

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 17th November 2021**

The House met at 9.30 a.m.

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

Hon. Deputy Speaker: Hon. Members, we do not have the required numbers. So, I order that the bell be rung for 10 minutes.

(The Quorum Bell was rung)

Hon. Members, we still are missing about two Members, actually one Member. I order that the bell be rung for an extra five minutes. That is always allowed by our Standing Orders. So, an extra five minutes.

Someone should ask the Whips to come back to the House so that we quorate. Okay, Hon. Members. We will begin business.

ORDINARY QUESTIONS

Hon. Deputy Speaker: Under this Order, Hon. Members, we will start with Questions then go to the second part which is going to be Statement Requests. To start us off is the Member for Kitui County, the Hon. (Dr.) Kasalu.

*Question No. 166/2021***PROMOTION OF ADULT EDUCATION PROGRAMME**

Hon. (Dr.) Irene Kasalu (Kitui CWR, WDM-K): Thank you, Hon. Deputy Speaker, I rise to ask Question No. 166/2021, to the Cabinet Secretary of the Ministry of Education, Science and Technology:

- (i) Could the Cabinet Secretary provide details on the rolling out and uptake of the Adult Education Programme in the country?
- (ii) Could the Cabinet Secretary explain the measures, if any, the Ministry has put in place to promote adult education in the country?

- (iii) What plans are in place to ensure that the Adult Education Programme is sufficiently facilitated, including being adequately resourced in terms of funding and personnel?

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Education and Research. Next is the Member for Kathiani, the Hon. Mbui.

Question No. 325/2021

CONSTRUCTION OF MUMBUNI-KATHIANI ROAD

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 325/2021, to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) When is the construction of the Mumbuni-Kathiani Road in Kathiani Constituency which has been upgraded to bitumen standard scheduled to be completed?
- (ii) Considering that the sections of the road that have been done have already developed potholes, what steps is the Cabinet Secretary taking to ensure that the road is constructed to the set standards?

Hon. Deputy Speaker: Okay. That one will be replied to before the Departmental Committee on Transport, Public Works and Housing. Next is the Member for Mumias East, Hon. Washiali.

Question No. 328/2021

HIGH TRANSPORTATION COST OF GOODS BY THE STANDARD GAUGE RAILWAY

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 328/2021, to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Noting that the cost of transporting a twenty-foot container from the Port of Mombasa to the Inland Container Depot in Embakasi, Nairobi County, costs about Kshs110,000, could the Cabinet Secretary explain why the cost of transporting goods through the Standard Gauge Railway (SGR) is higher compared to the cost of transporting similar goods by road to other premises in Nairobi?
- (ii) Could the Cabinet Secretary state when Kenyans will start benefiting from the advantages of transporting goods through the SGR by way of reduced costs and seamless connections between the Inland Container Depots and goods' final destinations?

Hon. Deputy Speaker: Very well. That is the best way to ask Questions so that you do not name them as number one, number two and number three. It should be in roman numbers because you are allowed to ask only one Question at a time. That one will be replied to before the Departmental Committee on Transport, Public Works and Housing.

Next is the Member for Lamu West, the Hon. Muthama.

(Question No. 343/2021)

PREPAREDNESS TO MANAGE DROUGHT IN LAMU COUNTY

(Question deferred)

Hon. Deputy Speaker: Member for Rongai, Hon. Kipruto Moi.

Question No.360/2021

STATUS OF INVESTIGATIONS INTO CIRCUMSTANCES LEADING
TO DEATH OF SERGEANT ARNOLD KIPYEGON KENEI

Hon. Kipruto Moi (Rongai, KANU): Thank you, Hon. Deputy Speaker. I would like to direct my Question to the Cabinet Secretary for Interior and Coordination of National Government.

- (i) Could the Cabinet Secretary provide a progress report on the status of investigations into the circumstances that led to the death of one Sergeant Arnold Kipyegon Kenei, P/No. 2006060448, and an Administration Police Officer who was found dead in Imara Daima Estate on 20th February 2020?
- (ii) Could the Cabinet Secretary state whether any suspect(s) have been apprehended or questioned in connection with the death of Sergeant Kenei and what action has been taken against them?
- (iii) Could the Cabinet Secretary undertake to ensure that the matter is fully investigated with a view to ensuring justice for the victim and compensation made for the family for the life lost of their loved one?

Hon. Deputy Speaker: That one will be replied to before the Departmental Committee on Administration and National Security. Next is the Member for Nyaribari Masaba, Hon. Machogu

Question No.378/2021

PROGRESS OF CONSTRUCTION OF SOSERA-RAMASA ROAD

(Question deferred)

The next one is by the Hon. Member for Kamukunji, Hon. Yusuf Hassan.

Question No.440/2021

STATUS OF OWNERSHIP OF LAND OCCUPIED BY RESIDENTS
OF KINYAGO AND KANUKU SETTLEMENT SCHEME

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 440/2021 to the Cabinet Secretary for Lands and Physical Planning.

- (i) What is the status of ownership of Land Parcel L.R No. 209/21721 currently occupied by Kinyago and Kanuku Settlement Scheme residents in California Ward, Kamukunji Constituency?

- (ii) Could the Cabinet Secretary explain why there have been inordinate delays in the issuance of a title deed to the residents of Kinyago and Kanuku Settlement Scheme, through their registered Kinyago-Kanuku Society, considering that the society is in possession of a deed plan L.R. No 209/21721 and letter of allotment No. SGD/LS/00141202/SMK/ZNR issued by Nairobi City County Government on 3rd December, 2014 and they paid all the requisite fees for processing and acquisition of title deed on 23rd October 2018?
- (iii) When will a valid title deed for Land Parcel L.R.No 209/21721 be issued to the residents of Kinyago and Kanuku Settlement Scheme through Kinyago-Kanuku Society considering lack of a title deed has denied them access to vital land rights making their occupation insecure, unstable, and vulnerable to disputes and dispossession?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Lands. That marks the end of our Question Time because Hon. Beatrice Nyaga had made a request which I accept to have her Question deferred.

Question No.462/2021

COMPENSATION TO PERSONS AFFECTED BY CONSTRUCTION OF
KIONYO – CHOGORIA LOOP ROAD

(Question deferred)

So, we go to the next segment which is Requests for Statements by Members. We will start with Hon. Rashid Amin, Member for Wajir East.

REQUEST FOR STATEMENTS

IRREGULARITIES IN RECRUITMENT OF KENYA DEFENCE FORCES

Hon. Rashid Kassim (Wajir East, WDM-K): Hon. Deputy Speaker, pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Defence and Foreign Relations regarding the ongoing recruitment exercise of Kenya Defence Forces in the country particularly recruitment in Wajir East Constituency.

Hon Deputy Speaker, the Vice-Chief of the Defence Forces had launched the 2021 Kenya Defence Forces (KDF) nationwide field recruitment drive to take place in 327 gazetted sub-counties across all 47 counties. The Kenya Defence Forces announced to the public the recruitment of General Service Officer (GSO) Cadets, General Service Officer (GSO) Cadets (undergraduate degree holders), Specialist Officers, General Duty Recruits, Tradesmen/women and Defence Forces Constables, which were scheduled to take place in the month of February 2021.

Hon. Deputy Speaker, during the launch, the Vice-Chief of the Defence Forces Lieutenant General Francis Ogolla warned Kenyans to be cautious of conmen/women masquerading as KDF officers soliciting bribes and issuing fraudulent calling letters.

Further the public was informed that KDF is playing its role in combating the vice and that the service personnel who were involved in recruitment malpractices are facing court martial and

the due process will be followed. However, in Wajir East recruitment center which is a cosmopolitan town, six young men and one young lady who come from the same clan were recruited denying equal opportunity to qualified youth from other communities and clans in the area.

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

1. Could the Chairperson explain why different communities in Wajir East Constituency were denied equal opportunity in the recruitment exercise?
2. Could the Chairperson explain the criteria used to select/recruit the six youth/young men and woman?
3. Could the Chairperson explain plans put in place by the Ministry to establish whether the due process was followed?
4. Could the Chairperson explain measures put in place by the Ministry to ensure that all communities/clans in the area are accorded slots and equal opportunity in the Kenya Defence Forces recruitment exercise?

I thank you Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That stands referred to the relevant committee which is the Departmental Committee on Defence and Foreign Relations. The next one is by Hon. Safia Sheikh Adan. You have been active lately with Questions, Statements and contributions.

PROVISION AND SOURCING OF MARKETS FOR LIVESTOCK AND LIVESTOCK PRODUCTS

Hon. (Ms.) Safia Sheikh (Marsabit CWR, JP): Thank you, Hon. Deputy Speaker. Pursuant to Standing Order No.44 (2) (c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Agriculture, Livestock and Fisheries regarding provision and sourcing of markets for livestock and livestock products both locally and internationally.

Hon. Deputy Speaker, pastoralists contribute to over 20 per cent of Kenya's Gross Domestic Product through sale of livestock and livestock products. However, the full potential of the livestock sector in the pastoralist communities is yet to be realised due to undeveloped market and limited access to local and international market by pastoralists.

Hon. Deputy Speaker, it is against this background that I seek a statement from the Chairperson of the Departmental Committee on Agriculture and Livestock and fisheries on the following:

- (i) Could the Chairperson explain what plans the Ministry has put in place to invest more in the booming livestock sector in Marsabit County, which will then increase the amount of revenue collected by the Government, reduce poverty level of livestock farmers and their families and in general better service delivery to Kenyans, with more taxes collected.
- (ii) What measures has the Ministry put in place to ensure that livestock farmers in pastoralist communities get fair markets to sell their livestock at competitive prices when the season is still good to reduce cattle rustling and quick sale of livestock during droughts at throw-away prices?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That request is referred to the Departmental Committee on Agriculture and Livestock. That marks the end of Order No. 7.

Hon. Sankok, you cannot comment on a request for statement. It is only on petitions that you can make comments. If you are interested in this Statement, you should appear before the relevant Committee when it is being processed. You will also have an opportunity when the request is responded to, that is, when the Statement is made in the House.

Let us go to the next Order.

BILL

Second Reading

THE EMPLOYMENT (AMENDMENT) (NO. 2) BILL

(Hon. Gideon Keter on 22.9.2021 - Morning Sitting)

(Debate concluded on 10.11.2021-Morning Sitting)

Hon. Deputy Speaker: Well, I will defer putting the Question until the next available opportunity. So, we go to the next Order.

COMMITTEE OF THE WHOLE HOUSE

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

IN THE COMMITTEE

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

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, please resume your seats. We are in the Committee of the whole House to consider the Assisted Reproductive Technology Bill (National Assembly Bill No. 34 of 2019). We can start.

Clause 3

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by Hon. Jennifer Shamalla. Move your proposed amendment.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Millie Odhiambo, before the proposed amendment is moved by Hon. Shamalla.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I request to be given a hard copy to enable me to follow the proceedings.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is so ordered. Let the concerned office supply hard copies to Hon. Millie Odhiambo. Hon. Shamalla, you can now move your proposed amendment.

What is it, Hon. Millie Odhiambo?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Sorry, Hon. Temporary Deputy Chairlady. As a matter of procedure, I was just wondering that if a Committee has an amendment, then it should come before that of a Member. But I have just realised that she is moving an amendment to clause 3 and not clause 2.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla.

Hon. (Ms.) Jennifer Shamalla (Nominated, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 3 and inserting the following new clause—

Application. 3. This Act applies to all processes of facilitated human fertilisation undertaken through insemination in or outside the body.

The reason is that we must understand and appreciate that the preamble of our Constitution acknowledges the Almighty as the creator. At every stage, we must acknowledge that the processes of fertilisation, whether inside or outside the body, are not of evolution but really a stage of conception.

(Question of the amendment proposed)

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

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

(Clause 3 as amended agreed to)

Part II

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. This is why I was saying we consider Clause 3A that is being proposed by the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie, so that we do not waste time, this is a new clause. And you have been here for long. I can see the interest that you have. However, you are proposing but for your satisfaction, it is a new Clause which as a matter of procedure, we will move it at some point.

We have a proposed amendment to the same by the Chairperson of the Departmental Committee on Health. Please move.

Hon. (Dr.) James Nyikal (Seme, ODM): That is Clause 4 right?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is Part II.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting the word “Authority” appearing in the heading to Part II and substituting therefor the word “Directorate”.

That is basically the reason why “Authority” would mean establishing a completely new institution while a “Directorate” would be part of the structure that already exists.

(Question of the amendment proposed)

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

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

(Part II as amended agreed to)

Clause 4

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Shamalla and the Committee. I start with the Committee. If the Chairperson’s amendment is carried, then Hon. Shamalla’s amendment will automatically fall. Chair.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 4 and substituting therefore the following —

Assisted
Reproductive
Technology
Directorate.

4. Subject to Section 18 of the Health Act, 2017 the Cabinet Secretary shall form a directorate to be known as the Assisted Reproductive Technology Directorate.

No.21 of 2017.

It is a consequence of what you have just said: That if it is a directorate, it is still within the existing structure. So, it is in line with Part II that we have just passed.

(Question of the amendment proposed)

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

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

(Proposed amendment by Hon. (Ms.) Jennifer Shamalla dropped)

(Clause 4 as amended agreed to)

Next Clause.

Clause 5

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, again we have a proposed amendment by the Committee and also Hon. Shamalla. Chair, Committee.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 5 of the Bill be amended—

- (a) in the prefatory statement by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (b) in paragraph (c) and by deleting the words “undertake research” and substituting therefor the words “promote research”;
- (c) by inserting the following new paragraph immediately after paragraph(e)—
 - (ea) prescribe, in consultation with relevant government agency, the minimum requirements educational requirements for assisted reproductive technology experts and embryologists;
 - (eb) in consultation with the relevant government agency, inspect and accredit the facilities for the training of experts and embryologists to ensure compliance with set standards;
 - (ec) maintain and make available to the public a register of information on all the licenced assisted reproductive technology facilities in Kenya;
 - (ed) in consultation with the Medical Practitioners and Dentist Council, maintain and make available to the public a register of information on all the licenced assisted reproductive technology experts and embryologists.
- (d) in paragraph (k) by deleting the word “Authority” and substituting therefor the word “Directorate”.

This means that it is consequential to what we have done before. There are institutions that do research. What the Directorate will do is just to promote research. It introduces the county governments, various departments, educational departments and relevant Government agencies. The whole essence of this is that this is going to be a comprehensive new law that has to work with all agencies that are listed under that amendment to Clause 5.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): I support the proposed amendment especially to Clause 5(b) by deleting the word “undertake research” and substituting thereof with the words “promote research”.

There will be so many players who will be undertaking research. And when we put the directorate to be the one undertaking the research, then we are kind of demeaning the other players like individuals who may be undertaking research. So, this one is very important.

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Hon. Millie Odhiambo, today you put on yellow. I do not know if my eyes are seeing well. However, on this one, it is very important we support so that we can open the field for other researchers and scientists to come in and promote this one.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. So, the yellow may not come in here. Hon. Sankok, always stay on relevance. This is a very important stage of the Bill.

Hon. Millie Odhiambo, Member for Suba North, do you want to make a comment?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Chair. I support. That is one of the things I had flagged to understand why they were removing “undertake” to “promote”. However, Hon. Nyikal has explained it very well.

I also want to tell Hon. Sankok that men are colour blind. This is lime and not yellow.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. It is lime not yellow. Let us not bring such debates otherwise, we are going to lose track of the business.

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

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

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

With the amendment by the Chairperson being carried on, the proposed amendment by Hon. Shamalla again falls automatically.

(Proposed amendment by Hon. (Ms.) Jennifer Shamalla dropped)

(Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again, it is a proposed amendment by the Committee and Hon. Shamalla. We start with the Chairperson of the Committee.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 6 and inserting the following new clause —

Obligations of
the National
Government.

6. The National Government shall —

- (a) put in place the necessary mechanisms and infrastructure to ensure access to the highest attainable standard and quality of cost-effective assisted reproductive technology services;
- (b) provide adequate resources necessary to ensure access to the highest attainable standard and quality of cost-effective assisted reproductive technology services;

- (c) provide regulations to ensure assisted reproduction health services are covered by every health insurance provider including the National Health Insurance Fund; and
- (d) collaborate with the county governments in expanding and strengthening the access and delivery of assisted reproductive health services in counties.

The whole essence of this as we have said is, when this Bill becomes an Act and that Directorate is created, we will require a lot of infrastructure to be put in place, a lot of funding to be given for it to act properly and to provide regulations. This is because many people will be undertaking these processes which are very sensitive. Therefore, it is important we have regulations, the Directorate is provided with resources, has infrastructure and more importantly, collaborate with the county governments. This is because some of the institutions that will be undertaking these are within the counties. So, that link is extremely important.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The first one is Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady.

Let me take this opportunity to thank the Committee for that very good amendment. For those who are not usually here, when some Members bring Bills and people amend they get offended. However, the essence of this stage is to strengthen the Bill.

I am the proposer and I am very happy with the amendments that have been brought by the Committee. Like this one, it enhances cost-effectiveness, ensures accessibility and removes the penalization of motherhood. People make it look like when you want to be a mother, it should be a punitive thing. However, we should make motherhood easy even for women who do not have children easily. So, we are giving the responsibility to the county governments and the national Government to make it cost-effective.

Hon. Temporary Deputy Chairlady, I have spoken to women who have done assisted reproduction six times at a cost of Kshs1 million per process. That is Kshs6 million. While others are building houses, you are trying to have a child at Kshs6 million. It should not be punitive having a child. Therefore, I thank the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Do you support?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Kiminini, Hon. Wakhungu Wamalwa. Just a comment on the same.

Hon. (Dr.) Chris Wamalwa (Kiminini, JP): Thank you, Hon. Temporary Deputy Chairlady. Having been following, the unfortunate thing I have with Hon. Nyikal's amendment is that he mentioned that the national Government shall put regulations. I have gone through the Order Paper but I cannot see where the regulations are indicated. Do I have a different Order Paper? Where is it? Is it 6 (a) or (b)?

An Hon. Member: It is 6(c).

Hon. (Dr.) Chris Wamalwa (Kiminini, JP): Thank you. I have now seen it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. With that, do you support or you were just seeking information? You have now confirmed. Let me have the Member for Ndhiwa before I Put the Question.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Chairlady. I want to state that the issue of regulation is very important and because this is a legislation, it has to be dedicated so as to be implemented by the county governments. The most important part is that it is going to be expanded for any *mama* who wants children and not only the rich ones.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The last one is the Minority Whip, Hon. Wangwe Emmanuel.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairlady. I am the Majority Whip.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Sorry, Majority Whip.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Temporary Deputy Chairlady, it is not only the regulations for this matter but the Committee has also emphasized that the cost will be met by the health insurance provider, the National Hospital Insurance Fund (NHIF). That is a very good point that cannot go unnoticed. This is because it will help the entire country and it shall work in tandem with NHIF Act that we have just passed in the House.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well.

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

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

The proposed amendment by Hon. Shamalla falls automatically now that the Chairman's amendment has been carried.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 6 as amended agreed to)

Clause 7

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We also have a proposed amendment by Hon. Nyikal on behalf of the Chairperson and Hon. Shamalla.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 7 and inserting the following new clause—

Obligations of County Governments.

7. Each County Government shall—
- (a) collaborate with the National Government in expanding and strengthening the access and delivery of assisted reproductive health services in the respective counties;
 - (b) allocate in the county budget, the funds necessary for the provision of quality, cost-effective assisted reproductive technology services in the county health systems, including finances required to hire adequate personnel;
 - (c) procure sufficient equipment, medicine, medical supplies required to adequately cater for assisted reproductive health care services in the respective counties;
 - (d) carry out sensitization programmes related to assisted Reproductive technology; and
 - (e) establish linkages and networks with local and international development partners to mobilise and source for funding to promote the delivery of quality and cost-effective assisted Reproductive technology services in the county.

Hon. Temporary Deputy Chairlady, that is what we are bringing in. What is being removed is basically the structure of the authority and therefore, it is no longer necessary to have Clause 7. What has been substituted is the responsibility of the County Government in the implementation of this Bill when it becomes an Act.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Suba North.

Hon. Ms. Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. Let me also take this opportunity to thank the Committee. This is again a very strong and good amendment. They are providing a framework which is higher than the International Covenant on Economic, Social and Cultural Rights, African Commission on Human Rights and the Abuja Declaration. This is because what we normally do is to provide for loss without budget. The Committee is proposing a strong budgetary allocation by the counties so that we can hold them accountable. I think these are excellent amendments and I thank the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. I see no interest to speak to this and that is a good comment.

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

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

(Clause 7 as amended agreed to)

Clause 8

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The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed deletion by the Chairperson of the Departmental Committee on Health and Hon. Shamalla. Let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Bill is amended by Deleting Clause 8.

This is basically consequential to the fact that we now do not have an Authority and Clause 8 was referring to the Chairperson of the Authority.

(Question of the amendment proposed)

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 8 deleted)

Clause 9

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Nyikal on behalf of the Chairperson.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 9.

Hon. Temporary Deputy Chairlady, in the Bill, it was the conduct, regulation and the business of the Board. However, the Board no longer exists and so that has to go.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): As I Put the Question, we still have another proposed amendment by Hon. Shamalla. However, in the event that the Chairperson's amendment is carried, since they have the same effect, her proposed amendment will be dropped.

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 9 deleted)

Clause 10

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Nyikal and Hon. Shamalla.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT the Bill be amended by deleting Clause 10.

The reasoning is exactly the same. We had an Authority but we have removed it and therefore, issues referring to the Authority are no longer pertinent to this.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. The Committee's proposed amendment of deletion has the same effect with Hon. Shamalla's amendment.

Hon. (Dr.) Chris Wamalwa (Kiminini, JP): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Wamalwa, please use the next microphone so that we can move faster.

Hon. (Dr.) Chris Wamalwa (Kiminini, JP): Thank you, Hon. Temporary Deputy Chairlady. I have been listening carefully to Hon. Nyikal's amendment and his justifications for deletion of Clauses 8, 9 and 10 are the same. I was wondering how that can be done when it comes to drafting so that you contextualize a clause even if they are referring to the issue of the Authority. I am sure it can be in a different context because there is no way you can have similar justifications for Clauses 8, 9 and 10. If you go further, it might have been a different context but it was referring to the Authority so that you are able to differentiate. From his justification, it shows there was a repetition. Clauses 8, 9, and 10 were the same. Maybe they were referring to the same word, "Authority", but contextualisation is obviously different. It should not give the impression that there was repetition of clauses 8, 9, and 10.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that comment from Hon. Chris Wamalwa, other Members of the House may need clarification. Let us have the Chairperson.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, Hon. Chris Wamalwa has a point. It means we should then go into the details, that the Bill be amended by deleting Clause 10, the reason being that in the Act, it was cited as an Authority which had a board. Clause 10 was stating that 'the functions of the board shall be to formulate policy, carry out...'

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie, let him finish, then I will get back to you.

Hon. (Dr.) James Nyikal (Seme, ODM): It is to provide and carry out objects of the functions. That was the purpose of Clause 10. If you do not have that Authority and the board, in essence, it means you do not have a board, neither do you need one to implement the mandate. Basically, that is it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. This is in response to what Hon. Chris Wamalwa has raised. This will go throughout the entire Bill. I had proposed "an Authority" and the Committee has removed "an Authority" and replaced it with "a Directorate". What will happen is that wherever there is the

mention of the word “Authority”, it will be replaced by the word “Directorate”. So, in legislative drafting, we have to go through them one by one. If it were a computer, we would command it to look for the word “Authority” and replace with the word “Directorate” hence make changes in the whole document. We cannot do that, but we already understand. We are saving on time and that is why you see we are not even commenting, but just agreeing.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Correct. We must go clause by clause, procedurally. Let us have the last comment by Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. The matter being raised is quite important. I wonder whether as a House, the legal minds can help us. When we were changing the word “Minister” to “Cabinet Secretary”, it was the same thing. We sat here to say change the word “Minister” to read “Cabinet Secretary” and the Bill had around 40 clauses containing that. Is there no other way? Are we saying this legal profession does not have innovation? You need to be more innovative.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali, let me help you on that one. That is why we have our Standing Orders and unless we change them, we must go clause by clause because every clause matters. Deleting Clause 9 or 10 are two different issues and we cannot assume that we did not have a particular clause. This can only be done when the House rules and procedures are changed. They can look at it, but so far, it is not in our Standing Orders. We must follow the existing procedure.

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

(Clause 10 deleted)

Hon. Shamalla’s proposed amendment is also dropped

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

Clause 11

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We can move faster now that we understand the import.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move;

THAT, the Bill be amended by deleting Clause 11.

The reason is the same where we were talking of a Directorate which is supposed to appoint directors and *ex-officio* Members, if it does not exist.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, Hon. Shamalla if it is carried, then yours will automatically fall.

(Question of the amendment proposed)

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 11 deleted)

Clause 12

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 12 and substituting therefor the following new clause —

Composition
of the Directorate.

12. (1) The Directorate shall consist of—

(a) a Director; and

(b) such other staff as the Cabinet Secretary may, in consultation with the Director, consider necessary for the performance of the functions of the directorate under this Act.

(2) The Director and staff of the directorate shall be competitively recruited and appointed on such terms and conditions as Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.

Here, we are not merely deleting. This is because even if we have removed the Authority and created a Directorate, the Directorate will need staff. So, Clause 12 was stating what the Authority will do to get staff. Now we have to change the wording because the Cabinet Secretary will be in charge and will be recruiting staff for that Directorate.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We had a proposed amendment by Hon. Shamalla for a deletion, but now that the Chairperson's amendment has been carried, yours falls automatically.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 12 as amended agreed to)

Clause 13

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 13 and substituting therefor the following new clause —

Experts
and consultants.

13. The Directorate may engage experts or consultants as it considers appropriate, for the discharge of the functions of the Directorate.

It is the same thing which was to be done before by the Authority but is now being done by a department. So, the wordings are appropriate.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla's proposed amendment for a deletion falls automatically.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 13 as amended agreed to)

Clause 14

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, move your proposed amendment.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 14.

It is serving the same question. It was meant for payment of the staff by the Authority, but now it is not necessary because the Authority does not exist.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla's proposed amendment for a deletion falls automatically.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 14 deleted)

Clause 15

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, move your proposed amendment.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 15.

The import is that we have removed “Authority”, which would initially hire experts. For the same reasons, it now cannot. So, it will revert to the Directorate.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): As I move to put the Question, Hon. Shamalla, you had a proposed amendment on the same. If the one by the Committee will be carried, yours will fall automatically.

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 15 deleted)

Clause 16

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chair.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 16.

The reason, again, is that we have removed the Authority. The clause was talking of the responsibility of the members of the board of that Authority. Now that the Authority does not exist, we do not need it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again, we have a proposed amendment by Hon. Shamalla, which has the same effect. In the event we carry the Committee’s amendment on the deletion, Hon. Shamalla’s proposed amendment will fall.

(Question of the amendment proposed)

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 16 deleted)

Clause 17

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed deletion again. Chairperson, move faster.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 17.

It was referring to the seal of the Authority. The Authority does not exist. It has no seal. It cannot have a seal. So it needs to be deleted.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla's proposed amendment, which has the same effect falls again automatically

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 17 deleted)

Clause 18

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Here, we have an amendment by Hon. Shamalla. Move your proposed amendment on Clause 18.

Hon. (Ms.) Jennifer Shamalla (Nominated, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 18 and inserting the following new clause—

Use of embryo. 18. A person shall not create, keep or use a human being at any stage of development, either from fertilisation or conception until a transfer to a woman except as provided under this Act.

The amendment to Clause 18 seeks to bring clarity. In fact, there is a spelling mistake. It is not, "a person shall not create, keep or use a human being", but rather, it should be "a human embryo at any stage of development". The reason is that it brings clarity to the first two weeks of human development after fertilisation and conception, which is called the germinal stage. The third week through to the eighth week is what is known as the embryonic stage. From the ninth week to birth, it is known as the fetal stage. So, it simply enhances the definitions in this particular Clause 19. Otherwise, it would have left it open-ended, in my considered opinion, if we just said "a person shall not create and keep".

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali Mulu.

Hon. (Dr.) Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I want to support that amendment because from the way Hon. Shamalla is expressing it, she seems to be an expert on those matters. So, I want to support it. That appreciation of the terminologies is very important.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie, do you have a comment on this?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. Unfortunately, I do not support this one. If you look at the definition in the Act, it says, “a person shall not create, keep or use a human embryo except as provided under this Act”. The Act provides very clear ways of doing that. However, when you look at the proposed amendment by Hon. Shamalla, it says:

“A person shall not create, keep or use a human being at any stage of development, either from fertilisation or conception until a transfer to a woman except as provided under this Act.”

Sorry, I thought she missed the “except as provided under this Act”. That is okay. I support.

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

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

(Clause 18 as amended agreed to)

Clause 19

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chairperson of the Committee and also Hon. Shamalla.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 19 of the Bill be amended by—

- (a) renumbering the existing provision as sub-clause (1); and
- (b) inserting the following new sub clause immediately after sub clause (1)—
 - (2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

Basically, Clause 19 was prohibiting the use of reproductive technology, but we are now adding a sanction for that. It was just prohibiting that we shall not do, but now we are stating what happens to you if you do. That is what becomes number two. That is the essence of the amendment.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We had a proposed amendment by Hon. Shamalla. It has already fallen automatically.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 19 as amended agreed to)

Clause 20

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chair.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 20 of the Bill be amended by—

- (a) renumbering the existing provision as sub-clause (1); and
 - (b) inserting the following new sub clause immediately after sub clause (1)—
- (2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

It is exactly the same reason. Clause 20 in the Bill was prohibiting what ought not to be done and now the second bit that is being added is giving a sanction and stating what should happen to you if you do.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): For record purposes, Hon. Shamalla's proposed amendment falls automatically now that we have carried the Committee's amendment.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 20 as amended agreed to)

Clause 21

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed deletion by the Chairperson.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 21.

The reason is that what is being proposed in the Bill is actually taken care of in Clause 23. It is basically repetition. If you look at Clause 23(a), it is exactly what is in Clause 21.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)
(Clause 21 deleted)*

Clause 22

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 22 of the Bill be amended by deleting the words “a medical doctor” and substituting therefor the words “an assisted reproductive technology expert”.

In this area, some people who are not registered as doctors may acquire qualifications and expertise that may get them involved in these issues. So, if you then restrict it to a medical doctor, you rule those people out yet they would be necessary. That is the essence of that amendment.

(Question of the amendment proposed)

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

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I discussed this Bill with Hon. Millie and I had my concerns particularly from the church perspective. We agreed very well. It is true we are here to legislate and there are those particular controversial issues that we need to try as much as possible to harmonise. I am a bit worried when you replace "medical doctor" with "assisted reproductive technology expert". A medical doctor is somebody who is registered. The moment we change this to "assisted reproductive technology expert", who do not exist at the moment, we may be opening a Pandora's Box for many other people who may come to do these things fraudulently. We know what has been happening.

When you look at the curriculum, we do not have assisted reproductive technology established yet. Because of the sensitivity of the matter, I wish we do not open a Pandora's Box for quacks. We should leave it as it is, namely, "medical doctor". This Bill has been very controversial. Hon. Millie knows the journey we have gone through with it. When we mutilate it further and bring in the issue of assisted reproductive technology, you know it can be a nurse, a lab technician or any quack. This is a very sensitive area. I wish we agree and just leave it to medical doctors. That way, we will be sure of not opening a Pandora's Box and allowing quacks to come in. Look at the sensitivity of the Bill and the journey we have travelled. It never started today. It started in the last Parliament. Indeed, it has been introduced many times. That is my concern.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from Hon. Millie.

Hon. (Ms.) Odhiambo- Mabona (Suba North, ODM): Hon. Temporary Deputy Chair, I hear the concerns raised by Hon. Wamalwa. However, if you look at the proposed further amendments by the Committee, they seal those loopholes. I am also part of the church, so I am very careful about the things that we do to seal the loopholes of concern. Either way, if we put medical doctor, it is still okay except that when you provide for technicians as provided by the Committee, it means that in areas where there are no doctors... I will give you an example. In my constituency, which has a population of over 200,000 people, we have two medical doctors. So, if

you are to wait to get those services, it becomes very difficult. I am talking especially about rural areas. A lot of rural areas are served by nurses and clinical officers who have expertise so long as they are qualified as such. Either way, I am okay, whether it be a medical doctor or the others.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear from Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Chair. This is a very sensitive area. What Hon. Nyikal was trying to explain is that for you to be an assisted reproductive technology expert, you must have undergone further training. Of course, for you to undergo a further training even if you are a medical doctor or a nurse or a physiologist, you must undergo specialised training to become an expert in this area. Quacks will not come in. The qualification may require you to have a diploma in clinical medicine, a degree in medicine, a bachelor's degree of science in nursing, a degree in physiology or a degree in biochemistry. I think we are quite in order.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me have the last Member speak on this matter. Member for North Imenti.

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Temporary Deputy Chair. I agree with the Committee and I want to ask Hon. Wamalwa to think about putting the qualification for the expert even higher, so that it even covers what he is talking about. I agree with the Committee.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Kabuchai, just a comment.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you, Hon. Temporary Deputy Chair. I am also concerned about areas where we have doctors. Medical doctors are professionals and they take an oath to do the right thing. However, the respected Member, Hon. Millie, has just said that where she comes from, they have a shortage of doctors. That is the reason we are concerned with this argument. We can get them professionally and equip them. The purpose of this Bill is to equip professionals in this area. I am concerned and I agree with Hon. Wamalwa.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Navakholo.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to walk in the footsteps of Dr. Wamalwa. Today, we do not have any expert qualifications for assisted reproductive technology technician. We are talking about somebody who does not exist in law. Now that the owner of the Bill is comfortable with either way, I would not mind us going the way of Dr. Wamalwa who suggested that we leave it to medical doctors to perform their duties.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Before I give the Chair to make a clarification, let me have Hon. Owino, the Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Chair. As it is now, the doctor to patient ratio in Kenya is 1 to 16,000. We cannot market what we cannot supply. All healthcare professionals can do the job and they all take oaths. They include clinical officers and nurses some of whom have PhDs. We are talking of those with expertise in in-vitro fertilisation. Saying "only a doctor" is like killing this Bill. It will not work.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla, just a comment, and then I will give a chance to the Chair to clarify.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to associate myself with the comments expressed by Hon. Chris Wamalwa and our Majority Whip, Hon. Wangwe. It is absolutely correct that at this point, we are not sure what assisted reproductive technology is. I appreciate the facts and acknowledge Hon. Millie's contribution. She is right. We do not have doctors at every level in this country. However, it is crucial because we do not know what an assisted reproductive technology assistant is, but they are saying it be certified by a medical doctor who has, indeed, taken an oath.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Point taken. Now, with that, please, Chair, clarify, and then I will move to put the Question.

Hon. (Dr.) James Nyikal (Seme, ODM): There are two issues that are being discussed. One, is the person doing it, and two, the person who is being done on. Maybe, my first explanation was not very clear. It is about the certification by a medical doctor that the person who requires assisted reproductive technology does require it on medical grounds and no other grounds. If the proposer of the Bill is happy, as the Committee, we leave it as it is. We withdraw that amendment.

(Proposed amendment by Hon. (Dr.) James Nyikal withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, I will not put the Question on the same now that the Chairperson of the Committee has withdrawn his amendment. I welcome the proposed amendment to Clause 22 by Hon. Shamalla. Hon. Shamalla, move your proposed amendment.

(Clause 21 agreed to)

Clause 22

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 22 and inserting the following new clause—

Circumstances for
undertaking assisted
reproductive technology.

22. An infertile couple shall qualify to undertake assisted reproductive technology where it is certified by a medical doctor that the couple requires assisted reproductive technology on the grounds of health.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What is the justification?

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): My justification is that as stated earlier by Hon. Chris Wamalwa, in Kenya today, we are not sure what an assisted reproductive technology assistant does. However, we are aware that doctors have taken the Hippocratic Oath and will abide by it. At this point, when there is no clarity as to what those assistants do, it is my considered opinion that this must be certified by a medical doctor.

(Question of the amendment proposed)

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The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Suba North. We are on Clause 22.

Hon (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I am a bit uncomfortable with the proposed amendment by Hon. Shamalla. The gist of the amendment precludes single persons from undertaking assisted reproduction. When I listened to many of the Members as they spoke during the Second Reading, they indicated that we need to give an opportunity to single persons. I will give an example of a woman who is married and then her husband dies. She does not want to remarry, yet would want to have child. Why would we deny such a person an opportunity to have a child?

However, I know where Jennifer is coming from. The provisions that have been proposed by the Committee are very clear. The Constitution is also very clear about the issues of concern to her and it uses the words “female” and “male”. That is why she is using the word “couple”. We should not exclude single people, but also not go in the direction that she is worried about. Jennifer should rethink her amendment so that we do not exclude single people who, due to unfortunate circumstances, are unable to have children yet they want to.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Let us have Hon Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, when we went through Clause 22, on which Hon. Wamalwa was very clear, it did not bring out the issue of being single or not. It was basically about how a person undergoing assisted reproductive technology had to be certified by a medical doctor. That is what we passed. If we agree to this amendment, even if the person who requires the assisted reproductive technology is certified by a medical doctor, they will not get it if they are single. That is not a restriction that we need in law.

I oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. This Clause is very controversial. Maybe we should go back to the definition of the word “couple”.

We have a case study in South America where some women do not want to get pregnant, but go and hire poor women to carry children for them. That is why Hon. Shamalla’s input, particularly the aspect of being certified by a medical doctor, is important. The person must be unable to conceive. That provision has been abused in both North and South America. A rich woman who does not want to get pregnant hires a poor woman. So, the issue of certification by a medical doctor to show...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chris Wamalwa, there is a point of order from Hon. Millie Akoth, Member for Suba North.

Hon (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. Maybe just to help guide Hon. Wamalwa, if you look at the main Bill, it talks about being certified by a medical doctor. It was the Committee that was talking about technology experts. Hon. Jennifer is raising the issue of introducing couples instead of just a single person. I gave the example of a widow whose husband dies before they get a child, and they would like to get one without getting married or sleeping around with other men. She just wants a child without stress. We have even provided an opportunity for a husband to preserve...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie, you were on a point of order.

Hon (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, perhaps I should have risen on a point of information.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, you should have done so.

Hon (Ms.) Odhiambo-Mabona (Suba North, ODM): The information is that what Hon. Wamalwa is talking about is cured by my amendment. Hon. Jennifer brings in a further amendment which blocks out single people.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You should have stood on a point of information. I think Hon. Wamalwa has listened to you. Hon. Wamalwa, please make your contribution.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Millie, for that information. Maybe we needed to define what a “couple” is in this context. If a woman cannot conceive, she can get a sperm donor. In the previous amendment, we said that the child has a right to know who the donor is at the age of 18 years. Taking into account Hon. Shamalla’s concern, do you not think that we need to define the word “couple” as per this context and not in the natural setup? One can be a single mother or a widow and still want to get a child.

My concern was for this provision not to be abused where we have fertile women who do not want to carry pregnancies, but want to take advantage of poor women and pay them to carry their pregnancies. That was my only concern.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. Let us hear from Hon. Chege Wanjiru, Member for Murang’a.

Hon (Ms.) Sabina Chege (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. The amendment by Hon. Shamalla is unnecessary. One, I do not see why we should discriminate against a woman because of her marital status. When we say “couple”, we have already denied that single lady the chance to have a child, if she is willing to, as explained by Hon. Millie.

Secondly, with regard to Hon. Chris Wamalwa’s fears on the abuse, doctors would have certified that the woman needs to be assisted. So, your fears are already taken care of. We should not pass laws to discriminate against women because of their marital status.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. Hon. Members, with that import and the debate that arose, allow me to put the Question.

Hon. David ole Sankok (Nominated, JP): *(Spoke off-record)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Just a comment then.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairlady, for conception to happen, whether in vitro or otherwise, there must be a donor and a recipient. There must be two people. There is no way you can have a single person doing it. The definition of the word “couple” must include the donor and the recipient. When you talk about a single mother, does that mean that they will receive a donation through the Holy Spirit like it happened during the birth of Jesus Christ? There must be a donor and a recipient. That is the “couple” we are talking about. In that case, even the donor can say, “I have donated my sperms”, so that we know he is in agreement. Otherwise, there will be people selling and it will be like a...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hold on. Can we get a point of information by Hon. Millie? Hon. Sankok, do you want to be informed by Hon. Millie?

Hon. David ole Sankok (Nominated, JP): Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie. Hon. Members, this is to make our work easier and to understand.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I just want to thank Hon. Sankok for agreeing to be informed.

I want to let him know that the concern he has raised is in the Bill. It is already there. We can have such a situation even for those who are single. It can be your husband who has given that, but you will be blocked. So, his concern is already in the Bill. It is not coming from heaven or earth. The issue he has raised about consent is in the Bill. You must consent. Your sperms cannot be used without authorisation.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sankok, can you finish your contribution? Hon. Members, we cannot debate this further. We had the Second Reading.

Hon. David ole Sankok (Nominated, JP): The information is well taken, but it is misplaced because at the end of the day, there must be the donor and there must be a recipient and both must agree. When they say that the husband donated and died, there must be consent of the donor, namely, the husband who died and had donated the sperms before he died.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I now see everyone is concerned. Hon. Chairperson, do you want to say something?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Let me give guidance. In the Bill, there is 'a couple', which means a male and a female who are in an association that may be recognised as a marriage under any law in Kenya. Then there is 'a donor'. This is what we talked about as discrimination. The donor means a person who voluntarily gives his or her gamete for the purpose of fertilisation in an assisted reproduction technology process. The person need not be the spouse of the person.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Where are you reading, so that they can also see it?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): We go to Page 436, under the definition. 'Donor' means a person who voluntarily gives their gamete for the purpose of fertilisation in an assisted reproductive technology process and the person need not be the spouse of the person she or he is donating the gamete to. When, again, you say couple and already we have appreciated that we have a donor, then we need to differentiate the two.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Opiyo, then I put the Question.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Deputy Chairlady, I just hope that even though the donor need not be the spouse to the person who is receiving, there is a database which ought to be kept so that the progeny gets to know who the father is.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Dawood Rahim.

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to disagree with Hon. Shamalla. It should be an infertile person and not a couple. I disagree even with Sankok in what he said. I agree with what Hon. Millie has said. It could be a widow and the donor may have been the husband who kept the sperm in a sperm bank to be used at a later date. So what happens? Can they not use it because the donor is not alive? I do not agree with that.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, we can debate this until tomorrow. Allow me to put the Question.

(Loud consultations)

Hon. Members, order! Hon. Member for Kabuchai, Majimbo Kalasinga.

(Hon. Majimbo Kalasinga consulted loudly)

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

(Clause 22 agreed to)

Clause 23

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chairperson. We now must move faster.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 23 of the Bill be amended —

(a) by renumbering the existing provision as sub-clause (1);

(b) in sub clause (1) by inserting the words “and commercial” immediately after the word “speculative” appearing in paragraph (c); and

(c) by inserting the following new sub clause immediately after sub clause (1);

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

The amendment seeks to deter procurement of assisted reproductive technology for commercial purposes and further seeks to provide for a penalty for undertaking assisted technology services for purposes not enumerated in the clause.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chris Wamalwa, do you want to make a comment on this? Members, we have to move faster.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady.

I support the amendment. In many other countries, people have been taking advantage of this for commercial purposes. It happens in Kenya, I am told, particularly with some rich women. This is a story I was given by some university students. They told me that some rich women go to the university and look for young boys particularly the intelligent ones doing top courses like medicine. We hope this practice will not be allowed because it will erode the value of family. It will kill family values and marriages are likely to break because your wife can decide to do away with you because she can go somewhere for commercial purposes. There is even the issue of looks. I have seen people looking for colour. So, we hope doctors will be very careful with this matter during certification so that commercialisation that can wipe away family values does not arise. This is opening a Pandora's Box. It is already happening in the West. We can see it coming to Kenya and Africa slowly. Let us not open a Pandora's Box. I accept and agree with the penalty. It should be specifically on medical grounds, but not for commercial purposes.

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The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Oduol Odhiambo, nominated Member. Do you have a comment?

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Chairlady. The comment I wanted to make was for the earlier argument. At this point, I do not have a comment.

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

(Clause 23 as amended agreed to)

Clause 24

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, move your amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 24 of the Bill be amended by—

(a) renumbering the existing provision as subclause (1);

(b) inserting the following new sub clause immediately after sub clause (1) —

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

It is to make sure that we do not commercialise reproductive technology services.

(Question of the amendment proposed)

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

(Clause 24 as amended agreed to)

Clause 25

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by the Chairperson.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 25 of the Bill be amended—

(a) by renumbering the existing provision as subclause (1);

(b) in sub clause (1) by inserting the words “and with the consent of the parent or legal guardian of the minor” and

(c) by inserting the following new sub clause immediately after sub clause (1); —

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

This amendment clarifies the only acceptable instances when an expert can harvest gametes from a minor. This is with consent of the parent or legal guardian of the minor. The amendment

also seeks to provide for a penalty for contravention of provision of the section in order to deter noncompliance.

I beg to move.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Now that the proposed amendment by the Committee has been carried, the proposed amendment by Hon. Shamalla falls automatically.

(Proposed amendment by (Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 25 as amended agreed to)

Clause 26

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Committee.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, clause 26 of the Bill be amended—

(a) by renumbering the existing provision as subclause (1);

(b) in sub clause (1)—

(i) in the prefatory statement by deleting the word “Authority” and substituting therefor the word “Directorate”;

(ii) in paragraph (b) by inserting the words “after five days” immediately after the word “streak”;

(iii) by deleting paragraph (e) and substituting therefor the following new paragraph—

(e) the replacing of any part of an embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is meant to solve medical problems;

(c) by inserting the following new sub clause immediately after sub clause (1);

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

This amendment seeks to remove any reference to Authority based on earlier amendments. It also limits issuance of licence that allows the keeping or using of an embryo after the appearance of the primitive streak after five days. It also seeks to provide for a penalty for contravention of provisions of the section in order to deter noncompliance.

I beg to move.

(Question of the amendment proposed)

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

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, we also had a proposed amendment by Hon. Jennifer Shamalla. Now that the Departmental Committee amendment moved by the Chairperson has been carried, the amendment by Hon. Shamalla falls automatically.

(Proposed amendment by (Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 26 as amended agreed to)

Clause 27

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson of the Committee.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, clause 27 of the Bill be amended—

- (a) by renumbering the existing provision as sub-clause (1);
- (b) in subclause (1) by inserting the words “or embryo” immediately after the word “eggs” appearing in paragraph (e); and
- (c) by inserting the following new sub-clause immediately after sub clause (1);
 - (2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

It is not medically possible to transfer a sperm and an egg separately into a womb and expect a pregnancy immediately. Hence, the amendment seeks to clarify this and provides for a penalty for contravention or use of gametes contrary to provisions of the section in order to deter noncompliance.

I beg to move.

(Question of the amendment proposed)

(Question, that the words to be inserted

be inserted, put and agreed to)

(Clause 27 as amended agreed to)

Clause 28

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, you have an amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, clause 28 of the Bill be amended in—

(a) paragraph (a) by deleting the words “takes place within five years of the death of the man”; and

(b) paragraph (b) by deleting the words “takes place within five years of the death of the man”.

This amendment seeks to delete the limit within which a person can use sperms after the death of a man. This should depend on viability of the sperm and it is left open as long as the sperms are viable as consent had already been issued prior to death.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have contribution. Hon. Millie Odhiambo on Clause 28.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I agree with the Committee except that I just wanted to bring to the attention of the Chairperson that if she does not delete the words “and assisted reproductive process”, then it is untidy. I hope you can see what I am saying.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Can she be on record commenting on this?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): She has said deleting of the words “takes place within five years of the death of the man”. So, she should not add the words “and assisted reproductive process”. I do not know if I am making sense.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, is she making sense?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I accept and thank her for that. We can clean it up and move in an amended form so that we have the right thing.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): You should delete the words “and assisted reproductive process”.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, you admit and it is on record that it will be cleaned?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, she should delete the words “and assisted reproductive process”.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, we do not want to put words in your mouth. Let her consult and then...

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, can I be clearer?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, be clearer as she also consults.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, what the amendment should now read is: “The mother was married to the man at the time of the death of the man.” However, they did not delete the words “and assisted reproductive process”. So, if they are left, then it will read: “The mother was married to the man at the time of the death of the man and assisted reproductive process,” which does not make sense. So, I am proposing that she deletes the words “and assisted reproductive process” both in sub-clauses (a) and (b), so that it makes sense.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, if you are convinced, please, move your amendment.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Yes, Hon. Temporary Deputy Chairlady. I have gone through my amendment to confirm and will move it in an amended form by deleting the words in sub-clause (a) and (b) “takes place within five years of the death of the man” and “and assisted reproductive process”. We will delete these words as a matter...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): As a matter of clean up.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Yes, Hon. Temporary Deputy Chairlady. So, I am moving it in an amended form.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we had a proposed amendment on Clause 28 by Hon. Zuleikha Hassan. With the House having carried the amendment by the Hon. Chairperson, the amendment by Hon. Zuleikha Hassan falls automatically as a matter of procedure.

(Proposed amendment by (Hon. (Ms.) Zuleikha Hassan dropped)

(Clause 28 as amended agreed to)

(Clause 29 agreed to)

Clause 30

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by the Chairperson and also by Hon. Shamalla.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, the Bill be amended by deleting Clause 30 and substituting therefor the following new clause —

Rights to
accrue to

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child.

30. (1) A child born out of assisted reproductive technology under this Act shall have the same legal rights under the Constitution or any other written law as that of a child born through sexual intercourse.

(2) The health and well-being of children born through the application of assisted human reproductive technologies shall be given priority in all decisions respecting their use.

(3) Where a married couple obtains a divorce after the creation of an embryo, both partners reserve the right to withdraw consent of the implantation of the embryo which has been created by their sperm or ovum.

(4) Where a sperm or ovum is donated from a man or woman of a different nationality, the child shall adopt the nationality of the intended parents.

(5) Where a surrogate who is not a Kenyan citizen gives birth to a child, the child shall adopt the nationality of the intended parents.

This amendment seeks to make provisions for the rights which will accrue to a child born out of assisted reproductive.

Thank you, Hon. Temporary Deputy Chairlady. I beg move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I see no interest.

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

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

With the House having carried the proposed amendment by the Committee, the proposed amendment by Hon. Jennifer Shamalla falls automatically.

(Proposed amendment by (Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 30 as amended agreed to)

Clause 31

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, clause 31 of the Bill be amended by—

(a) deleting sub clause (1) and substituting therefor the following new sub-clause—

(1) A woman of twenty-five years or more, who has given birth at least to one child and who understands the rights and obligations accruing under a surrogacy agreement may, at the request of a couple, consent to a process of assisted reproduction for purposes of surrogate motherhood.

- (b) deleting sub clause (2) and substituting therefor the following new sub clause—
(2) The surrogate mother under subsection (1) shall carry the child on behalf of the parties to a marriage or couple and shall relinquish all parental rights at birth over the child.

This amendment seeks to clarify who shall qualify to be a surrogate mother and also that the surrogate mother shall relinquish all parental rights at birth over the child.

I beg to move.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I support. This is one of the areas that have been very problematic. There are many cases that have gone to court. The court requested the House to come up with a law so that we do not have people going to court to make decisions for us when we have the power to legislate. So, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chris Wamalwa, what is your comment as I move to put the Question?

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I support. We have had this experience whereby you find a surrogate mother has agreed to everything but does not want to relinquish the baby when it is out or the mother goes back to renegotiate for more money yet it is contrary to whatever they had agreed earlier. This will help because these issues have been going on. I do not want to name some people who have had such issues; it is true. I think it is going to clean it so that we have a clearer process.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We had a proposed amendment by Hon. Zuleikha Hassan, which was a deletion. We also had a proposed amendment by Hon. Jeniffer Shamalla on the same Clause 31. Now, with the Chairperson's amendment having been carried and as a matter of procedure, the amendments by Hon. Zuleikha Hassan and Hon. Shamalla Jeniffer automatically fall.

*(Proposed amendments by (Hon. (Ms.) Zuleikha Hassan
and Hon. (Ms.) Shamalla Jennifer dropped)*

With that, I will move on to put the Question on Clause 31.

(Clause 31 as amended agreed to)

Clause 32

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, Clause 32 of the Bill be amended by—

(a) deleting sub clause (1) and substituting therefor the following new sub clause—

(1) Parties to a marriage or commissioning parents intending to enter into a surrogacy agreement with any woman shall sign a surrogacy agreement in a prescribed form before the process is undertaken.

(b) inserting the following new sub clause immediately after sub clause (1) —

(1A) A person may enter into a surrogacy agreement under subsection (1) only if—

(a) the person has the capacity to enter into the agreement under this Act and any other relevant written law in Kenya; and

(b) understands the rights and obligations that may arise or accrue under this Act and the agreement.

(1B) A surrogacy agreement under subsection (1) is valid only if the agreement—

(a) is in writing and signed by all the parties;

(b) is entered into within the Republic of Kenya;

(c) includes provisions for the contract, care, upbringing and general welfare of the child that is born, including the position of the child in the event of—

(i) death of the commissioning parent, or if a couple or parties to a marriage, death of one of the commissioning parents before the birth of the child; or,

(ii) separation or divorce of the commissioning parents who were a couple or parties to a marriage, before the birth of the child.

(d) where the commissioning parent or commissioning parents agree to meet the prenatal regimen and birth expenses of the surrogate mother;

(e) where signatures to the surrogacy agreement are witnessed by a minimum two witness from each of the parties to the agreement;

(f) where there are separate and independent advocates of the High Court of Kenya representing the parties to the agreement; and,

(g) where legal fees are paid by the commissioning parent, commissioning parents or parties to marriage.

This amendment seeks to enhance the provisions of surrogacy agreements and issues that should be addressed in such an agreement.

I move.

(Question of the amendment proposed)

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

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

(Question, that the words to be inserted)

be inserted, put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again, we had a proposed amendment to Clause 32 by Hon. Zuleikha Hassan, and another proposed amendment by Hon. Jeniffer Shamalla. With the Committee's proposed amendments having been carried, the amendments by Hon. Zuleikha Hassan and Hon. Shamalla Jeniffer fall.

*(Proposed amendments by Hon. (Ms.) Zuleikha Hassan
and Hon. (Ms.) Shamalla Jennifer dropped)*

(Clause 32 as amended agreed to)

Clause 33

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, Clause 33 of the Bill be amended by deleting the word "Authority" and substituting therefor the word "Directorate".

This is a consequential amendment due to deletion of the Authority and establishment of the Directorate.

I move.

(Question of the amendment proposed)

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

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

(Clause 33 as amended agreed to)

Clause 34

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, Clause 34 of the Bill be amended in-

(a) sub clause (1) by deleting the words "eighteen may by notice to the Authority require the Authority" and substitute therefor the words "twenty-one may by notice to the Directorate require the Directorate";

(b) sub clause (2) by deleting the word "Authority" and substituting therefor the word "Directorate"; and

(c) sub clause (3) by deleting the word "Authority" and substituting therefor the word "Directorate".

Again, this is a consequential amendment due to deletion of the Authority and establishment of the Directorate. I move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): It is good to listen before I put the Question. Hon. Chris Wamalwa, on Clause 34.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): I was carefully listening when the Chair was moving Clause 34. She clearly mentioned that it is a consequential amendment, from “Authority” to “Directorate”. But there was this issue of 21 and 18. How I had wished that she mentioned something on that. The amendment is not consequential as such. That is Clause 34.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): *(Off-record)*.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): She should have mentioned that. She did not.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, just be on record so that we can at least move faster.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): That was just part of the amendment. We also have an amendment on the age, from 18 to 21. On this, we really needed to make sure that the person making the decision is of mature age and can make the right decision.

I move.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Dawood.

Hon. Rahim Dawood (North Imenti, JP): I oppose it. When a person can make a decision in voting and everything, he is an adult at the age of 18. So, I do not think it should be changed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So you oppose, you do not support.

Hon. Rahim Dawood (North Imenti, JP): No.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me have Nyikal, Member of Seme. He is out there consulting. Hon. ole Sankok, a comment on Clause 34 before I put the Question.

Hon. David ole Sankok (Nominated, JP): Yes. When it comes to the ability to make a decision, I oppose. I think we need somebody who is more mature, not at 18 years. We can even put the age bracket to be around 35 years.

(Laughter)

Hon. Temporary Deputy Chairlady, you know most of the 18-year old guys are not yet employed. They may make that a money minting exercise and a form of employment, yet we really need somebody who is stable. Actually, we should even say “a person of around 35 years and financially stable”.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member of Ndhiwa. It is a House of debate and that is how we make laws.

Hon. Martin Owino (Ndhiwa, ODM): Thank you. That is interesting.

This is a very serious issue. It is not really like voting. This is an issue of life and also one that requires maturity. But, globally, the 21 years that we are suggesting has been used, but not 18 years. So we are just following the global trend as well.

I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Millie Odhiambo, before I put the global Question?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Just an issue of concern: based on that amendment, the Committee needed to drop the use of the word “minor”. The word “minor” no longer applies when you use 21 years. If you look at Clause 35(1) on the Bill, it says “unless the information is necessary for a medical procedure relating to the minor”. So, it should be “to the person”. It is no longer a minor. Again, that applies in relation to Clause 35(2).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We will deal with it as at that point. It is good for noting. We are on Clause 34. Is “minor” in Clause 34?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): No. It is in Clause 35. Sorry.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): At least you can tell we have Members who are very alert. Thank you, Hon. Millie.

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

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

(Clause 34 as amended agreed to)

Clause 35

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, Clause 35 of the Bill be amended in-

(a) sub clause (1) by deleting the word “Authority” and substituting therefor the words “Directorate”; and

(b) sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”.

Again, this was just to clean up. It is an amendment that is very similar to what we have done with Clause 34.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Dawood.

Hon. Rahim Dawood (North Imenti, JP): If we have changed Clause 34 from 18 years to 21 years, should the Chairperson not have moved the information to “below the age of 18 years” to be “to below the age of 21”? Should it not have been done that way? So, I request the Chair to make that amendment.

Thank you, Chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): She has already done it.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): It is already done. That is why I said as per the Order Paper. It is only that I did not read the content. Again, clauses 18 and 21 are also covered in clause 35.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, it has been done as per the Order Paper. Hon. Rahim, are you happy with that? I can see he is nodding; he is satisfied. Chairperson, let us make laws that are already cleaned up. Let us hear what you have to say.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): I do not think we should now amend what Hon. Millie was saying. On sub-clause (2), where the minor is mentioned, this law allows a legal person to seek information on behalf of the minor. So, this will not be affected by what we have amended before.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, if you look at the amendment proposed by the Chair in Clause 35(1), the Directorate shall not provide information to a person below the age of 21 years, unless the information is necessary for a medical procedure relating to the minor. That is not a minor.

Secondly, we have already said it is not a minor who will seek information, but a person who is 21. A minor may, through a legal guardian, give notice to seek information. So, why are we referring to a minor seeking information? That is why I was saying we use the word 'person' instead of 'minor'.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chair, do you want to clarify?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Yes. You see the provision says the Director shall not avail information to a person below the age of 21 years unless the information is necessary for a medical procedure relating to a minor. So, it is not necessarily that the person seeking information is a minor. The minor may seek information only through a legal guardian.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. I love the minds in this House. Hon. Millie Odhiambo, is it okay?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yeah, that is okay. I understand her.

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

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

(Clause 35 as amended agreed to)

Clause 36

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by the Chairperson.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, clause 36 of the Bill be amended in-

(a) sub-clause (1) by deleting the word "Authority" wherever it appears and substituting therefor the word "Directorate"; and

(b) sub-clause (2) by deleting the word “Authority” and substituting therefor the word “Directorate”.

This amendment is similar to the previous two amendments, where we are deleting the word ‘Authority’.

I beg to move.

(Question of the amendment proposed)

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

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

(Clause 36 as amended agreed to)

Clause 37

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, please move your proposed amendment.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, clause 37 of the Bill be amended -

(a) in sub-clause (1) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;

(b) in sub-clause (2) by deleting the word “Authority” appearing in paragraph (b) and substituting therefor the word “Directorate”;

(c) in sub-clause (3) by deleting the word “Authority” appearing in paragraph (a) and substituting therefor the word “Directorate”; and

(d) by inserting the following new sub-clause immediately after sub-clause (3)—

(4) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

Again, we are deleting ‘Authority’ and replacing with ‘Directorate’. Two, we are inserting provisions on penalty for contravention of the provision.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairlady, my comment is on the new sub-clause (4). When you say the fine should not exceed Ksh5 million, it can even be Ksh5. Because this is a serious issue, why do we not say not below Ksh5 million and

not less than five years? When you say not exceeding, one can be jailed for even one day which does not exceed five years, or be fined Ksh20 which does not exceed Ksh5 million. We can say between Ksh5 million and Ksh10 million or between Ksh3 million and Ksh10 million.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Martin Owino, Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Hon. Temporary Deputy Chairlady, I realise what the Member is saying but when making legislation, we have to give the Judiciary leeway to make their judgment. Fines are not meant to kill people, but to correct them; so, we cannot kill by prescribing major fines like that.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Member for Suba, Hon. Millie, I can see you want to speak to this.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I actually agree with Hon. Sankok. There is a school of thought that says that when you provide minimum sentences, you do not allow judicial discretion. But when I was practising law, I had a case where a person defiled a six-year-old child and she lost her uterus. She underwent seven reconstructive surgeries, including removal of her uterus. The man was put on probation because of discretion. So, sometimes when you leave too much discretion, it is subject to abuse. Perhaps the Chairperson could provide minimum sentence while giving leeway. The same way we say that there is guided democracy, we can also guide discretion. But it is up to the Chair to see if she wants to move that further amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear the Member for North Imenti as the Chair consults.

Hon. Rahim Dawood (North Imenti, JP): Hon. Temporary Deputy Chairlady, I want to disagree with Hon. Sankok and Hon. Millie and agree with Hon. Owino of Ndhiwa. In all our laws, there is never a minimum sentence unless we now start amending all the laws.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Is the Member in order to mislead the House? The Sexual Offences Act provides for minimum sentences. So, it is not in order to say that there is no law that provides for minimum sentences.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is a point of information.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): No. He is misleading the House. So, it is a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Dawood, you have been informed that minimum sentences exist. You are misleading the House. Before we make a determination, let me give an opportunity to the Chairperson to clarify.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, all I wanted to clarify on the fine is that it is a fine against a person giving information. It is not the route that Hon. Millie had taken. It is against who would disclose information. Even the previous provisions on sentences have followed the same pattern of not exceeding.

Two, we expect that we have sober judges who will not just prescribe a fine of Ksh5 against somebody who has given out information; that is unreasonable. I hope that we can also trust the Judiciary.

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

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): I think I agree with Hon. Sankok. If we do not do that, people will take advantage. It is only fair that we have a minimum and a maximum sentence. Somebody with discretion may decide to fine Ksh1,000. This House makes laws and supervises them. We cannot, therefore, run away from it and leave it at the discretion of somebody else. It is this House that makes laws. Just come up with something minimum and also maximum.

Chair, do not leave it at the discretion of somebody else. This country is getting out of this because of corruption. The moment you say maximum, they can do anything since the law is open.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. You have made your comment. This is a House of debate.

Hon. Sankok before I put the Question.

Hon. David ole Sankok (Nominated, JP): We can trust the Judiciary on the “minimum” but not “exceeding”. Why not say a minimum of Kshs1 million so that they can go with a discretion of Kshs20 million up to Kshs30 million or whatever they go? At the end of the day, our Kshs5 million maybe peanuts in the coming years. In 1991, Kshs10 was a lot of money which is not the case now. If we go to the minimum, they can go to the higher side, whichever way and also taking into consideration the living standards, then they can go to wherever maximum they want. However, let us give a minimum that we deem fit according to us. This issue is life and death – it is about surrogacy. We therefore, need to give a minimum that we think is the basis and then they can go depending on the crime they have committed. With that, they can say a minimum of Kshs1 million up to Kshs20 million depending on the crime committed.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. Let me give a chance to the Chair. If she is convinced that we can move it in an amended form, I go ahead and put the Question.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Chair, on Clause 37, I want to inform Members that we are focusing on anybody who would disclose information.

Two, for the drafters – and I imagine that we have a few lawyers here – the common way of drafting is saying “not exceeding”. Mainly, we do not set the minimum. We mainly say not exceeding such and such amount. If you disclose information, you will be fined an amount not exceeding Kshs5 million. For the purposes of neatness Chair, I will beg the House to support so that we can move on.

(Question of the amendment proposed)

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

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

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

(Clause 37 as amended agreed to)

Clause 38

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have proposed amendments by the Chairperson of the Departmental Committee on Health and Hon. Shamalla.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Cause 38 of the Bill be amended by deleting the word "Authority" and substituting therefor the words "Directorate in consultation with the Medical Practitioners and Dentist Council".

This is in issuance of licence as this is the key regulating body in the medical sector.

(Question of the amendment proposed)

Hon. Members: Put the Question.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We cannot just be putting the Question. Members want to debate. Let me have Hon. Millie Odhiambo. Just a comment, please.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I noticed that Clause 37(4) also provides for penalties and this will be a recurring theme. I just want to indicate that there is as a school of thought amongst lawyers...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie, we are already passed Clause 37. We are now in Clause 38.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Sorry, Chair. I agree with the one on medical practitioners.

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

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

(Proposed amendment by Hon. (Ms.) Jennifer Shamalla dropped)

(Clause 38 as amended agreed to)

Clause 39

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson of the Departmental Committee, please move your proposed amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 39 of the Bill be amended—

- (a) by renumbering the existing provision as sub clause (1); and
- (b) by inserting the following new sub clause immediately after sub clause (1);
 - (2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

This is the issue of the “Authority” to “Directorate” and amendment to provide for penalty for contravention of the clause.

I beg to move.

(Question of the amendment proposed)

Let me hear Hon. Sankok on Clause 39.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairlady, though there are a lot of voices against me, but on this one, I must go on *Hansard* record that I oppose.

We needed to have said “a minimum of Kshs5 million”. It is a very sensitive issue; it deals with death. We are taking over powers that were bestowed upon God so that human beings can take that power. We cannot be having “not exceeding Kshs5 million”. Kshs5 million is not a lot of money and you know they can end up being penalised.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Are you on Clause 39?

Hon. David ole Sankok (Nominated, JP): Yes. To be specific, I am on 39(b)(2). “A person who contravenes the provision of this section commits an offence and shall upon conviction be liable to a fine not exceeding Kshs5 million”. I wanted it to be a minimum of Kshs5 million going thereabout even Kshs100 million because it is a function that was bestowed upon God now that we are taking it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Okay. Hon. Millie, Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Chair, I also want to go on record with that even though I will let the penalties pass. At a later time, we can bring amendments. However, I want to state that it is a common saying by lawyers that it is not a common practice in the Commonwealth to provide minimums and to be corrupt. So, uncommon situations require uncommon solutions. We cannot, therefore, go by the way of Commonwealth when we know that Kenya is absolutely corrupt. If we are corrupt, we must provide standards which are uncommon and deterrent. If you provide discretion like in this case...

Clause 39 is seeking to provide that nobody should carry out assisted reproduction unless the person has a licence. You will find someone producing babies using pigs’ gametes in River Road, then we fine them Kshs100,000 because that is a minimum? I may not push too much for that now, but at a later date, we need to provide a minimum.

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

(Clause 39 as amended agreed to)

Clause 40

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have proposed amendments by the Chairperson of the Committee and Hon. Jennifer Shamalla. Hon. Chair?

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 40 of the Bill be amended —

(a) in sub clause (1) by deleting the word “Authority” and substituting therefor the word “Directorate”; and

(b) in sub clause (3) by deleting the word “Authority” and substituting therefor the word “Directorate”.

(Hon. (Ms.) Jennifer Shamalla stood in her place)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla, you want to speak?

Hon. (Ms.) Jennifer Shamalla (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. I am seeking a clarification on this because my amendment says that Clause 40 of the Bill be amended by inserting the following new sub-sections 4, 5 and 6 immediately after sub-section 3, That an embryo shall not be imported or exported outside of Kenya. It is the responsibility of the IVF facility to ensure that embryos created are not transferred to an adopted mother because of disagreements, commissioning parents and the surrogate and or any other reasons.

(Loud consultations)

Is this not Clause 40(4) and (5)?

Hon. Members: No!

Hon. (Ms.) Jennifer Shamalla (Nominated, JP): I thought I heard the Chairman move an amendment to Clause 40.

(An Hon. Member spoke off-record)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are on Clause 40. The proposed amendment has been moved by the Chairperson. We also have another amendment by Hon. Shamalla. We must first dispense with the proposed amendment by the Chairperson and then come to you.

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

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

Hon. Members, we had a proposed amendment by Hon. Jennifer Shamalla and as a matter of procedure, if the Chairperson's amendment from the Committee is carried, her amendment automatically falls.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 40 as amended agreed to)

Clause 41

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 41 of the Bill be amended –

- (a) in sub clause (1) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (b) in sub clause (2) by deleting the words “Authority shall inspect once” and substituting therefor the word “Directorate shall inspect at least once”;
- and
- (c) by deleting sub clause (3).

(Question of the amendment proposed)

Hon. David ole Sankok (Nominated, JP): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): I do not know whether the procedure of the House provides so, because an amendment can only fall if it is similar to another one. However, the amendment by Hon. Shamalla on Clause 40 is totally different. It is about export of the semen that will be collected. You know we can end up doing it for commercial purposes by even collecting semen from prisons. If I heard you very well, Hon. Shamalla's amendment is on export and import of the semen that will be collected.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Which one are you talking about? That must be on 43 and not even 40.

Hon. David ole Sankok (Nominated, JP): No. It is on Clause 40.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): She is also admitting so. Let us hear from Hon. Odhiambo Akoth.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I can actually read for him, because I have opened the two papers. Hon. Shamalla's Clause 40 reads:

THAT, Clause 40 of the Bill be amended—

- (a) in sub-clause (1), by deleting the word “Authority” and substituting therefor the word “Ministry”;
- (b) in sub-clause (3), by deleting the word “Authority” and substituting therefor the word “Ministry”;

That is exactly the same as the amendment by the Committee. Therefore, the Order Paper that Hon. Sankok and Hon. Shamalla have is the wrong one. I know that these things are sometimes confusing. I also get confused.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you, Hon. Millie. You are very right that these things are very confusing and that is why it is important for Members to get clarification. Hon. Sankok, you are not wrong because it is good to get clarification. However, get to understand the clause that we are in and as a matter of procedure...

(Hon. David ole Sankok spoke off-record)

Yes, Hon. Sankok?

Hon. David ole Sankok (Nominated, JP): It only shows how attentive and active we are, as Members of Parliament and, therefore, you should actually appreciate us instead of condemning us.

(Laughter)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I have actually appreciated. Thank you Members for being very attentive. I had already put the Question for Clause 40.

I will put the Question for Clause 41, but it is important to be clear on this.

(Question of the amendment proposed)

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

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

(Clause 41 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): In addition, we have an amendment by Hon. Jennifer Shamalla on Clause 41 and with the Chairperson's amendment being carried, her amendment automatically drops.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

Clause 42

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, Clause 42 of the Bill be amended—

- (a) in sub clause (1) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (b) in sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
- (c) in sub clause (3) by—
 - (i) deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
 - (ii) inserting the following new paragraph immediately after paragraph (a)

(aa) the number of persons seeking assisted reproductive technology services, segregated by type of service sought, gender and outcome;

(d) in sub clause (4) by deleting the word “Authority” and substituting therefor the word “Directorate”; and

(e) by inserting the following new sub clause immediately after sub clause (5);

(6) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

Hon. Temporary Deputy Chairlady, this is a deletion of the word “Authority” and secondly, the issue of penalty.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, did you get the import of that?

Hon. Members: Yes.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Do I put the Question?

Hon. Members: Yes.

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

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We also have a proposed amendment on Clause 42 by Hon. Jennifer Shamalla. Now that the Committee’s one has been carried, her amendment falls automatically.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 42 as amended agreed to)

Clause 43

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Jennifer Shamalla. Move your amendment to Clause 43.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, Clause 43 of the Bill be amended—

(a) by inserting the following new paragraphs immediately after paragraph (c)—

“(ca) an embryo which is created but is not transferred to the surrogate or adoptive mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;

(cb) no gametes or embryos shall be subjected to destruction;”

(b) in paragraph (e), by deleting the word “Authority” and substituting therefor the word “Ministry”

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What is the import of the proposed amendment?

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): The import of the amendment is on definitions for understanding and appreciation. As I earlier stated, an embryo is a living organism that stands and emanates from the body of a human being. Life begins at conception, which is determined within our Constitution and the rights of an unborn child. We cannot dictate as to when the embryo is alive. Is it alive at one, two seconds or at that infinite immediate time?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that import, I want to propose the Question.

(An Hon. Member raised his hand)

Hon. Members, let me propose the Question first, and then I can give you the Floor.

(Question of the amendment proposed)

The Floor is now open. Let me start with the Chairlady.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, mine is on the Authority because her proposal was to replace the word "Authority" with "Ministry" so that then she moves it as a "Directorate". This is just for neatness.

Instead of the word “Ministry”, replace it with the word "Directorate".

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): She must then be on record because she had already pronounced herself as per the Order Paper.

Therefore, for clarity, please move it though I had already proposed the Question. Hon. Shamalla, you have the microphone.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): I am sorry, Hon. Temporary Deputy Chairlady. I was consulting Hon. Sankok on something.

I beg to move:

THAT, the word "Authority" be replaced with the word "Directorate".

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Now that it has been further amended, I proceed to put the Question. We need to have some uniformity.

Let us have Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Chairlady, I oppose what Hon. Shamalla is saying in entirety. I oppose the specific point where she said that the embryo cannot be destroyed. Suppose we realise that during the formation of the embryo, we may have a donor who is a serial killer or a criminal? Let us be factual. These things happen. We may find that whatever we have created in the embryo has many congenital deformities.

An Hon. Member: Abortion!

Hon. David ole Sankok (Nominated, JP): No. This is not about abortion. This is still in the test tube and not yet implanted in the womb. I, therefore, implore Members to oppose this one

so that we can destroy it depending on the professional medical advice. She has said that we must preserve it, but for how long? Is it for 100 years or eternity waiting for another chance? So, I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Majimbo Kalasinga.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I agree with Hon. Shamalla. When does life begin? Life begins when the two merge. If we know that life has already begun, as Christians, we will be committing a sin by that very destruction. I do not agree with Hon. Sankok on matters of a serial killer. We do not destroy offspring because of their fathers or mothers. We do this to preserve life. This is why we need more research before the two are merged. Meiosis and mitosis come here only if you have already researched. If we allow that, we shall have more destruction of lives because we know when life begins.

So, I support Hon. Shamalla's amendment and strongly oppose Hon. Sankok. If we take this route, how will we charge the character of a person against an offspring? I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Kabuchai, this is a House of debate. You may not be in agreement with Hon. Sankok. What we are supporting is the amendment. Are you supporting it or not? It is not Hon. Sankok.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): I am in support of the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear from Hon. (Dr.) Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, this is a very important amendment that is being proposed. I would propose that we also do not take it together as (ca) and (cb) because they have distinct differences.

With (ca), the issue is that there must also be consent on when the next person would be requesting. The next person who may be requesting may not want that particular embryo and so, that consent is also important, but we can leave that to regulations in which case, I can support. The (cb) is more technical because even if you store the embryo, with time, they deteriorate. So, there is a technical period that is provided for. In this law, we are provided for a period of 10 years which we can amend. After time, we do not know whether this embryo you are implanting is viable or it will be subject to deformation because it has deteriorated.

So, bringing (cb) is dangerous even to the person who will receive the embryo. Therefore, I am opposed to (cb) and (ca) as long as we know that there will be consent on the next person who requires to have the embryo. I am opposed to (cb), but I can support (ca) understanding that there will be regulations.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Dawood Rahim.

Hon. Rahim Dawood (North Imenti, JP): Hon. Temporary Deputy Chairlady, I agree with Hon. (Dr.) Nyikal. Clause 43 (d) states thus that "no gametes or embryos shall be kept in storage for longer than the statutory storage period." The (cb) is in complete contrast to what (d) is. So, it should be completely removed from Hon. Shamalla's amendment because it will be in conflict with (d).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member for Ndhiwa?

Hon. Martin Owino (Ndhiwa, ODM): Hon. Deputy Chairlady, I also rise to oppose this. I think Hon. Shamalla meant well, but normally they take 10 years. In very rare circumstances,

can they take 55 years. We will not say you cannot destroy because even at that elevated level, you can give birth to something else. Life starting at conception is okay in the right place in the womb, but you cannot transfer in the test tube and freeze. So, I oppose

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Sabina Chege.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I just wanted to guide Hon. Shamalla. Clause 43(d) states that "no gametes or embryo shall be kept in storage for longer than the statutory storage period and the storage period in respect of embryo shall be a period not exceeding 10 years or as the licence may specify". The amendment she is moving will be contradicting Clause 43 and so, I ask her to drop the ones that are contradictory.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, for this matter, because it is an amendment by Hon. Shamalla, unless she drops on record, I will have to put the Question for the whole. Let us have Hon. (Dr.) Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): If you put the Question for the whole, we said that (ca) is tolerable. It can be done and we can have ways of sorting it out. What are we going to do with (cb)? Are you going to give me an embryo that is 35 years old and we do not know at that point whether it will be viable or deformed? It would help if we could call out (ca) and (cb) separately.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla, would you wish to drop or how do you wish us to put the Question since you had already proposed the amendment and moved it as it is in the Order Paper?

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): We can move a further amendment in accordance with the submissions and the contributions expressed by Hon. (Dr.) Nyikal.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What further amendment do you want to make?

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): To separate 43 (ca) and (cd) and drop (cb).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, for this matter, just move that you are dropping (cb) from your proposed amendment, so that you are on record.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Hon. Temporary Deputy Chairlady, I beg to propose a further amendment to drop (cb) in order to be in line with those amendments that have already been moved and voted upon.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, I will put the Question on Clause 43.

*(Proposed amendment to (cb)
by Hon. (Ms.) Shamalla Jennifer dropped)*

Today we have a nay, but that is his right; Hon. ole Sankok.

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

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

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

(Clause 43 as amended agreed to)

Clause 44

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed deletion by the Chairperson and also by Hon. Jennifer Shamalla.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 44 of the Bill be amended—

- (a) in sub clause (1) by deleting the words “Authority the Authority” and substituting therefor the words “Directorate, the Directorate”;
- (b) in sub clause (2) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (c) in sub clause (3) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”;
- (d) in sub clause (4) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (e) in sub clause (5) by deleting the word “Authority” and substituting therefor the word “Directorate”;
- (f) in sub clause (6) by deleting the word “Authority” and substituting therefor the word “Directorate”; and
- (g) in sub clause (7) by deleting the word “Authority” and substituting therefor the word “Directorate”.

We are just cleaning up.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again, we had a proposed amendment by Hon. Jennifer Shamalla. Now that the Chairperson’s amendment has been carried, your proposed amendment falls.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 44 as amended agreed to)

Clause 45

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, please, move your amendment. We also have a proposed amendment by Hon. Jennifer Shamalla.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 45 of the Bill be amended in sub clause (2) by deleting the word "Authority" appearing in paragraph (b) and substituting therefor the word "Directorate".

Again, we are just deleting the word "Authority" to replace with "Directorate".

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla's amendment falls automatically.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 45 as amended agreed to)

Clause 46

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 46 of the Bill be amended—

- (a) in sub clause (1) by deleting the word "Authority" and substituting therefor the word "Directorate";
- (b) in sub clause (2) by deleting the word "Authority" wherever it appears and substituting therefor the word "Directorate";
- (c) in sub clause (3) by deleting the word "Authority" and substituting therefor the word "Directorate";
- (d) in sub clause (4) by deleting the word "Authority" wherever it appears and substituting therefor the word "Directorate";
- (e) in sub clause (5) by deleting the word "Authority" and substituting therefor the word "Directorate"; and
- (f) in sub clause (6) by deleting the word "Authority" and substituting therefor the word "Directorate".

Again, we are deleting the word "Authority" to replace with "Directorate".

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Shamalla Jennifer. Now that the Committee's amendment is carried, it falls automatically as a matter of procedure.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 46 as amended agreed to)

Clause 47

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 47 of the Bill be amended—

(a) by deleting sub clause (1) and substituting therefor the following new sub clause—

(1) Where the Directorate refuses to issue a licence or refuses to vary a licence—

(a) the applicant may apply for review to the Cabinet Secretary within thirty days of the date on which the decision was communicated to the applicant; and

(b) the Cabinet Secretary may make such determination on the review as they deem fit.

(b) in sub clause (2) by deleting the word "Authority" wherever it appears and substituting therefor the words "Cabinet Secretary"; and,

(c) by deleting sub clause (3).

On this one, we are deleting the word "Authority". In number two, we are further providing for an appeal mechanism where the Directorate refuses to issue a licence.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment to Clause 47 by Hon. Jennifer Shamalla, which was a proposed deletion. Now it is falling because the Committee's amendment has been carried.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 47 as amended agreed to)

Clause 48

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 48 of the Bill be amended by deleting the prefatory statement and substituting therefor the following new prefatory statement—

“Where the Cabinet Secretary, upon an application for review under Section 47 of this Act determines—”

Again, we are deleting the word “Authority” and replacing it with the word “Directorate”.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Jennifer Shamalla on Clause 48. Again, it falls.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 48 as amended agreed to)

Clause 49

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Chairperson and also by Hon. Jennifer Shamalla.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 49 of the Bill be amended in—

(a) sub clause (1) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”; and,

(b) sub clause (2) by deleting the word “Authority” wherever it appears and substituting therefor the word “Directorate”.

We are again deleting the word “Authority” and replacing it with the word “Directorate”.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson's amendment has been carried. Therefore, Hon. Shamalla's amendment falls automatically.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 49 as amended agreed to)

Clause 50

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson, please, move your proposed amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 50.

This is a consequential amendment due to the deletion of "Authority". Hon. Temporary Deputy Chairlady, you will notice that from Clause 50, we will delete all the way. It is only that there is no shortcut.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Jennifer Shamalla's amendment, which has the same effect, falls.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 50 deleted)

Clause 51

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 51.

Again, it is for the same reason. We have no Authority.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla's amendment has the same effect.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 51 deleted)

Clause 52

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 52.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla's amendment has the same effect.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 52 deleted)

Clause 53

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 53.

(Question of the amendment proposed)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again Hon. Shamalla's proposed amendment has the same effect as the Chair's.

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 53 deleted)

Clause 54

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 54.

(Question of the amendment proposed)

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 54 deleted)

Clause 55

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 55.

(Question of the amendment proposed)

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 55 deleted)

Clause 56

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting Clause 56.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Before I put the Question as some of you wish, we must move clause by clause. If Hon. Sankok was here, he would have said that he was voting nay on one. So, we have to move clause by clause.

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 56 deleted)

Clause 57

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 57 of the Bill be amended by inserting the following new sub clause immediately after sub clause (2)—

(3) Where an offence against this section is committed by a body corporate, the body corporate shall be liable to a fine not exceeding five million shillings.

This amendment seeks to provide for penalty where offence under the provision is by a body corporate.

I beg to move.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The first one on this is the Member for Suba North.

Hon. (Ms.) Odhiambo- Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, thank you for the opportunity. I do not have a problem with providing for a corporate body and for fining them, which is a good thing, but my only concern is in relation to sub-clause 2 where the Chair says “where an offence against this section is committed by a body corporate”. I have actually noticed that the problem is not even in the amendment by the Chair, but in the Bill. I was hoping the Chair could have tidied this up. The Chair has made several proposed amendments with penalties, the ones that Hon. Sankok has been complaining about. However, she has not proposed an amendment to sub-clause 2, which says that a person who commits an offence under sub-section (1) shall, upon conviction, be liable to a fine not exceeding Kshs500,000. This refers to offences under this Act. So, it means that we are providing for two frameworks, one which provides for the specific penalties that the Chair has moved and this one provides for the Act in general. I do not know if it would be in order for me, as the sponsor of the Bill, to then move an amendment to (2), so that it synchronises with the amendments that the Chair has proposed. The amendment which I can then put in writing would be in (2), that a person who commits an offence under subsection (1) and where no other penalty is provided under this Act, shall upon conviction be liable to a fine not exceeding... Otherwise, this provides a conflicting framework or my amendment could actually provide it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, I get your concern. I wish you can convince the Chair of the Committee to move if there is any cleaning up of the amendment.

Hon. (Ms.) Odhiambo- Mabona (Suba North, ODM): My understanding is, as the Mover I can, on my feet, move an amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear what she has to say. We do not know why she left out the amendment that you are proposing. Hon. Chair, you have heard the sentiments and the concerns of Hon. Millie, who is the owner of the Bill.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I just want to ask Hon. Millie to read Clause 58, so that we know what she is recommending on Clause 57(2), which I have no problem with. It will be a repeat of Clause 58. Again, we can change the amounts on the fines. Do we delete (a) and (b)?

Hon. (Ms.) Odhiambo- Mabona (Suba North, ODM): I agree with the Chair that, that amendment would be similar to Clause 58. So, my suggestion is either myself or the Chair could move an amendment to delete 57(2) because it contravenes all the amendments on penalties that the Chair has moved. It provides that a person who commits an offence under subsection (1) shall upon conviction be liable to a fine not exceeding Kshs500,000, meaning this one provides for Kshs500,000 and the other one for not more than Kshs5 million. She has provided for penalties in each section and so, as the Mover, I could then move that we delete subsection (2).

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Since we will be visiting your proposed amendment, can we have the Chair do it, now that you are the owner of the Bill? She had brought her proposed amendments for the Committee. As the Chair of the Committee, you need to do the clean-up. Let the Chair, having been convinced by the owner of the Bill, move.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chair. I support the recommendation by Hon. Millie.

Hon. Temporary Deputy Chair, I beg to move a further amendment:
THAT, Clause 57(2) be deleted.

(Question of the further amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We can have Hon. Millie Odhiambo on record.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Hon. Temporary Deputy Chairlady, I think that is neater and I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I also order that the Chair does this in writing. Let us have Hon. Martin Owino, Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Hon. Temporary Deputy Chair, I agree.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Chair. I just wish to thank all Members and I am appreciative that we have sat for this long on this very important Bill. Having stated that, with regard to Clause 57, I wish we had the opportunity to have a conversation and to deliberate it with the Departmental Committee on Health. My amendment will fall automatically, but I must make this statement. Article 26(1) of the Constitution states that every person has the right to life. Article 26(2) states that the life of a person begins at conception. If we have penalties for murder and manslaughter, how and why is it that a person who commits the offence of deliberate destruction of an embryo will only pay a fine not exceeding Kshs500,000?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Very well. Thank you, Hon. Jennifer Shamalla.

Hon. (Ms.) Odhiambo-Mabona: So Hon. Shamalla has withdrawn?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): No. She has not withdrawn her amendment. It will fall automatically in the event the Chairperson's amendment is carried.

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

(Proposed amendment by Hon. (Ms.) Shamalla Jennifer dropped)

(Clause 57 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Chair. Members, I wish that we can now...

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Temporary Deputy Chairlady, you said that the proposed amendment to Clause 57 by Hon. Shamalla falls yet it is captured as a new clause, as indicated here.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Now that the Chairperson's amendment has been carried, her proposed amendment to the same falls automatically. It is good to clarify that. I can tell that you are very attentive today. Thank you, Member for Navakholo, the Majority Whip.

Clause 58

Hon (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 58 of the Bill be amended by deleting the words "one hundred thousand" and substituting therefor the words "one million".

The amendment seeks to increase the general penalty in order to promote compliance.

(Question of the amendment proposed)

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

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

(Clause 58 as amended agreed to)

Clause 59

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, move your amendment.

Hon (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady.

Hon. Temporary Deputy Chairlady, I beg to move:

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THAT, Clause 59 of the Bill be amended—

(a) in the prefatory statement by deleting the word “Authority” and substituting therefor the word “Directorate”;

(b) by deleting paragraph (d); and,

(c) by deleting paragraph (i).

This is a consequential amendment due to the deletion of the word “Authority”.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Millie.

Hon (Ms.) Odhiambo-Mabona (Suba North, ODM): Whereas I support the amendment, I notice that the Chair is also proposing to delete Clause 59(i), which states that the Cabinet Secretary may make regulations in respect of the number of children that may be created from the gametes of one donor through the application of assisted reproduction procedures.

I am just wondering whether the Chair can give a good justification because I saw a case in America or somewhere else where one person produced almost 1,000 children. I do not know whether they were 1,000, but it was some ridiculous number. The children were all seeking to know who their biological father was. In that country, some of them were actually seeking for support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Which clause are you on, Hon. Millie Odhiambo? We are on Clause 59.

Hon (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Clause 59. In Clause 59, the Chair seeks to replace the word “Authority” with “Directorate”. She also seeks to delete paragraph (d) which is on the number of times a patient can be assisted. I agree that that makes sense as one can do it 1,000 times if they have challenges. However, Clause 59(i) implies that one person can donate their sperms even 1,000 times, which could result in 1,000 children from one father. Is there a possibility of people marrying their relatives? I am just wondering whether the Chair has seen that.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chair, can you make a comment on that and then we move? I can see that we have a few clauses remaining.

Hon (Ms.) Sabina Chege (Murang’a CWR, JP): Yes, Hon. Temporary Deputy Chairlady. I want to inform the House that that is the role that the Cabinet Secretary has been given. The clause states that the Cabinet Secretary, in consultation with the Authority, may make regulations generally for the better carrying out of the provision of this Act, and without prejudice to the generality of foregoing, may make regulations. Therefore, the amendment in (b) is to delete Clause 59(d). How will the Cabinet Secretary make regulations for the number of times a patient can be given assisted reproductive services? That is a health matter.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): *(Spoke off-record)*

Hon (Ms.) Sabina Chege (Murang’a CWR, JP): I wanted to state the justification for both amendments.

With regard to the first one, the Cabinet Secretary may not be able to determine that because it is a health matter. Clause 59(i) states that the Cabinet Secretary may make regulations in respect of the number of children that may be created from the gametes of one donor through the application of assisted reproductive procedures. Again, the Committee felt that this was more of a medical issue that the Medical Authority can make the decision on, not the Cabinet Secretary.

That is why we were removing it from being the responsibility of the Cabinet Secretary to be the responsibility of the medical practitioner, who is trusted with giving assisted reproduction.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, the reason I am saying that the Cabinet Secretary should make this decision is because, as a sperm or egg donor, I can decide to donate in Nairobi. The medical practitioner in Nairobi may not know how many times I have donated my sperms in Kisumu, Nakuru, Moyale, Garissa and the rest of the country. In the end, we can have one person producing two million children. There is nothing that stops a vibrant young man from donating many times. Why can we not then limit how many times one man or one woman can donate their sperms or eggs?

I am not talking about imaginary situations. There was a country where this was an issue. The parent happened to be rich and the children wanted to identify him and inherit his property. People are likely to do such things. I urge the Chair to let this provision remain.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. *Daktari*, I cannot see you because you are raising your hand. There you go.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Chairlady. Given the contributions that we are making, I would like to go on record that in terms of legislation, we cannot continue to define matters that deal with children, parenthood and family as health issues. I find it a big challenge when we talk about those being assisted to have children. Where is the child's protection? How are we even talking about 1,000 children being born from one man? It is extremely important for us to understand that we should make legislation that contextually deals with problems, seeks to push values and solves issues that will help us.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear the comment by Hon. Shamalla.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Chairlady. With regard to the deletion of Clause 59 on delegated powers, I am deeply concerned about several amendments that have been carried forward. Now we are talking about regulating issues regarding how many times one can donate gametes. I have asked myself about all the amendments that have been passed this morning, and I believe some of these things are so crucial that they should be in the substantive law. I do not think that issues of donors of ova and gametes are matters that should be left to regulations.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me hear the Chair. Let us have just a comment by the Chair, then I will put the Question to Clause 59. Hon. Chair, you have heard the comments by the Member. What do you have to say?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, we are in a field that is not regulated. We just want to make sure that whatever is being done will have regulations. Actually, what Hon. Millie requested is that we do not delete (i) just to avoid issues of one person, but let us remember that it is voluntary. People do not just do it for commercial purposes. For comfort, I can withdraw the deletion of (i), but for (d)...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Deletion of?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Deletion of (i). You cannot come up with the number of times.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Please, can you be on record that you are withdrawing, (i)?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): I withdraw the deletion of (i), but (d) stays because the person is being assisted to reproduce. So, how can we again regulate? It is not possible to.

(Proposed amendment on Clause 59(c) by Hon. (Ms.) Sabina Chege withdrawn)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chairperson, please, put this one in writing because we are on *Hansard*.

(Clause 59 as amended agreed to)

New Clause 3A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Mover to move New Clause 3A.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause

3 —

Object and
purpose of the
Act.

3A. The object and purpose of this Act is to—

- (a) provide a framework for the protection and advancement of assisted reproductive technology services for every person;
- (b) create an enabling environment for the reduction of infertility and sub-fertility in Kenya; and,
- (c) ensure access to quality and comprehensive assisted reproductive technology services in line with Article 43(1)(a) of the Constitution.

The Bill does not have objects and purposes and it is imperative to provide for the same. That is why we propose New Clause 3A for the Bill to have objects and purposes.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be
read a Second Time, proposed)*

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, in the interest of time, I wish to report progress on this. Mover of the Bill, we need to report progress.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I beg that the Committee do report to the House its consideration of the Assisted Reproductive Technology Bill (National Assembly Bill No.34 of 2019) up to New Clause 3A and its approval thereof with amendments and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

PROGRESS REPORTED

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL

Hon. Deputy Speaker: Hon. Members, that was a job well done. What is the Chair of the Departmental Committee on Health doing on this other side of the House? But it is free sitting, anyway. Let us have the Chairperson to report to the House.

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Assisted Reproductive Technology Bill (National Assembly Bill No.34 of 2019) up to New Clause 3A and approved the same with amendments and seeks leave to sit again.

Hon. Deputy Speaker: Let us have the Mover of the Bill to move agreement with the Report.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report. I request Hon. Nyikal to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Dr.) James Nyikal (Seme, ODM): I second.

(Question proposed)

Hon. Deputy Speaker: Hon. Members, I will not put the Question for now. So, we will stop it at that.

(Putting of the Question deferred)

ADJOURNMENT

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Hon. Deputy Speaker: Hon. Members, the time being 12.58 p.m., this House stands adjourned until today, Wednesday, 17th November 2021 at 2.30 p.m.

The House rose at 12.58 p.m.