive Bill that also has elements of surrogacy. We are looking at ways of harmonising her Bill with mine, so that if there are components of hers that are stronger on surrogacy, we bring them into this Bill.

Part V talks about the issue of access to information while respecting the rights of the parents and the child.

Part VI is on licensing; Part VII is on financial provisions and Part VIII is on miscellaneous provisions. I do not want to go into details. This is not a very big Bill. I am sure that hon. Members have gone through it.

With those few remarks, I beg to move. I ask my dear sister, who has within the short time distinguished herself as an excellent legislator, to second. Earlier this morning, we just dealt with her Motion on translating laws into Kiswahili. Thank you.

Hon. (Ms.) Lay: Thank you very much, hon. Temporary Deputy Speaker. I want to thank hon. Millie Odhiambo for bringing this historic Bill. I remember that when I first came to this House, I had some time to share with hon. Millie Odhiambo about my own experience and I told her that there was a Bill that I wanted to introduce to Parliament, and that I would need her help. I was happy to learn and understand that she had the same Bill in the previous Parliament and it was being drafted. To me, it was a prayer answered. I say it was a prayer answered because it is something that I have gone through and lived with. I am a living testimony.

It is high time this country designs a legal framework on human reproductive technologies. We cannot get stuck in dark ages. Technology is moving very fast and if we want to be a digital country then we have to keep up with technology. I want to speak mainly on this Bill; hon. Millie Odhiambo-Mabona has recommended formation of an authority to be in charge of the In-Vitro Fertilisation (IVF). This will regulate the process and also bring to stop the fraud cases that have been happening in this country.

The IVF technology is not new in this country. It has been happening. The difference, as hon. Millie was telling me, is that I decided to do it before the law was put in place. She wanted the law to be put in place before she goes through this process. So, it has been happening. It is a sad thing because when you go to clinics, you find them full. I remember when we started the process, we would go as early as 7.00 a.m. and we would find the clinic full. That tells you that there is a huge problem. Women are suffering in this country. Women are having reproductive issues in this country. It is not just women but even men. To see that they will go to such an extent of even spending a lot of money to make sure that they have children, that tells you that this Bill is really timely.

This Bill seeks to address challenges and thereby empower and strengthen the practice of doctors in the area of IVF. I was really shocked to see women who could not give birth going to the extent of having eggs donated even by young girls. As we speak, it is a business that is going on. Women are crying every day. Women are going through this pain every day of not being called a mother and not having their own child to hold in their hands.

The experience that hon. Millie has gone through also befell me. I remember when I was campaigning my opponents would even go to the extent of asking the community: "How are you going to vote for a woman who cannot give birth? She has to be assisted to give birth." You see, these are the things that are going on in the community. When people hear about this, it is pain that no woman will want to go through. Because of the laws that are missing in this process, as hon. Millie explained earlier, even after I went through this, and I being the biological mother of my child, I was forced to go through adoption.

(Hon. (Ms.) Lay sobbed)

The adoption process has taken almost four years. It is such a painful issue. As I said, it is a process that has been going on but other women have gone through the back door to make sure that the certificate or the notification of birth comes out with their names, so that they do not have to go through this process. Because I had declared that I was going to be a leader, I wanted to take the legal process. I did not care how long it was going to take. I wanted it to be clean and clear, so that we develop laws, change the laws and make sure that no other woman goes through what I have gone through. That is to make sure that no other woman goes through the pain of going through the courts and lawyers and pay a lot of money to adopt a child of her own.

I am sure this will bring a huge difference in this country for all women out there, the women in Kenya who cannot have their own children. I want to talk to the women out there and tell them that there is hope. I want to tell women that you have elected women to this Assembly. You have elected women who know your pain. You have elected women who have gone through the route that you are going through out there. So, you are not alone. We are here to change laws and women of Kenya are going to have children and this process is going to be affordable to everybody. This is because when we have laws, we will make sure that the cost of this process is affordable to every other woman out there.

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

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Pukose, who will be speaking on behalf of the Departmental Committee on Health?

Hon. (Dr.) Pukose: Thank you, hon. Temporary Deputy Speaker. I stand here on behalf of the Departmental Committee on Health to oppose this Bill. Motions and Bills are passed for posterity. They are made for the nation.

(Hon. (Ms.) Odhiambo-Mabona left her seat)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Millie, I would suggest that you listen and resume your seat.

(Hon. (Ms.) Odhiambo-Mabona resumed her seat)

Hon. (Dr.) Pukose: They are made for the nation. The Departmental Committee on Health considered the In-Vitro Fertilisation Bill 2014, which was presented to us for pre-scrutiny on 17th June, 2014. Once it was forwarded for pre-publication scrutiny, the Committee processed the legislative proposal within the provisions of Standing Order No. 114. However, the Bill was published before the Committee tabled its Report on the pre-publication scrutiny. It was published on 29 August, 2014. On 14th October, 2014, the IVF Bill, 2014 was read for the first time in this House and it was thereafter committed to the Departmental Committee on Health under Standing Order No. 127(1). Pursuant to the requirements of Article 118 of the Constitution and Standing Order No.

127(3), we placed advertisements in the local dailies calling for views from the general public on the Bill. The views were received on or before Wednesday 5th November, 2014. When that was done, the Kenya Christian Professionals Forum (KCPF) responded and gave us their views.

When you look at this Bill, its main objective is to provide for the regulation of IVF, prohibit certain practices in connection with IVF, establish an In-Vitro Fertilisation Authority (IVFA) and make provision in relation to children born of IVF.

Hon. Temporary Deputy Speaker, rights to sexual and reproductive health are generally recognized as integral part of the right to health. This stems from the 1994 International Conference on Population and Development, which was held in Cairo and from the Fourth World Conference on Women held in Beijing in 1995. These forums recognized the rights to sexual and reproductive health such as freedom to control one's body, the right to an efficient health system and easy access to information on sexual and reproductive issues. Thus, states are obligated to guarantee adequate services and information on medically-assisted reproduction. This, therefore, has been domesticated through Article 43 of the Constitution, which provides for the right to the highest attainable standard of health; this includes the right to healthcare services, including reproductive health and care.

The framework in the Draft Kenya Health Policy, 2014 to 2030, has four objectives. In the fourth objective, it provides for essential healthcare, and recognizes reproductive health services. It offers the policy strategy for ensuring a comprehensive maternal and neonatal reproductive health services.

We also have the draft Health Bill, which we have been able to look at. Currently, it is on its way to this House in two weeks' time from the Office of the Attorney-General. Part II of this draft Health Bill has provisions on human organs, human blood, human products, other tissues and gametes. In Article 69, it provides that the Cabinet Secretary (CS) will make regulations, among them the following:- tissue transplant, the artificial fertilization of persons, returns and reports including extracts from registers to be submitted to specified persons and institutions, the acquisition, storage, harvesting, utilization or manipulation of tissue, blood, blood products, organs, gametes, oocytes or human stem cells for any purpose, the appointment and functions of inspectors of progenitor cells, stem cells for any purpose, and the bringing together outside the human body of male and female gametes for research with regard to the product of the union of those gametes. This is in-vitro fertilization (IVF). In IVF, this is assisted reproductive technology.

The implication of the foregoing, therefore, is that IVF is duly provided for and recognized in the national health system. However, the policy direction of Government does not envision the creation of an authority to regulate a single technology, in this case IVF; instead it envisions a single regulatory body to regulate health products and technologies. That is where we differ with the Bill by hon. Millie Odhiambo-Mabona; creation of an authority makes her's a money Bill.

In IVF, this is assisted reproductive technology and the World Health Organisation (WHO) defines "assisted reproductive technology" as all treatment or procedures that include in-vitro handling of both human oocytes and sperms, or embryo, for the purpose of establishing a pregnancy. This includes but is not limited to in-vitro

fertilization and embryo transfer, gamete intra-fallopian transfer, zygote intra-fallopian transfer, tubal-embryo transfer, gametes and embryo cryopreservation, oocyte and embryo donation and gestational surrogacy.

Further, “medically-assisted reproductive health” is defined by the WHO as reproduction brought about through ovulation induction, controlled ovarian stimulation and ovulation triggering, therefore, ART procedures and intra-uterine, intra-cervical and intra-vaginal insemination with semen of a partner or a donor. Having looked at this, we were able elsewhere to look at the comments by Christian professionals. This is what they had: They submitted their document on 3rd November, 2014 and to them the Bill raises serious ethical issues among them the right to life. Indeed, they suggested that it is vital to adequately cater for life that comes into existence in these conditions pursuant to Article 26 of the Constitution. Two, its potential for abuse through research; laying the ground for abortion and it increases health risks to female donors. They also looked at the age of consent and the position of the Bill versus homosexuality where the service should also be available to gay couples and sexual offenders. There is also the position of the Bill *vis a vis* married and unmarried seeking IVF treatment and regulating the unethical experimentation and commercial use. They also raised issues on regulating of the sperms and egg donation from commercial abuse and regulation on use of donations from deceased donors. Therefore, the Committee, having extensively considered the Bill, recommended the sponsor of the Bill to consider proposing a broader Bill on maternal and child health that incorporates assisted reproductive technologies of which IVF is among them and aligning it with the proposed Health Bill. Our position is that the sponsor of the Bill should withdraw the Bill and wait until the Health Bill is in place because it is going to repeal this Bill. Therefore, I beg that the owner withdraws it. The position of the Committee is that the sponsor of the Bill withdraws the Bill and further consultations should be done.

Thank you for that.

Hon. Ng’ongo: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to make my contribution to the In-vitro Fertilization Bill, 2014. I want, first of all, to indicate that I am supporting this Bill. The biggest frustration for any woman, especially in African society, is childlessness. Many times you find that most polygamous families come about because the man cannot handle a situation where the first wife has not sired a baby. It is a frustration that many women go through not only in this country but in many African countries.

It is a pity that I get to understand, especially from the proposer of the Bill, hon. Millie, that this country is still lacking a legal framework to guide modern human reproduction technologies. We are 50 years into Independence and a basic health issue like reproduction needed to have been considered way before. I would urge hon. Millie that even as we look at this specific matter, other issues of reproduction need to be given attention especially by people who have some better knowledge than us. We must embrace science and technology.

Hon. Temporary Deputy Speaker, I am also a Christian. I profess the Seventh Day Adventist faith which is also a strong faith. We need to be modern and we need to accept certain realities. I have read the Bible from the first chapter to the last; from Genesis to Revelation and there is nowhere that that Bible says--- The Bible says that God instructed

us to reproduce but it does not say how that reproduction should take place. Someone needs to point out to me where it says there must be some sexual intercourse for reproduction to take place. Even that is a scientific innovation and that innovation I am told took place around the Garden of Eden. These other innovations are just innovations as that early innovation. It is God who has given us the brain to come up with new innovations. Therefore, to use religion to fight something that its time has come, to me, is being fundamentalist.

In fact, we have been complaining about certain people who are wrongly professing the Islamic faith because that is not what Islamic faith says; to kill other people. Equally for Christians if we misapply the Christian faith to stop people from reproducing, I think it is wrong. What is wrong with making choices on what you want to do? I want to talk about three issues with regard to this Bill.

First, it must be acknowledged that it is not illegal. The IFV is not illegal. I think we should start with that principle, the way I understand it. What hon. Millie is seeking to do is to bring a regulatory framework where we strengthen the practice by the doctors who are already doing it anyway to do it in a legal framework that is regulated, that can be understood and that it is done in a proper way. I think that is what we are saying in a nutshell. We are not calling for any illegality to be legalized.

Second, the Bill seeks to provide a legal framework that would handle certain societal concerns. I have seen people who are so retrogressive and backward and believe that if you adopt a child, the child is abused throughout its life. This is a child who was born properly; you have decided to adopt the child because you are not able to sire your biological child. You are taking care of that child and members of the society decide to condemn you together with the child. The child lives with stigma. We do not want the same to happen to children born out of IVF and, therefore, I support that aspect completely.

This Bill is supposed to protect children born out of this IVF. What is so wrong? We have been setting up authorities to even look into issues of drug abuse. We have been setting up authorities to look into issues of other social concerns. Why would it be so bad to form an authority to regulate the process of human in-vitro fertilization? I support that. This, as I said, is going on in most of our major hospitals. If you visit the Nairobi Hospital, Aga Khan Hospital and Kenyatta National Hospital, in-vitro fertilization takes place.

Hon. Temporary Deputy Speaker, let us remove some fundamentalist ideas from the debate in this Bill. I know and respect the Christian faith. In fact, I was shocked that the Vice-Chair is opposing this Bill. The Committee is opposing the Bill; that is what I heard.

(Hon. (Ms.) R.K. Nyamai interjected)

I can see the Chair is indicating that is not the position. Probably it is not the position of the Committee in its entirety. As the Vice-Chair spoke, I listened and I wanted him to convince me why he felt this Bill is wrong. I think if it is a matter of debate, if there are amendments, the Committee can propose amendments. If the church has a concern, that is perfect. Actually, we must respect the church. We must respect the

church, let them express their views in terms of particular provisions in this law that would be retrogressive and which are anti-Christian.

I want to conclude by saying that sometimes some Christian leaders also need to listen to us. When we were just about to pass the 2010 Constitution, there was a lot of polarization that was brought about by certain church leaders, not all of them. They said the Constitution was legalizing abortion whereas it is very clear and explicit in the Constitution that abortion is not allowed in law. I would like to plead with the church that they should also listen to us and embrace certain scientific and technological innovations that would go a long way in enriching this society and making this society comfortable. Imagine what peace it would bring to some families who are not able in a conventional way to have their children yet there is a way of having children and living peacefully and happily as a family.

With those many remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will give the Floor to the Chair of the Departmental Committee on Health.

Hon. (Ms.) R.K. Nyamai: Thank you, hon. Temporary Deputy Speaker. At the outset, I do not want to repeat what my Vice Chair has said. We technically agreed that hon. (Dr.) Pukose, who is a medical doctor and was also best placed to give the expert opinion of the medical doctors and gynecologists in the Departmental Committee on Health, to present.

I would like to start by saying that I respect the fact that hon. Millie Odhiambo has come up with this Bill which is very emotional and if we do not understand the expert opinion, we can be viewed as being against it. We are not against this Bill but we have listened to the technocrats. We have listened to gynecologists who have given us the information we are sharing here today, that when you talk of assisted fertilization, you are not only talking about IVF. You are talking about so many other things which the Ministry in the Health Bill, which we are promising that it will be here in two weeks, has handled very well. If this Bill passes, and we believe that it is going to pass because the country is waiting for it--- After devolution, this is the Bill the country is waiting. This Bill is going to repeal the Bill we are talking about. If this becomes an Act, what we are discussing here will be repealed.

However, in coming up with this Report, we looked at what other countries are doing knowing very well there are countries that are far ahead of Kenya. What we realized is that various countries today, after a comparative analysis of medically assisted reproductive legislation, are not focusing on one approach to assisted fertilization. They are putting all of them together because it only depends on the doctor's advice. I remember one of the gynecologists in the team and an hon. Member telling us how it happens and that it is not only about IVFs but about so many others. The best way to approach this is to convince the Member to withdraw and then sit with us and make it wide so that it touches on all this.

The best approach would be even to join us when we are working on the Health Bill because all these matters have been discussed there.

I want to go back to the issue of comparative analysis. In Austria, they have a law called Tissue Safety Law which handles all these matters. In Belgium, they have a law on IVF, but the same IVF touches on matters of law embryo research; it is part of it. You cannot

have one; it must be accompanied by all the others, including research. That is what the Health Bill has done. In Brazil, they call it Assisted Human Reproduction Act. It touches on all and not one. If we say that we amend then we will be re-writing this Bill. It is going to be completely different from what we have today.

With due respect to the Member and all women out there who would like to be assisted, I feel that it is also important that we look at what the other countries are doing and we fit in. We also need to look at what the Ministry of Health has worked so hard for, that is, the Health Bill. The Ministry has dedicated a whole chapter on matters of reproduction. In Bulgaria and Cyprus, they have a general law. In China, there is no law, but they allow IVF. We do not want to go that way. We are saying that we want it to be incorporated in the Health Bill. In Denmark and Estonia they call it Assisted Fertilisation and Protection of the Embryo Law. In Finland, they call it Acts on Assisted Reproduction. In France, there is no law. In Hungary, it exists, but it is a general law. In Ireland, South Africa, Malta and Poland, they have general law. So, why is it that we choose as Parliament to go for IVF on its own yet so many women will be prescribed a different approach? That is our position.

I want to continue with other countries. In United Kingdom, they call it the Human Fertilisation and Embryology Act. In United States of America (USA), they view it as different levels of ART regulations within the State and the Federal level, but they do not have an IVF law. So, as we make the laws we need to understand that even we Members of the Committee are not experts in this. However, we are saying that this is needed, but not in the form that it is in. It should be given more time. We have engaged the hon. Member, who is a senior Member. She is a senior Member and as the Chairperson of the Committee, I felt that I was not best placed to argue with her on this matter. So, in that case we feel that the Bill raises very serious ethical issues. Remember hon. Members as you sit here and talk about making laws, we need to make laws for prosperity. We cannot avoid to discuss the ethical issues that must be attached here and be given a whole Article which is missing. So, when we say that we come up with an amendment--- If it was only about the financial matters, then we can say there is no problem. We can remove the issue of creating an authority and the Bill passes.

At the same time, we will also be required to go back to hon. Mutava's Committee because talking about the authority is a money matter. That is not the big issue. The big issue is the ethical issues that we need to take care of. We need to provide the women of this country with a Bill which is more comprehensive, usable and acceptable even to the Ministry itself. It is not talking about the Ministry only; rather it is also about the professionals. It would be vital to adequately cater for life that comes into existence in these conditions pursuant to Article 26 of the Constitution. We are creating life. However, we need to make sure that it is properly considered in this Bill. We are not talking about the potential of it being misused here. We have not talked about laying the grounds for abortion. All these matters need to be raised. I felt that it is important for me as the Chairperson of this Committee to say that the Parliamentary Committee on Health is not opposed to the Bill. What we are opposed to is the form of the Bill. Since the Health Bill will be here in two weeks, we will be repealing what we are discussing here today because it is catered for in a much better way in the Health Bill. There is also the question of whether we can stop a Bill in anticipation of another. I know that is the

question that Members are going to ask me. I want to give a word: We were here yesterday with the Cabinet Secretary. He said that the Health Bill will be here in two weeks. This matter is discussed in-depth in that Bill. We would like to work with hon. Millie to make sure that the IVF issue that has been raised here is also properly discussed in the Health Bill. This emotional matter of having children is a big discussion, but it is important for the House to be led.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Millie and hon. Pukose, you should not be standing where you are standing now. If you want to consult, sit next to the Members.

Hon. (Ms.) R.K. Nyamai: This morning, I spoke to hon. Millie. We felt that getting a chance like this of moving this Motion is a chance of a lifetime. We agreed to let it be moved and seconded. We agreed that we needed to consult seriously. I am not a gynaecologist, but I am able to listen to the experts. The experts' opinion is different from what we are discussing here today.

With those few remarks and without having to go through what Hon. (Dr.) Pukose has gone through, the Departmental Committee on Health opposes this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): There is nothing more confusing than having the Chairman and the Vice Chairman speaking and seeming to contradict. I was waiting for the last word you were going to say because you spoke as if you are supporting it and then now you have said that you oppose it. So, in short, the relevant Departmental Committee is opposing the Bill.

Hon. Wakhungu: Hon. Temporary Deputy Speaker, there is a lot of pain. We really need a clear balance. I have listened to the Departmental Committee on Health. I am a Christian and a Catholic for that matter. I listened carefully when hon. Millie was trying to move this Bill. I listened keenly to hon. Joyce Lay when she was seconding this Bill; she was actually almost crying. It is a right of any Kenyan to have a child. I listened to hon. (Dr.) Pukose as he talked on this issue. As a Christian, I was very keen to listen to what the Christian health professionals had indicated. I expected to see something in the Bible which contradicts this, but I did not see that. He has also mentioned to me that in two weeks' time, the Health Bill is going to be here. Unfortunately, it is not here. This is a Private Member's Bill. We cannot gag Private Members from bringing their Bills because the Executive is bringing theirs. It is unfortunate that the Executive's Bill is not here and what we have is the one for Private Members.

I support this Bill because I have looked at the Christian's teachings. As a Christian, I am pro-life. I oppose matters of abortion. However, in this Bill, the issues of pro-life are not clear. I have not seen anything. My friend and neighbour, hon. (Dr.) Pukose just indicated to me that it is likely to be abused. If something is likely to be abused, this is the time the Ministry must come in to map the risks because there is possibility of many people abusing this law. So, we need to put measures in place in order to mitigate those risks.

It is not just an issue that affects women alone. I know of men who are undergoing sleepless nights because they cannot get children. The happiness of any adult is to have children for purposes of succession and continuity of generations. If the Departmental Committee on Health does not want the issue of the authority, maybe, there is a way that this thing can be regulated. This could be done through the departments that

are in the Ministry of Health. It does no harm if the Departmental Committee on Health comes up with some amendments to this Bill, so that if it is the issue of authority that they do not want, the Ministry can take that in terms of regulation. We have different departments in the Ministry of Health which have different mandates.

I listened keenly and I have heard some people in my constituency who have similar problems, but they cannot speak openly in the African culture. I want to thank hon. Millie and hon. Joyce for being brave and speaking openly about this matter. Not many Kenyans want to speak about this because they will feel embarrassed yet many people are suffering. We put laws in place when we have a vacuum. If there is a vacuum, the law must be there to regulate that. You can imagine somebody having your own child and he does not want to give it to you because there is no legal framework. This matter has been handled through the courts and we have seen court rulings and proposals that we must put a law in place. No other body in this country makes laws apart from Parliament. This Bill is at the right place.

My humble request is to the Departmental Committee on Health. Please, come up with your amendments, but let this Bill pass. So many Kenyans are suffering. Everybody would want to have a child. It is not your wish not to have a child. Children are gifts from God. Wherever you are, you have children because God gave them to you. You have done no miracle. If such a thing has happened to other people and they want to have a child, I do not see any problem of having the issue of assisted reproduction.

I am humbly requesting my colleagues to support this Bill. Afterwards, we can do some harmonisation. The Bill is only at the Second Reading. We will have to go to the Third Reading and the Committee of the whole House. It is at that juncture that the Departmental Committee on Health can bring the particular amendments to align the Bill. When I listened keenly to their rejection, it is specifically on the fact that there is likely to be abuse and there is a high risk. Now that you have identified these risks, you should mitigate some strategies to counter that. I humbly request us not to kill this Bill. I congratulate the Members for doing this research and coming up with such a wonderful Bill, so that the people who are facing this challenge, it can be sorted out. We should have a clear legal framework within which this issue can be handled once and for all.

I support this Bill.

Hon. Ekomwa: Thank you, hon. Temporary Deputy Speaker. I support this Bill. For the first time, I support the women of Kenya. I am a Member of Parliament and this House is there to comfort the marginalised and the minority. The Bible says very clearly without a formula “go and multiply”. It has not given a formula as to how we should multiply.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, there is a point of order from hon. John Mbadi. Hon. Mbadi, what is your point of order?

Hon. Ng’ongo: On a point of order, hon. Temporary Deputy Speaker. Is it in order for my great friend from Turkana to mislead this House and the country that this is the first time he is supporting the women of this country? I know very well that he is someone who helps a lot of women activities including providing water in his area or was it a slip of the tongue?

Hon. Ekomwa: Hon. Temporary Deputy Speaker, it was a slip of the tongue. I wanted to say that I support women more. I understand very clearly and the Constitution gives me the intellectual freedom to exercise my wisdom. God began creation. He was just launching the process of creation. He did not finish it. From the wisdom that God provided to human beings, we have spectacles and vehicles. God did not create vehicles. It is human beings, through the wisdom that God gave them, that are creating vehicles. With the technology that we have, we have the freedom to continue with procreation.

I want to tell the religious people that this is still natural. Transferring sperms is not changing sperms. It is still natural sperm, but you are only modifying it, making it better and placing it in the right place. It is still natural. I want to tell the religious leaders that the Bible provides for this. If culture does not break the Ten Commandments, then it assists. I do not think there is anything in the Bible which prohibits a woman who has not had a baby for many years from having one. That is not biblical. Does the Bible support the transfusion of blood and taking blood from one pastor to another pastor? Is it prohibited? I have never seen pastors refusing new blood if they do not have blood. At some point, we might run short of sperms. What will happen? Sperms will be transferred from one man to the other. Will they refuse? We have to be dynamic in our reasoning and how we do things. Things are changing and we have to be dynamic and take care of the changes that are coming later in our lives. If blood transfusion is not a sin, then even sperm transfusion is also not a sin.

That is not enough. Sometimes science clashes with religion. We have heard the Member who has brought this Motion speaking. Many women even in our areas have the same problem. There is culture, which I respect, but in the pastoralist culture, there is a way in which we take care of such problems. Not all cultures are the same. For example, in my culture, if a man or woman does not bear children---

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): What is your point of order, hon. Ngetich?

Hon. (Ms.) Ngetich: On a point of order, hon. Temporary Deputy Speaker. Is it in order for the Member to refer mainly as if it is only women who have problems of infertility?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, that is his way of contributing. That is a point of argument. You can bring it up when we give you a chance.

Hon. (Ms.) Ngetich: Thank you, hon. Temporary Deputy Speaker. Most obliged.

Hon. Ekomwa: Hon. Temporary Deputy Speaker, I want to provide more information to the Member who has just spoken. To be sincere, between a man and a woman, who feels a lot of pain when there is no child? It is the lady. That is the truth. I do not know how it is in her culture, but in my culture, the woman feels a lot more pain when she cannot bear a child.

There are men and women who do not have children. This Parliament must provide a solution to this problem. One of the ways we can provide a solution is by supporting Bills such as this one. We are not prohibiting other cultures from finding their own way of getting children, but it is good to be legal. Kenya should not be left behind just because of cultures or because we feel we have inadequate technology. I want to

advise the Departmental Committee on Health that they should consult widely to make sure they have provided a solution to those who are marginalised and less privileged in terms of children.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, you seem to be getting so many interruptions. This is the last point of order I will be taking.

Hon. Ekomwa: There is no problem, hon. Temporary Deputy Speaker. I am ready to justify.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Tobiko.

Hon. (Ms.) Tobiko: Thank you, hon. Temporary Deputy Speaker. I am just feeling very uncomfortable that at the Public Gallery we have children. I am imagining some of these Bills and Motions should be done in camera because it is difficult discussing them with our kids up there.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, please continue.

Hon. Ekomwa: Hon. Temporary Deputy Speaker, the children who are seated at the Public Gallery are digital and they must know the truth. They must know the truth because we are doing it publicly. So, I support this Bill. I encourage other Members of Parliament that sometimes we have to pass a Bill that will be remarkable in the life of this Parliament.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): The Member for Butula.

Hon. Onyura: Thank you very much, hon. Temporary Deputy Speaker, for giving me a chance to also make some comments on this Bill. At the outset, I want to say that I am a member of the Departmental Committee on Health. Therefore, the comments that have been given by both my Chairperson and Vice-Chairperson are what we discussed in the Committee. I will just be adding to what our two leaders in the Committee have said.

What we are saying is not that this Bill is of no use. This Bill is very useful. We agree with the contents of the Bill. It is just its format that we have a problem with. What we felt as a Committee is that this Bill just looks at one narrow aspect of our reproductive health. We felt that perhaps we should have a Bill that is a bit wider that will look at various other aspects. It is not just with this Bill. We have taken this stand even in other areas where, for example, we have received proposals or Bills that address a particular disease. We have had proposed Bills on diabetes, cancer and malaria. The way we were looking at it is that if we encourage and allow this then every disease will have its own Bill. It is in that consideration that we took that stand. However, I am encouraged by what the Mover, hon. Millie, has said. She has said that she is ready and willing to sit with the Committee and continue the discussion. That is a good thing. I would encourage her to do that. We have in the past sat with her and discussed. As a Committee, we shall still be very happy to sit with her and discuss this.

We also looked at the financial support for this activity. We felt that for the intentions and objectives of this Bill to succeed, it needs to be supported adequately. We

felt that what we are seeing in the Bill in terms of raising the financial support through donations may not provide enough money. This is an activity that should be properly supported even through the Exchequer. This is why we are saying that perhaps it ought to be a money Bill so that this activity can be supported properly.

I know that this is a very sensitive area. Even as we discuss it, we should bear in mind all the sensitivities that it is likely to raise. We should bear in mind the cultural and religious sensitivities and the scientific aspects of it. So, it is an area that will require very wide consultations. I know that will be done. I know there are structures that can do that. In our case we are asking: Is there a need to regulate this activity? For sure there is need for it. We are saying rather than have it in this form, we could have it in a more expanded form. In doing that, we consulted---

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, give me a minute I take a point of order. Hon. (Dr.) Musyoka, are you on a point of order? What is your point of order?

Hon. (Ms.) Musyoka: My point of order is that I am a member of the Departmental Committee on Health and we have waited for this Health Bill since we came to this Parliament. So, I would like to suggest that we allow this Bill to continue to conclusion---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Honestly, Dr. Musyoka, I did not expect that from you. That is a point of argument which you can raise when I give you a chance. Please, do not abuse point of order because I will take sanctions.

Hon. (Ms.) Musyoka: Okay. I apologise.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, continue.

Hon. Onyura: The apology is accepted. I was saying that even in our discussions, we have been consulting with the Ministry of Health. They, too, are of a more or less similar stand that with the introduction of the Health Bill and the health policies, some of the issues here are going to be addressed. So, I would request that the consultations between the Mover and the Committee continue as they have been done before. We shall come out with a wider, more comprehensive and better Bill. In the format in which it is, I take the same stand as the Committee which is that I oppose the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): The Member for North Imenti.

Hon. Dawood: Thank you, hon. Temporary Deputy Speaker. At the outset, I support this Bill by hon. Millie Odhiambo. It is high time that we do not wait for this Health Bill which I was even told about when I wanted to bring a Motion. So, if the Committee feels that they are going to bring the Health Bill, let them bring it. We will discuss it when it comes. As this Bill is in the House today, it should be debated and not be withdrawn by hon. Millie Odhiambo.

On the merits of the Bill, hon. Millie has given a lot about it. We have a problem in this country of barren women. Are they really barren or are men impotent? Women are blamed for not having children, but it is not the women who have a problem. It is men who have a problem but we do not accept that men can have a problem. Our society lays the blame squarely at the women's doorstep. This Bill together with the amendments

which I will be bringing--- We need to see how the Government can assist women who cannot have children. The husbands and wives should go for counselling and check-up so that the Government can assist them in getting the babies that they require. The costs are so prohibitive. The Mover has said that it is over Kshs 300,000. Not many people can afford it but they want children. The hon. Member for Turkana said “multiplying” in the Bible does not mean multiplying but it talks about procreation. The essence of marriage is procreation. A lot of people, when they get married, think about what the Quran and the Bible say; that people should get married to procreate. That is what it is all about.

Regarding In-Vitro Fertilization (IVF), there is the concept of three-parent babies which has been legislated in the United Kingdom (UK). In the United States of America it had been started but the Food and Drug Administration Agency has stopped it for now until further research has been done. One good thing about this Bill is that in IVF, the bad part of the egg will be removed. Where there are mitochondrial diseases like diabetes and deafness, they are removed.

We need to come up with ways of having a healthy population. Nobody wants a population that is suffering from diseases. With this we can remove the bad traits in anybody’s embryo and they cannot be passed on from one to another generation. We need to come up with ways on how we are going to do it and people should be encouraged. In some cultures, it is acceptable that if you are unable to have a baby with your husband then you can have one with your husband’s brother which is against many cultures.

We need to regulate this field and the best way is by supporting this Bill. We need to see how we can have these fertility clinics which are more open, where medical standards are observed and people are given a free choice. Rather than going overseas they can be done here in this country in a free environment. They do not have to go to England, South Africa or India. There is a law banning choice of gender in the embryo in India. In the Indian culture, boys are preferred over girls. Previously, when girls were born they were killed but with this new technology people can choose the gender of the baby. However, this is already banned in India. We need to put this in law. We need to put amendments to it.

With those few remarks, I would like to support hon. Millie Odhiambo. The Departmental Committee on Health should accept to bring amendments to this as there are other things which we need to have in the Health Bill which we hope will come in 2015 and not in 2017. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let us have hon. Isaack Mwaura.

Hon. Mwaura: Thank you. From the outset, I would like to support this Bill because when we pray to God to be given an opportunity to go to school, we are given that opportunity to also go and learn to solve our problems. When we pray to God to help us overcome the challenges that face us, it means because we do not have wings we can make aeroplanes to fly.

We can also use vehicles rather than walk naturally because we have two feet anyway. So the argument around going against the grain of God, for me is neither here nor there completely. The issue about getting children through assisted technology is happening already. When I look at the submissions of the so-called Christian association here, they are borne out of fear. The Bible says: “Fear not. Do not

be dismayed for I am with you.” I want to say this: The Lord God that we serve, He who gives people a chance to procreate naturally and get a child, is also the one who has given this new knowledge to help those who have been crying for so long to get children.

If we were to speak about the misuse of this technology, it is true it can happen but is it not also happening to those who are misusing the natural procreation by giving young girls and women children and then they abandon them? It is happening. So, how are we regulating that? I am dismayed that in this House people can very arrogantly sometimes say that this is for women and this is for other people. Is it just because they have children? Nobody gives themselves a child. In fact, the natural act of procreation does not in itself guarantee having a child even when there is no problem at all. That therefore means that in whatever means possible we need to bring on board the minority if at all women, men and families that for so long have been looking for opportunities to ensure that they have a child. I would want to imagine that the spillover effect of this Bill would be that the cost of such alternative means of having children will go down. Families will not have to cough a lot of money just to get children.

If you look at the reasons given by the Departmental Committee on Health with regard to why this Bill should not be passed, I beg to differ on three key issues.

First, they propose that this particular aspect of health should be relegated to regulations of a Bill that is yet to be brought before the House. This is a very important aspect of human development. In my view, if you look at the listing of the countries that have been enumerated here, quite a number of them including South Africa have a stand-alone legislation concerning human fertility.

Secondly, when they say that these will be adequately covered by the draft Bill, what is that adequacy? Is it a simple article such as Article 163? You cannot cover this subject within a simple article and then you delegate any other form of legislation to regulations that will emanate from the Cabinet Secretary (CS). Indeed, the fact that we have heard submissions on the Floor of the House to the effect that we have been waiting for a Health Bill for so long, we may as well wait for it forever and that will never happen in this House.

We do not want to be beholden to the politics of health matters within the Ministry. We have also noted a tendency by the Departmental Committee on Health. There are quite a number of Private Members Bills including one by hon. Jared K’opiyo and other Motions that are always opposed and I am asking why? Is it the entitlement of those who are doctors feeling that they are the only ones who can deal with health matters? I beg to differ because health is not medicine. We are the users. When I look at hon. Millie Odhiambo and my friend hon. Joyce Lay, they are speaking from experience. How would you take four good years to get a certification of your own child - a product of your own reproduction? There are genuine concerns that have been raised with regard to the scope of this Bill but this can be addressed at the amendment and Committee stage. I would want to imagine that the Mover of this Bill is open to such suggestions that we can sit down even with the experts within the Departmental Committee on Health and propose clauses that would deal with the concerns raised by whoever, but to come and tell us that this Bill may as well give opportunities to homosexuals to get children, for me is completely alarmist.

In order for you to get a child, you need a gamete of a man and a woman. It cannot be two men. In that regard, that child cannot be of two men, neither can it be a product of two women. Therefore, some of these provisions, reports or concerns do not arise. This is fear-mongering, which reminds me of the debate that we had before we passed the new Constitution. Similar concerns were raised about abortion. Can we say for sure that with the advent of the new Constitution, there are new abortion kiosks all over that may not have existed before, and which now exist merely on account of the provisions of the new Constitution? I would want to imagine that the answer is 'no'.

*(The Temporary Deputy Speaker
(Hon. (Ms.) Shebesh) left the Chair)*

*(The Temporary Deputy Speaker
(Hon. (Ms.) Mbalu) took the Chair)*

Fellow Members of Parliament, this Bill is timely as it speaks to matters that our diverse cultures do not want to speak to. The natural tendency of families, where there are no children, is for men to marry other women. It would help the economy of families if people can extend a little bit further the opportunity to get children. It also means that women may not have to deal with men trying to take care of other women just because they are looking for children; or trying to marginalise women merely on account of such women not being able to get children. It is also true that with the advent of this law, men will be more courageous to admit that they may actually be the problem when it comes to getting children. This is not just a women's issue. This is an issue that is affecting families. Whenever a couple fails to have a child, our culture says that the woman has a problem. More often than not, this is the pain of families. It is shared by both a man and a woman.

We are in the Second Reading stage of this Bill. We still have adequate time to bring on board even penalties that may not have been provided for in the Bill. There is adequate time for us to change the title. The Mover has eventually spoken to that aspect, so that we enrich the Bill. Every Member of this House has the capacity to bring on board a legislation that would speak to matters that may not necessarily be for professionals to address. It is incumbent upon Members who are of such professions to assist the Member to come up with a proper product. If, for example, we were to shelve this Bill merely because we are anticipating a similar Bill, we would wait forever. It takes a lot of time for a Bill to get to the Floor of the House. I have been trying to bring legislations to this House. I can tell you that there is a lot of back and forth. We would be better off carrying on with this legislation than allowing the work of Parliament to be controlled by forces outside this House.

I wish to reiterate that we are believers of God, but God is the same deity who has given us the intellect and the capacity to think through issues and solve human problems.

Hon. Temporary Deputy Speaker, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Very well spoken!

Next is the Member for Siaya County, hon. Christine Ombaka.

Hon. (Ms.) Ombaka: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. I want to, first of all, give glowing tribute to the Mover, hon. Millie Odhiambo, for this very timely Bill. Assisted technology is coming to Africa too late. It has been in existence a long time ago in many countries, especially in the First World. The first child that was born out of assisted technology was Lesley Brown, who was born in the 1970s. Since then assisted technology has developed and a lot of progress has been achieved. So many families are happy because assisted technology is helping them to get children. In Africa, we are still battling with it. It is as though it is starting afresh. We need to learn from what has already happened. We should simply borrow from the achievements that have been made in other countries. This Bill is great because it is going to solve many problems that have affected families.

Many families in Africa today break up because there is no child. Many women suffer because they do not have children. The African culture had other means of ensuring that families get children. That is why polygamy was part of it. That is why in some communities, a woman who cannot have kids can marry another woman to have children for her. That has been a way of dealing with the problem of bareness. However, in modern society, such arrangements may not be necessary. Technology can support the family. Therefore, we need to support this technology to the best we can rather than throw it away. It is going to solve problems. Many families will be safe and happy. The only problem is that assisted technology is too expensive for many women who need help to afford it. Those who are better off financially travel abroad to receive or to access those kinds of services. Poor women in the rural areas may not benefit from the technology. That is why once this Bill is passed, we will look into ways and means of making assisted technology cheap enough for many women and men to access the services.

Hon. Temporary Deputy Speaker, the fear that is being brought in by the Committee on Health is not necessary. There is no need of being afraid that the law will be abused. The law is here to punish those who abuse things. The law is here to punish those who go through unsafe abortion. Part of the problem is abortion but there is a law against that practice. There is a law against those who dump their children on the streets. Even that is part of the problem of maternal health. Therefore, when we talk about maternal health, all these issues should be collapsed together, so that we can have a way forward. If anybody does not see the benefit of introducing this technology and subjecting its use to regulation through establishment of an authority, that person does not understand why families break up. Only the other day, we talked about domestic protection. The introduction of this technology will be part of the solution to domestic violence. Families will be more protected.

We have not seen what the Committee on Health has brought and, therefore, we cannot talk about it; it is not there. We cannot talk about what does not exist. When it comes and catches up with what we already have in place, we can easily collapse it into one big law. When we have not seen it, we cannot talk about it. Therefore, we go by what hon. Millie Odhiambo has produced. That is what we will work with until such a time when we have the Committee on Health coming up with their Bill. Nobody has said that what we are coming up with is bad or cannot be used. It is just going to complement what

hon. Millie Odhiambo has brought to this House. As we wait for their Bill, let us move on with what we have – hon. Millie Odhiambo's Bill.

I support this Bill vehemently because I have seen experiences of many women who require this kind of technology. I am also glad that men are supporting it. Many people think that when there is no child in the family, or when there is a problem such as this one in a family, then the men are divorced from the problem. I am glad that the Members in this House are supporting the Bill, showing that we are moving towards the right direction. A problem like this one requires collaboration between the female and the male Members of this House. There is something about this Bill that needs to be thought about a little; the authority. It may be said that it is going to stand alone. Some people think that it does not need to stand alone. Does it matter? Stand alone or not stand alone, the fact is that there will be a law. Whether it is a stand alone or not, to me that is not a problem. What should be the problem is a lack of law on assisted reproduction. If there is no law, then that should be a problem. When there is a law made out of this Bill, then we are going to solve the biggest problem that we have ever had in some families.

I would like us to borrow more from other countries that have succeeded in enacting and operationalising this kind of law. Is the service the problem of the surrogate mother? Where somebody agrees to donate a womb and somebody else agrees to donate a sperm, but along the way somebody changes his or her mind and declines to own up to his or her promise; a conflict arises and one party takes the matter to court. Such cases are in plenty. Those are the areas we need to deal with and see how best we can handle such issues.

The fact that we are introducing a new way of helping families with children should earn an automatic acceptance by the House. We all need this help because even those who are religious, say the church, have many issues to raise about reproduction. They do not approve of them. For example, they do not approve use of contraceptives, abortion and many other things. So, the church will have its own side of the story. However, when it comes to, "Go ye and multiply" the way the Bible says, I expect the church to support this. "Go ye and multiply" may not necessarily mean that you must be natural in reproducing children. People have challenges just like we have people living with disability. They too need assistance. We have people living with HIV/AIDS. They are advised on what to do in order to have children without necessarily infecting them with the virus. There is always some kind of assistance that we all need and that is why I support this Bill vehemently. Let us introduce this Bill in Kenya, but let us also regulate so that it is not abused. We have agreed that we have this Bill, but there should be no abuse of it.

The children born out of this assistance may not be pronounced in the society. We do not need to go out there saying, "This child of mine was born like this and that." If that was to happen, it would be most unfortunate. It is not that we want to isolate them or discriminate against them. They should be accepted like any other children that we bear in a natural way. The Children Act will take care of that. I believe this Bill is going to save the family in this country. We must move very fast with this Bill because, in my view, it is coming too late when other countries have gone so far. Those countries have achieved so much.

In the 1970, Lesley Brown was reproduced. She is now a married girl. Nobody stigmatized her. She is the reason a lot has been achieved in this area. Let us support this Bill. As I sit down, I say thank you to hon. Milly. You are solving women's problems the right way. Thank you and I support.

Hon. Macharia: Thank you very much, hon. Temporary Deputy Speaker. At the outset, I would like to appreciate the fact that this Bill brings Christianity and Islam into coalition science. I would also want to appreciate the fact that it is not only about women as most speakers have put it. It has been said that we are supporting this Bill to help women. That is not the case. It is not only women who are faced with infertility issues. I would also like to accept the fact that it is important that religions of this world start embracing science and become flexible. It is important for all of us to appreciate the fact that we are moving in the ways of science. Science is bringing solutions that we must all start to appreciate. Science presents solutions.

I would also like to appreciate the fact that Intro-Vitro Fertilization (IVF) will bring a solution that does not involve the act of a man and woman having to get sexually involved. Therefore, it will evade what we are calling "emotions" that come out with this kind of thing. I also appreciate the fact that lesbians and homosexuals will also take advantage of this. This is because it is going to provide them with a solution. They can have children and continue with whatever relationships that they have.

I also have concerns on the authority that is proposed by this Bill. It is an authority that will regulate. Creating a whole authority to deal with IVF--- I do not support it. Probably, what we should do is to have regulations that support or guide this IVF. We do not need a whole authority. I also appreciate the fact that consultations seem to have not been very wide. I appreciate the fact that this Bill came from the Tenth Parliament and it is now in the Eleventh Parliament and consultations are still going on. I urge that we have more consultations.

I beg to oppose.

Hon. Bunyasi: Hon. Temporary Deputy Speaker, I had also requested for a point of order and a contribution. If you do not mind, let me suggest that in accordance with Standing Order No.97 and given the interest---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Sakwa Bunyasi, are you on a point of order or do you want to contribute?

Hon. Bunyasi: I was on both and you called me up for contribution. If you do not mind, I can combine the two.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You cannot. I am calling you for contribution.

Hon. Bunyasi: Then I ignore the point of order. Let me make my contribution.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There was nothing out of order. I can surely confirm.

Hon. Bunyasi: I stand to support this Bill. A lot has been said about the human experience around issues that this Bill is trying to alleviate and solve.

The human development and process is that you start with the human development and then you work using science and religion if that helps to provide a good atmosphere. However, we cannot use religion to guide us in totality. I was a little disappointed when I heard the Departmental Committee on Health emphasizing that it

had spoken to experts. These issues are about human experience; the experts are supposed to help facilitate it. That may well be the case in the proposed Bill. However, that Bill is a promise and the rules of this House cannot be anticipating how that will turn out. That may not come through. It may be rejected for any reason. So, I do not think we can anchor today's discussions on tomorrow's promise. When that hits the House, then we will look at ways in which we can marry the two in order that we go forward.

I think it is legitimate that we contribute to the discussion in the light of what has been presented before us. Having children in life is a basic fundamental right. Everybody could do that if they so wished; others do not want to have some of their own and so they adopt, which is also a legitimate process.

The aim of this particular process which is science-driven, but not entirely science-governed, is seeking also to provide safeguards around that process. There is no doubt that the world is moving on and again there are many technologies that are available. Those do not have to be brought in an omnibus Bill that may be thousands of pages. That is not going to help us. We want to focus on what is at hand. If later we need to aggregate these, we can do the aggregation.

Kenyan women and men are picking and taking cue from what science is doing. Abuse of processes and scientific knowledge is enormous. People can create an artificial human being just as they did with sheep in the United Kingdom by clowning hair or something like that. It can do many crazy things. There are a lot of possibilities. Human beings have the atomic bomb that they have decided to keep under control. They can destroy life if they so choose. The knives we carry can be used to kill somebody, but they also help us to do many other things. Science is double-edged in many ways. What I would have expected to hear from the Departmental Committee on Health is their commentary on introduction of science and public policy. Public policy is what brings in the aspirations of the people. In its collectivity, we can talk about how it ought to be governed for us to move forward. If we stay entirely with what science tells us yet we are not able to pick it up, we will stay behind for a long time.

I support this Bill. For the first time, Kenyan families are going to have a choice. If we get a Bill that is better than this, then we will take up the better Bill. But because this is what we have at hand, let us work with it. In this area, not only in terms of human experience with science in reproduction, but in totality with animal reproduction in the animal kingdom, in-vitro science has gone a lot further. Again, there are less concerns there about ethics, but it has gone a lot further.

Ethics must not be confused with religion and faith. That is only one angle of ethics. You can talk ethics without talking religion at all. If we talk about ethics because you are a Catholic or a Christian, then you are talking about faith. Issues of faith are fundamentally different from issues of science. Let us discuss ethics devoid of religion. It is one angle, but not the only angle. Even atheists have ethics as well.

Let us think about who is gaining in this particular process. What aspects of human life are we enhancing? We are enhancing the life of couples who wish to bring up children, which is a responsibility of families, on behalf of humanity and are looking for options such as the one that we have here. The safeguards aspect is going to be one of the very many things that must be in the Health Bill. They are anticipating without knowing what it is. Let us wait and get it, look at it and see whether the amendments should be the

Health Bill to incorporate this or to borrow from what they have and let this stand. It can be amended. We have many laws about similar topics that still exist and there is merit in keeping them separate sometimes. Let us see when that proposal hits the Floor of the House whether we should go separate ways or not. In the meantime, we should prosecute this Bill to its logical conclusion.

With those few remarks I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Cecilia Ngetich, Member for Bomet County.

Hon. (Ms.) Ngetich: Thank you very much, hon. Deputy Speaker for this opportunity to contribute to this very important Bill. From the outset, I support the Bill with strong recommendations to the Member to do further consultations with the religious groups and also the Departmental Committee on Health.

I support this Bill because all human beings have the right to procreate. There could be issues on the method of procreation. I am a practising Catholic and I am very much aware that the Catholic Church does not subscribe to any form of artificial assistance for reproduction neither does it subscribe to the artificial family planning methods. However, having looked at this Bill, it seeks to form an authority that is going to regulate the in-vitro fertilization. Regulation is putting in place laws that will ensure that it is not going to clash with other laws. It is going to respect the Constitution and the right of others. So, I am not worried, for example, by issues that were brought in by the Departmental Committee on Health that probably this is going to be misused maybe in cloning or even allowing homosexuals to practise it. Clause 26(f)(iii) talks about prohibitions. Section 26(f) prohibits human cloning. I strongly recommend that during the Third Reading, we must comb it through and ensure that we do not leave any loopholes to allow any unethical practices to take place.

I am also happy about the Bill in the sense that it talks about societal issues. Earlier on, I was trying to bring in a point that while I know that this Bill has been introduced by a lady Member of Parliament, it does not necessarily concern women alone. In fact, the pain of childlessness is felt more by the woman. Usually, you have a barren woman and the man will simply take off, marry and life continues. The woman is left frustrated, dejected and depressed. So, we need to find a solution to that.

On the other side where the man is impotent, it is worse. The woman will not be allowed to go and sire children from outside. The society will always tend to blame women, but the problem is for both men and women. It is good that we address the issue.

One of the objects of the Bill is to ensure that there is adequate information on reproductive matters. We have had cases of secondary infertility which comes along with what one did not do or should not have done or what one did at some point during the reproductive age. I am sure this Bill will provide a section on information on matters pertaining to reproductive health, so that even those who have the opportunity to naturally reproduce do not lose it. We have seen a number of cases where one gets one child and you wonder what is happening. This could be as a result of not having the right information towards procreation.

The Bill seeks to form an authority, which will be charged with the responsibility of licensing particular doctors. I want to believe that not every gynecologist will do in-vitro fertilization. This means that we should not worry much about who is going to do

which unethical issues because the person's licence can be cancelled if it is discovered that he is going out of the way to do things that are completely unethical.

In respect to dignity and human rights, all human beings, male and female, have equal rights to enjoy the natural way of reproduction. We also have the right to get our children. Consider for a moment, if there was no procreation and we are talking about attaining the Vision 2030, where would we get the young people who would be working in industries? As I speak, countries that did family planning to ensure that their countrymen and women had a good life, to an extent that their population is now dropping, have a lot of problems, for example, Canada. Canada is trying to encourage people to give birth. When you give birth, you are given a stipend for about six months. We do not want to face such a situation when we see can see threats of *Al Shabaab*, floods and diseases such as HIV wiping people away. We should not face this kind of situation. This has been mentioned before. We have those people who have already been affected by HIV. It is recommended that when they get children, they should take precautions to ensure that they do not infect their partners with the virus. Let us give rights to every man and woman. It is very natural. You feel fully human when you see your offspring. That is the greatest satisfaction of a human being.

Therefore, I really want to support the Bill. As I said earlier, it is only good for hon. Members to further discuss the Bill. Those Members who feel that it contains unethical and unreligious provisions should kindly bring appropriate amendments during the Committee Stage. The Health Bill that has been mentioned, which is taking long to come, has no relation at all with this Bill. We have so many Bills and one can inform the other. This one is particularly articulating the issue of assisted reproduction. So, it has no relation with the Health Bill. Let the Health Bill come and if there is a clause that needs to be amended, it will be done at that time. Otherwise, I fully support this Bill. Hon. (Ms.) Odhiambo-Mabona, we are with you. I know you really talked and gave your personal experiences. We are not supporting the Bill because of your personal experiences but because of the millions of men and women out there who are suffering because they do not have children, so that they can have the right to bear children.

Thank you very much, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. I can see the request by the Member for Kajiado but I cannot see her in the House. She is not in. Let us have the Member for Luanda, hon. Christopher Omulele.

Hon. Omulele: Thank you, hon. Temporary Deputy Speaker, for this opportunity. I will take a shorter time than my brothers and sisters have taken because I can see the interest of other Members who also want to speak to this Bill before the time lapses.

At the outset, I support this Bill because the purpose of human life on earth is to be able to procreate and leave behind younger generations. This emanates from the cradle of creation itself; where the good Lord commanded the human race that they should go forth and procreate and fill the world. When the human being first came on earth, he did not know so many things. However, the good Lord has also enabled him and given him the facility – a working brain – through which he is able to learn his environment, improve on it and exploit it even in better ways. For those who believe in the biblical way of mankind arising, I believe at the first time Adam was naked. Subsequently, he learnt that he needed to clothe himself. We have improved on the clothes we wear. We have

designed many kinds of clothes. We also have improvements in the health sector. Today, we have kidney transplants and blood transfusion. These are life sustaining processes which we have learnt through exploiting our environment and nature. Today, we have technology. We have learnt that we can help those who have difficulties to procreate in the natural way. I do not see how this is a negative thing. This is a good thing whose time has come. I support the Bill. For those of us who have the capacity to procreate naturally to stand here and say that we should stop those who cannot procreate naturally from accessing assisted procreation services, would be delving in selfishness.

I support this Bill, which seeks to create a proper legal framework through which this process can be done so that those people who want to access assisted procreation services can do so in a regulated way and be protected from the malpractices of those quacks who will want to enrich themselves from such processes and hurt our population.

I have carefully listened to hon. Members. Some of them seem to be confusing in-vitro fertilisation with genetic engineering and re-engineering. What this Bill proposes is not genetic engineering. We are not going to interfere with the DNA and the other material that is contained in the DNA. We are only doing fertilisation. In itself, genetic engineering has its own problems. I do not think those problems should be transported into this Bill. We do not want to give people a chance to go out there and say that we are legislating for designer children. This is not the purpose of this Bill. Far from it, this Bill is only seeking to help members of the society who cannot naturally procreate. This Bill is well balanced. It provides for sanctions against those who will abuse the process. It also addresses all the societal concerns and clearly provides how the material will be handled and those who abuse the material will be dealt with. This is a good Bill.

For those reasons, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for spending your time well.

Hon. Omulele: Hon. Temporary Deputy Speaker, I would like to donate the remaining time to my brother, hon. Otuoma.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): As much as you are philanthropic enough, it cannot be donated.

Member for Homa Bay, hon. Gladys Wanga!

Hon. (Ms.) Nyasuna: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to speak to this Bill. I would like to support it in the strongest terms possible.

I also thank hon. Millie Odhiambo for introducing such an important and timely Bill. She has intimated to me that three weeks ago, the court ruled that this Bill should be fast-tracked by this House. Therefore, it is in very good order that we are discussing it. The sooner we dispose of it, the better.

Last weekend, I went home to bury my grandmother. She had only one child. Because she had one child, she brought her niece to give birth to more children because my grandfather wanted more children. That was in the 1960s. Then another wife was followed by another one until my grandfather ended up with five wives. Can we sustain five wives or more today? This is a question to the gentlemen. In the 1960s, more and more wives were brought to have more children. Right now, I know that having just one child is a big headache. Do not talk about two or three. We have moved on and we must

move on with technology to see how we can give every woman who wants to have a child, the opportunity to do so. I listened with great interest to my colleagues, hon. Millie and hon. Joyce Lay, give their personal experiences in this matter. When I got married, the first and the second years passed and when people came to visit me, they were making prayers, asking God to hasten the process of children coming. Society expects that when women get married, they should have children. Sometimes, this matter is of great distress for many women who cannot get children naturally. That is why this Bill was brought – so that we have a legal framework for supporting assisted reproduction. I will be in the forefront in supporting it so that every woman who wants to have a child naturally or artificially is supported. There is a legal framework to have it happen.

This is why I thank hon. Millie, the women and men in this House who have stood up to support this Bill. It is unfortunate that the Chairman of the Departmental Committee on Health has left. The Vice Chairperson spoke very strongly. I want to tell the Departmental Committee on Health to be flexible. It is not the first time we are having an argument with the Departmental Committee on Health as to whether a Private Member should just introduce a Bill. I was distressed to hear one member of the Departmental Committee on Health saying “they are allowing.” It is not upon the Departmental Committee on Health to allow or refuse Bills because we are in this House to legislate. The Departmental Committee on Health should only facilitate Members, add, subtract and consult with Members. They should ensure that they are facilitating Members to bring as many Bills as possible in these areas and not to grant themselves the power to allow or refuse Bills from coming to the Floor of this House. The Departmental Committee on Health must rethink their strategy because every time a Private Member brings a Bill we have had an argument as to whether the Departmental Committee on Health is going to allow that Private Member’s Bill. We remember the case of hon. Opiyo’s Bill where the Departmental Committee on Health simply said that they already had a Bill that was similar yet they were taking that Bill to try and make it the property of the Government. Private Members are here to legislate. Let the Departmental Committee on Health allow us to move forward in legislation.

The issue of an authority being created to regulate these matters has been debated here extensively and there are people saying that, that lays a burden on our budget and the taxpayer. We have legislated here for authorities to deal with disposal of assets and what have you, all manner of mundane issues. To have an authority to deal with a matter as serious as this is really basic. I do not see that it is going to lay such a huge burden on the taxpayer that we can or should actually be thinking about that ahead of the importance of this Bill.

We have been told about the Health Bill and about experts on this matter and not the doctors. Experts on this matter are the women who feel the pain and the burden. The Health Bill has been coming for a long time. In fact, on everything that is raised on matters of health we have always been referred to the Health Bill. We know that we were once told that the Health Bill disappeared. Nobody could trace the Health Bill. Now we are told it is coming. We cannot stall a Bill in anticipation of a Bill whose whereabouts we do not know.

I want to stop at that because I see that there is little time. There is a lot of interest. I fully support this Bill and I thank hon. Millie for introducing it. The

Departmental Committee on Health must understand that it is not little work for a Private Member to develop a Bill to this extent. Therefore, they cannot push it aside and tell us to wait for a Health Bill whose whereabouts we do not know.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Let us get a voice from a doctor. Doctor Musyoka Susan who is the Member of Parliament for Machakos County.

Hon. (Ms.) Musyoka: Thank you, hon. Temporary Deputy Speaker. I stand to support this Bill and thank hon. Millie for bringing it here and for the work that has already been done on it. The world over, 13 to 14 per cent of women within the reproductive age have issues of infertility. If we went for the absolute figures, that is a high number of women.

In-Vitro Fertilization (IVF) and other methods of assisting women to reproduce have been here in this world for more than 30 years. In Kenya, IVF has been practised for long but it has been practised without a regulation. A regulation is being put in place and we should all support it. We should all welcome it and we should all see it as an opportunity for this particular discipline to be practised in an organised manner.

I am not saying it is done in a disorganized manner but I know that it is a very expensive exercise for a woman to get a child through IVF today.

Hon. Temporary Deputy Speaker, I have been to countries outside Kenya and I have seen IVF being part of the treatment in some centres and even it is supported by the government. In our case, a lot of money has to be spent by the person who is concerned. It is very expensive and many women, because of some stigma associated with this, have had to leave the country, go through the exercise outside the country and come back pregnant or come back after they have had a surrogate mother delivering their baby. We need to remove stigma in this. We need to accept that infertility can happen to any woman; our child or our sister. Any woman can go through this and instead of the trauma, we who are in Parliament today, should ease that pressure and make sure that it is easy and there is a way for women to approach and get the service.

It is true we in the Departmental Committee on Health have been waiting for the Health Bill. We have waited for it ever since we came to Parliament. There is some sort of procrastination with our Government and we cannot continue to wait forever and in the process gag Members who have private Bills like this one. So, I would support this in the strongest terms possible and I am sure it is going to be a useful Bill for our women and even men who have issues of infertility.

It is true that there are other methods of assisted reproductive technologies but now somebody has put in so much work on the IVF and put a Bill together. Let us accept this Bill and if we have any amendments we can bring them forth in the other stage. The IVF should not be done secretly. It should be brought to the open and even we should train and educate our people in the grassroots to understand these issues and to accept them so that when I am branded infertile and I come back with a baby, it does not look strange. That baby should be accepted in society and be part of the community and the family. So, I stand here to support and say that people are not infertile out of their own design. It is part of life and if there is a way of assisting them, it should be done. We should not create impediments in the laws that are coming up to make life easy for

Kenyans. In our Constitution, we talk about the Bill of Rights which clearly defines when life starts. So, if we can put a sperm and an egg together in a laboratory, life has begun and that life is sacred and it should be allowed to continue.

Thank you very much Millie, I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Hon. (Ms.) Wambui for Othaya is next on my list. It seems it just has the ladies who are here. You have a minute.

Hon. (Ms.) Munene: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to support this Bill. I am supporting this Bill because I was here when Millie was speaking but also when we read the Bible, we remember that when Sarah could not get a child, she was aware of a promise from God. She told Ibrahim to go with the maid. A woman who does not have a child has many problems because even when she is married, her family does not see her as a person because she is not reproducing as they expect. The Bible says that we came to this world to bring forth many children so that we can be many. In the Bible, there is Hannah who was crying. The husband loved her so much but she cried because she could not have a child. When a woman does not have a child, men can go and get married and get children.

So, the woman remains alone in the house abused by the family. I am begging that we pass this law and tell men that when a woman has an IVF, it will be a child from that home. Even if you decide to adopt a child, your family and the other families are going to tell that child that it does not belong there.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Mary Wambui. You will have a balance of eight minutes in the next sitting. This Motion has been debated for two hours and 15 minutes. It has a balance of 43 minutes before conclusion. So, it will be in the House for debate next time.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, because this is a House of rules and procedures and the time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.