

# **PARLIAMENT OF ZIMBABWE**

*Wednesday, 7<sup>th</sup> June, 2023.*

*The Senate met at Half-past Two O'clock p.m.*

## **PRAYERS**

(THE HON. DEPUTY PRESIDENT OF SENATE *in the Chair*)

## **ANNOUNCEMENTS BY THE HON. DEPUTY PRESIDENT OF SENATE**

### **SWITCHING OFF OF CELLPHONES**

**THE HON. DEPUTY PRESIDENT OF SENATE:** I would like to remind Hon. Senators to put your gadgets, your phones in particular, on silent or better still, switch them off.

I also recommend that Hon. Members wind up their motions or withdraw them as appropriate since we are going towards the sunset of this particular session of the 9<sup>th</sup> Parliament.

## **MOTION**

### **BUSINESS OF THE HOUSE**

**HON. SEN. MUZENDA:** Mr. President Sir, I move that Orders of the Day, Nos. 1 to 8 be stood over until the rest of the Orders of the Day have been taken care of.

**HON. TONGOGARA:** I second.

Motion put and agreed to.

### **MOTION**

#### **REPORT OF THE ZIMBABWE ELECTORAL COMMISSION FOR THE 7<sup>TH</sup> MAY 2022 BY-ELECTION**

Ninth Order read: Adjourned debate on motion on the Report of the Zimbabwe Electoral Commission for the 7<sup>th</sup> May, 2023 by-elections.

Question again proposed.

**HON. SEN. MUZENDA:** Mr. President Sir, I move that the debate do now adjourn.

**HON. SEN. GIJIMA:** I second.

Motion put and agreed to.

Debate to resume: Thursday, 8<sup>th</sup> June, 2023

### **MOTION**

## BUSINESS OF THE HOUSE

**HON. SEN. MUZENDA:** I move that Order of the Day, No. 10 be stood over until the rest of the Orders of the Day have been disposed of.

**HON. TONGOGARA:** I second.

Motion put and agreed to.

## MOTION

### CONDITIONS OF SERVICE FOR DOCTORS AND NURSES

#### DURING COVID-19

Tenth Order read: Adjourned debate on motion on the self-sacrifice by doctors and nurses during COVID-19 scourge.

Question again proposed.

**\*HON. SEN. CHIEF CHUNDU:** I want to thank all those who debated on the motion on the health workers who managed to persevere and work hard to conquer the COVID-19 pandemic even when it was difficult. I would like to urge Government to review their welfare because of such tremendous work they did.

I move that the motion be adopted.

Motion that: —

ACKNOWLEDGING with appreciation the selfless sacrifice by our doctors and nurses at a time when the COVID-19 scourge wreaked havoc;

IMPRESSED by the whole-hearted dedication of such men and women despite poor conditions of service in their operational environment as evinced by uncompetitive remuneration, inadequate medical supplies and equipment, shortages of accommodation and transport, among other challenges;

APPLAUDING noble initiatives by Government in expeditiously introducing tangible measures that mitigated and addressed COVID-19 challenges and also strengthened the healthcare system at a time when the outbreak ravaged most countries in the world:

NOW, THEREFORE, calls upon Government to—

(a) urgently improve doctors and nurses' conditions of service, through the Ministry of Public Service, Labour and Social Welfare;

(b) provide decent accommodation for doctors and nurses as a reward and appreciation for their sterling efforts in combating COVID-19 at the expense of their lives;

(c) ensure that adequate funds are mobilised and availed to enable the Ministry of Health and Child Care to fulfil its obligations on health service delivery without any hinderances, especially in times of communicable diseases like COVID-19;

(d) remunerate medical practitioners with competitive salaries as a way of addressing challenges associated with brain drain and skills flight in our health sector, put and adopted.

## **MOTION**

### **REPORT OF THE 52<sup>ND</sup> PLENARY ASSEMBLY SESSION OF THE SADC PARLIAMENTARY FORUM HELD IN THE DEMOCRATIC REPUBLIC OF CONGO**

Twelfth order read: Adjourned debate on motion on the Report of Delegation to the 52<sup>nd</sup> Plenary Assembly Session of the SADC-Parliamentary Forum.

Question again proposed.

**HON. SEN. MOHADI:** Thank you Mr. President for giving me this opportunity to debate. I want to thank those who contributed on this motion. It was a very good motion which was presented to this House

and I would like to say those who are seen going for the SADC PF must keep on the spirit of togetherness and unite for a purpose so that whatever they contribute there should be for the benefit of Zimbabwe and not for an individual. We thank them so much.

I would like to thank those who contributed to the motion. Without further ado, I move for the adoption of the motion;

Motion that this House takes note of the Report of Delegation to the 52<sup>nd</sup> Plenary Assembly Session of the SADC-Parliamentary Forum held in the Democratic Republic of Congo from 3<sup>rd</sup> to 11<sup>th</sup> December, 2022 put and agreed to.

## **MOTION**

### **BUSINESS OF THE HOUSE**

#### **THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** I move that we revert to Order of the Day, Number 1 on today's *Order Paper*.

Motion put and agreed to.

## **MOTION**

SUSPENSION OF PROVISIONS OF STANDING ORDERS NOS. 54,

67, 134 AND 137

**THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** I rise that

provisions of Standing Orders No. 54, 67, 134, and 137 regarding the

automatic adjournment of the House at five minutes to seven o'clock

p.m. on sitting days other than a Friday and at twenty-five minutes past

one o'clock p.m. on Fridays, Questions and Private Members Motions

taking precedent on Thursdays after Question Time, procedure in

connection with Parliamentary Legal Committee and stages of Bills,

respectively be suspended with effect from today, Wednesday, 7<sup>th</sup> June

2023 for the next series of sittings in respect of Government business. I

so move.

Motion put and agreed to.

**MOTION**

**BUSINESS OF THE HOUSE**

**THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** I move that

Orders of the Day, Numbers 2 to 5 on today's *Order Paper* be stood over until the rest of the Orders of the Day have been disposed of.

Motion put and agreed to.

## **SECOND READING**

CHILDREN'S AMENDMENT BILL [H. B.12, 2021]

### **THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** Allow me to deliver my Second Reading speech on the Children's Amendment Bill.

The Bill before you today, seeks to enhance the welfare and protection of children in the country as well as enable the creation of a safe and secure environment for child growth and development taking into cognisance the best interests of a child at all given times and circumstances. It aligns the Children's Act to the Constitution, strengthens child protection and closes gaps that would give room to child abuse. The Bill also considers our cultural values as Zimbabweans and I am convinced this Bill best provides for a child in our land.

First and foremost, the Bill redefines a child as person under the age of 18 years as provided for in the supreme law of the land.



Previously, it would be defined as someone under the age of 16 years.

The Bill seeks to thwart child abuse in all manner possible. It widens and criminalises instances of child abuse, for example commercial sex, sexual exploitation of children and child grooming. The provision seeks to protect children from pervert adults and also protects them from getting access to drugs. Drug use is on the increase and we believe this provision has an effect of lowering drug abuse among our children.

The Bill also seeks to protect the identity and information of all children in need of protection in terms of Section 5 of the Children's Act. Instead of only those who have gone through the courts, circulation of pictures and children's information on social media has been on the increase jeopardising children's safety online. Section 81 of the Constitution protects children from "neglect or any abuse". The reference to a child in need of care has been realised to be discriminatory as it excludes those children who need protection. It is a narrow terminology. The Bill therefore proposes the repeal of 'child in need of care' to simply 'child in need'. The proposed phraseology should adequately cover all children in different circumstances.

Under the same section Mr. President, it is proposed that the child in need should incorporate the following categories:-

- a) Unaccompanied children;
- b) Child marriage and pregnancy;
- c) Sexually abused children
- d) children exposed to cruel circumstances and lastly
- (e) an umbrella definition of cruelty to be provided without placing a limit to the circumstances constituting such cruelty.

The Bill also endeavours to promote the child's right to life, concerned by cases of parents denying their child access to medical treatment. There is a section in the Act, criminalising child abuse through the denial of medical treatment. The Bill expands the responsibility of professionals who may suspect that a child is being abused. A duty is now placed on professional person, who becomes aware or suspects on reasonable grounds that a child is being abused, to report that person to a police officer or a probation officer. It takes a village to raise a child. Therefore, we believe everyone should have the responsibility to protect the child.

We understand that the international best practices provide that institutions that receive children must accommodate them in family type environment. In that light, we have a clause in the Bill, providing for the same. The Bill also provides for early intervention and family preservation programmes that may be provided either by the State or through private organisations. The adoption process provided in the Act, does not give the concerned children an opportunity to air their views. We have learnt that children also need to be heard and therefore the Bill has a clause providing for children who are to be adopted to be consulted depending on their age and maturity.

The current legal provisions stipulate circumstances which constitute neglect. Many a time, some parents or guardians simply ignore birth registration of a child until compelling circumstances like school arise. In spite of Government efforts to reach out *via* mobile registration units, most children remain unregistered. This also hampers our efforts to provide the relevant social services to the child. Therefore, this constitutional right to registration at birth must be adhered to.

Section 81 of the Constitution guarantees a child's right to a name and

family name. This Bill, therefore, proposes addition to the existing circumstances which constitute child neglect by a parent or guardian to register a child's birth. It also seeks to compile administrative measures for birth registration.

Juveniles that offend the law are often treated as if they are adults. The many differences and complexities of juvenile justice, require that a separate piece of legislation be enacted and administered by the relevant Ministry responsible for justice. This is in line with regional and best practices which ensure that we accord children their proper rights in the spirit of the UN Minimum Standards and Norms on Juvenile Justice, adopted by the General Assembly on 29<sup>th</sup> November, 1985. A separate criminal statute for juveniles will safeguard children who are in conflict with the law as they still need protection and proper rehabilitation.

The proposals of juvenile justice system will include crime prevention by interventions throughout the process with the aim of curbing the recurrence of offences. This will involve a variety of Government bodies, agencies, departments, organisations and institutions such as the police, prosecutors, lawyers, the judiciary,

probation officers and detention and after care facilities. The Committee on the Rights of the Child encourages State parties to put into practice the Riyadh Guidelines found in the United Nations Guidelines for the Prevention of Juvenile Delinquency of 1990. In this regard, this Bill proposes enactment of child justice legislation to adequately safeguard rights of the child in conflict with, and as provided through international best practices and this Bill was before this august House and was passed and we are thankful to Hon. Senators for that.

Due to economic challenges, society has witnessed a sharp rise in the employment of children. This is usually done to supplement parental support, which is never enough. In line with Section 19, 3 (a) and (b) of the Constitution, it is required that the State should put in place measures which ensure that children are not obliged or permitted to perform work or provide services that are inappropriate for their age. This principle seeks to synchronise the minimum age for admission of employment in line with the Labour Act. The age at which a child can enter into employment to be set at 16 years for non-hazardous work. This is also

in-sync with Section 81 (1) (e) of the Constitution which requires children to be protected from economic exploitation and child labour.

There has been an upsurge in child marriage which necessitate deterrent measures. Marriage of children perpetrated mostly by parents or close relatives has paralised the social sphere, testimony to the famous African Union Campaign against child marriage outcry, girls not fright. The practice can only be reduced by enacting stringent or no mercy laws with painfully lengthy custodial sentences and no option of a fine. This Bill proposes the insertion of a separate section on child marriage. It further seeks to criminalise child marriage. It also proposes consequential amendments to the Marriage Act and the Customary Marriages Act in line with the Constitution. This has been superseded already as we have included them in the Marriages Act.

The Bill expands the definition of earnings for purposes of child maintenance to provide for parents who may not be formally employed. They will be required to financially maintain their child from their earnings. We are confident that this Bill will usher the child in Zimbabwe into enjoying their best interest. With these words, I urge

Hon. Senators to support and pass this Bill. I now move that the Bill be read a second time. I submit and I so thank you Mr. President.

**HON. SEN. DR. PARIRENYATWA:** Thank you Mr. President for giving me this opportunity to also contribute to this debate. I would like to congratulate the Minister for bringing this Bill to us here. I must say that this is one of the most progressive Bills that has gone through Parliament and we want really to congratulate you because the whole world will say Zimbabwe has done well on children particularly. So any country that looks after its children is a country that is doing the right thing and I think that Minister, you are doing the right thing to address the issue of children in this Bill, but also you have changed the name of the Bill from the original. From the Child Welfare it was called Child Welfare Council, now this has changed to Child Welfare Protection Council and that is significant.

It is not just the welfare of children but it is now looking at protecting children, particularly the children who have got disabilities and other vulnerable children. I think that is very important. For example, it now removes the issue of an illegitimate child and that is

also very important. In the past, there were children in this country described as illegitimate, literary meaning that they are illegal children and that is not progressive. I do not know now with the rise in divorce cases, you find divorce happening and then the mother becomes a divorcee and the father becomes a divorcee. Sometimes the mother becomes a small house and then children are produced there and they are supposed to be illegitimate especially if the mother is not married or the father is not married and that really is not right. Therefore, this Bill removes that because it was discriminatory. It also defines what a parent is. A parent is no longer just the biological parent, it is the guardian, whoever is looking after the children properly. So you can not get it more progressive than that.

This Bill will also give extra function of the council to provide for children to actually directly complain. They now have the right to actually articulate and raise complaints and this, I think again, gives them what I would say is really in the best interest of the child and this is what the United Nations and UNICEF as well is talking about. They are talking about what is the right of the child, what is in the best interest of



the child and I think this Bill is providing that. It provides again the creation of protecting children from child abuse, particularly child abuse material which we are now seeing in our social media and in a lot of our television.

It also looks at those who want to recruit children into prostitution, which is child abuse. This Bill protects that and if it is done to the letter, it goes a long way to actually protect our children. More importantly for some of us, it actually talks about; if you deny a child access to medical treatment, then you are liable and this has been happening. Children have been dying in homes. Parents are hiding the graves. They tell the children because I am a particular type of person, I do not want you to go to medical care and you find diseases like measles are now high. Children are not being vaccinated.

I think this is a very progressive Bill, it actually says if you deny a child access to medical treatment, medical care, then you are liable and I think that it is very much in line with the Committee on the Rights of the Child of UN. I want to applaud the Minister for this Bill and I want to support this Bill whole heartedly. Thank you Mr. President.

**HON. SEN. ZHOU:** Thank you very much Mr. President Sir, for giving me the opportunity to say a few remarks concerning the Children's Bill that has been brought by the Minister of Justice, Legal and Parliamentary Affairs. I want to thank the Minister for the progressive Bill that he has brought. However, most of the things already have been said by the speaker before me, but I wanted to go back to the issue of categories of the children that have been mentioned by the Bill. There is no mention of children with disabilities. There may also be no mention of orphaned children and things like that.

To me that creates a bit of inclusivity challenges. The second republic is well known for being inclusive and we have seen that drive in practice and we think that there may be need for us to then look at the indicator and the description for the children that these people are being referred to.

Mr. President Sir, I come from a background where many people ask those parents with children with disabilities how many children they have and they will say I have four children but the fifth one is blind. So this is what we are going to come to if we leave this Bill like this where

children with disabilities will be an afterthought. I strongly feel that the executive summary of the Bill is very good and I will support it but I will also want to support some inclusion as an indicator for this Bill so that at least the children that we are talking about, we are also talking about children with disabilities and also maybe orphaned children.

Thank you.

**THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** Thank you Mr. President Sir. I want to thank the Hon. Senators for lending their support to the Bill. I thank Hon. Parirenyatwa for his comments and his emphasis that now this Bill looks at all children in the same light, not having others being called illegitimate and he spoke a lot about some of the issues that the Bill is trying to cover.

Hon. Sen. Zhou, thank you very much for your comments indicating that the Bill is very progressive. Your concern being that it does not cover children with disability. Actually, it does. The reason why is in my speech, I indicated that we are changing the definition to say a child in need of care or protection or both and under that

definition, we then include children with disability. So if you look at the definition of a child now in need of care or protection or both, it is all inclusive. It includes all those children with physical or mental disability or otherwise. So, the whole purpose of this Bill is to take care of all the needs of children inclusive of those that might have any disability.

I agree with you that we are now coming up with a Bill that will cover all the facets that are required to ensure that we take care of the best interest of our children. Having said that Mr. President Sir, I now move that the Bill be read a second time.

Motion put and agreed to.

Bill read a second time.

Committee Stage: With leave, forthwith.

## **COMMITTEE STAGE**

CHILDRENS AMENDMENT BILL [H. B. 12, 2021]

House in Committee.

**THE TEMPORARY CHAIRPERSON (HON. MOHADI):**

Order, before we get into the Bill, you find that those who have copies

of the Bill, there is a correction of numbering from No. 10. You find that No. 10 was omitted and we have No. 11. So we will be going in that order, not following what is in the Bill because some of the numbers were omitted. Without much ado, we will go to our Bill now.

Clauses 1 to 20 put and agreed to.

Schedule put and agreed to.

Bill reported without amendments.

Third Reading: With leave, forthwith.

### **THIRD READING**

CHILDREN'S AMENDMENT BILL [H. B. 12, 2021]

**THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** I move that the

Bill be now read the third time.

Motion put and agreed to.

Bill read the third time.

### **SECOND READING**

LABOUR AMENDMENT BILL [H. B.14A, 2021]

## **THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** Thank you Mr. President. I stand to deliver my Second Reading Speech on the Labour Amendment Bill.

The Ministry of Public Service, Labour and Social Welfare has been seized with the process of reviewing labour laws in Zimbabwe since 2010 with the aim of aligning them with the Constitution of Zimbabwe and ratified International Labour Organisation (ILO) Conventions. The review seeks to promote the ease of doing business in the labour market through streamlining and promotion of timely conclusion of processes.

I will confidently say that the Labour Amendment Bill, is a product of extensive stakeholder consultations over a number of years and contains the main various provisions. I will not mention all clauses in the Bill but will take the House to the main provisions.

The current provisions in the Act suggest that forced labour may be permissible under certain enactments and the Bill seeks to clarify the position by providing an unambiguous description of what does not

constitute forced labour in an attempt to provide clarity for effective prohibition of forced labour in compliance with Section 55 of the Constitution and Conventions 29 and 105 of the ILO.

I am happy to say that the Bill also provides for protection to employees against discrimination by entrenching the principle of equal pay for work of equal value. The Constitution, in Section 65 (6), provides that “women and men have the right to equal remuneration for equal work”. However, the current provisions in the Labour Act provide a restrictive conceptual understanding of the principle of equal pay for work of equal value. This is also aligning with I.L.O Convention 100 on Equal Remuneration Convention, 1951 (No. 100).

We have a mandate to ensure that all gaps in the law are provided for through law reform. Our law did not provide for protection against violence and harassment at the workplace, including violence and harassment of a sexual based nature or gender-based nature and unfair labour practices. The Bill closes the gap by providing the protection.

We have noted with concern that employers in Zimbabwe are adopting a situation whereby they keep extending fixed contracts. This

is not desirable in labour law and the Bill has a clause providing that a fixed term contract cannot be for a period that is less than 12 months, unless the employment is for seasonal or casual work or for the performance of a specific service.

The Bill also seeks to award employees protection regarding retrenchment packages. It provides for an employer's obligation to pay retrenchment package to his or her employees and also ensures that employees are free to make representations to the Retrenchment Board where they allege that an employer has the capacity to pay a better retrenchment package than that offered.

I am happy to say that we have taken cognisance of the national duty that women undertake in child birth and have provided for a balance in the Bill, of their roles as mothers and as working women through an alignment of the Labour Act with Section 65 of the Constitution on maternity leave. Women employees will have the right to fully paid maternity leave for a period of at least three months. This amendment also removes the qualifying period, prescribed intervals for



maternity and a maximum number of times for enjoying the right to maternity leave.

The Bill also brings clarity to the registration of trade unions. The Bill provides specific predetermined criteria to be considered by the registrar in considering registration and application of a trade union, streamline registration procedures, provide clear requirements and reasons for registration and deregistration.

The Bill also considers the positions given by various courts of law in interpreting section 51 of the Act in light of International Labour Organisations Conventions. The Bill is addressing various concerns raised and seeks to repeal section 51 on supervision of election of officers. This is to provide enjoyment of the right to freedom of association to enable unions to elect their leadership in accordance with their constitution without interference from administrative authorities.

I am pleased to mention that the Bill spells out the right in section 65 (4) of the Constitution, to secure just, equitable and satisfactory conditions to work through a system of collective bargaining established

by law. The clause also obligates every worker and employer within that industry to be bound by the collective bargaining agreement.

Considering the Supreme Court Judgement of *Isoquant vs Darikwa* on the role of labour officers on conciliation proceedings, the Bill provides for expanded powers of labour officers to conciliate or refer to arbitration matters referred to him or her and to issue certificates of settlement which can be registered as civil judgements.

Clause 32 provides for the liability and sanction for workers' committees and trade unions and employers' organisations, federations of registered trade unions that organises, recommends, encourages, incites or engages in unlawful and prohibited collective job action.

Clause 33 repeals Section 111, which provided for cessation of collective job action. Having said this, I urge Hon. Senators to support this Bill which is intended to promote fair labour practices, give employees their rights as provided for in the supreme law of the land and maintain a good labour market. With that, I move that the Bill be now read a second time. I thank you.

**\*HON. SEN. KOMICHI:** Thank you Mr. President for affording me this opportunity to add my voice to this Bill. I thank the Hon. Minister for the effort to amend this Bill. This is a long overdue Bill because workers have so many requests which were supposed to be addressed timeously. The nature of every employer is that they wish to exploit people or have them work for them for free. We have the history of slave trade that took place 401 years ago. They forcibly took over a million Africans to work for them. We also recall that costs that constitute profit or loss calculation, the biggest factor is labour that determines the margin of profit. So employers ensure that they reduce labour costs by all means. Sometimes, someone may not pay their domestic worker at home for two or three months. Employees earn peanuts although they are determined to work all the time and this is where we talk of the right to trade unionism or workers' committee issues.

Most employers do not want strong trade unionism. You will realise that most of the workers' representatives do not have adequate protection. Many employers always find loopholes to victimise them

because they tend to conscientise their fellow employees, so they are subject to victimisation. It is Government's duty to ensure that – according to this law, be protected securely. If you look at the statistics of victimized workers' representatives, it is too high.

This law must deter employers and get to the extent where they will regard workers representatives as equal partners. Right now, the feeling by the employers is that these are our workers, although the law says they are supposed to be regarded as equal partners. That is according to the labour laws. If you go to any negotiation, whilst the workers' representatives feel inferior, there is no equality. Like I said, employers want to ensure that they get maximum profits without spending anything on labour, so the employees now have a weapon that they can use. They can now down the tools until their demands are met, hence the process of getting to down tools must not have a lot of hindrances. I know that the concern is that this may disturb production but in my view, production must be disturbed until the demand of the workers are met. The right to strike must be very easy, employees must

be given the right to strike if their employers do not agree. If we do not do that, it means we are reverting to slavery days.

One of the good things about this country that we are agreed is that as blacks we are independent and live freely. To me, it does not make sense that in an independent country, we hinder laws that ensure that the process of workers get to down tools are not hindered so that they can do it freely without anything that stops them. I think that is what we need to do.

The harmonisation of laws must be there. We should have federations of trade union congresses that covers private sector employees as well as civil servants. So what is stopping Government from harmonising the labour laws in this country? We should ensure that those laws are harmonised. That will give them strength to negotiate and that way, they will get benefits that will assist in the livelihoods of their families.

Right now, workers are quiet but they are suffering. Their salaries are worse than what they were three months ago yet they are quiet. It does not mean that they are happy but they are not given that

opportunity to express themselves. They also hope for a better exchange rate and we should not implement laws that make even their plight worse. What used to be done by Ian Douglas Smith must not be implemented by our fellow native brothers.

If employees are well catered for, it means production will also increase. They will work hard because they are motivated by the prospect of a good salary. Right now, there are a lot of factors that need to be considered. So any hanging aspect must be addressed to the fullest because when the employees elect us from their rural constituencies, they expect us to make laws that favour them. So, if they speak and we do not include their needs in the laws, they will question why they even elected us. That will be a bad thing for us.

If I am not mistaken, I think the gender issue is addressed because women are catered for when they need maternity leave benefits. It is natural. Taking care of children or babies must not disturb sources of income to the employee. These days we have new employers, especially the Chinese. If this law is implemented, it must be applied strongly to the Chinese because if we do not do it, we will realise that there will be a

lot of labour abuse because sometimes they avoid paying workers the expected minimum wages. So this law must apply to every employer.

Harmonisation of the law will also ensure that even Government should not be found wanting. Government must pay professionals what they earn even in the private sector. By not harmonising, Government wants to take advantage of that situation and segregate professionals. We do not want such segregation to take place in our motherland. That is not good. If you employ, pay what is due.

I hereby request that the Minister regards all my contributions to the fullest in order to adopt that. I am sure the whole nation will be happy and to a great extent, that is a good sign of unity. I thank you.

**\*HON. SEN. GIJIMA:** I thank you Mr. President for giving me this opportunity to debate on this amendment Bill brought to this House by the Minister of Justice, Legal and Parliamentary Affairs. We are expected to align our labour laws to the Constitution of this country according to this Bill.

From what I heard from the outline of the Bill, it is supposed to ensure equal rights for the employees and secondly, the issue of

collective bargaining which is a problematic issue especially for Government employees. All the disharmony must be brought to an end during the collective bargaining process. People must be able to negotiate during that process. That will ensure that as a country, we will have peace and as a country, we will not have more factors that contribute to that. Mr. President, I am glad that such a Bill has been brought to this House. I support it and I want it to go forward. I thank you.

**HON. SEN. PHUGENI:** Thank you Mr. President for the opportunity to add my two-cent words to the debate. I want to thank the Hon. Minister for bringing this amendment to the Bill. We must agree Mr. President, that workers in Zimbabwe are workers regardless of whether they are in the public or private sector. If we carry on in this trajectory of classifying our workers as public sector workers and private sector workers, we run the risk of running a two tier country where we have class A and class B of our people and this Parliament will then be seized with creating laws for a certain class of people which goes against the letter and spirit of the Constitution that we are all equal, that there is



no difference based on gender, ethnicity or even class in society. I hope that the Minister will take this to heart, the issue of harmonisation because it is not fair that as a country, we pass a law that says certain workers cannot strike. If they withdraw their labour because they have not been rewarded adequately or the conditions are not befitting, we are taking away their rights.

They have a right to give labour, withdraw it on the basis that they are adequately paid for services rendered. I think the issue of harmonisation has been supported that let us harmonise so that workers are workers. The issue of fair pay – it has already been said that if people are not adequately paid, production goes down and one of the issues that has contributed to this run-away inflation is that our production as a country is low and so my submission is that if we do not seriously look at the issue of wages, we are going to constantly have to deal with this low production in this country.

Tied to this issue of wages and salaries is the currency in which we pay our workers. I think it is irresponsibility of the highest degree to bury our heads in the sand and say in this country we have a currency -

we are going to stick to that currency and we are going to pay you with that currency. When it comes to expenditure, everyone else sells their goods and services in USD. If it is not in USD, they denominate and they say it will cost USD so much and they tell you the equivalent.

When it comes to workers, we pay them in the local currency and we also say we have paid equivalent of so much USD using the official rate, when in reality their expenditure is not in the official rate but at a parallel rate. It becomes very important that we face reality and do good to our people. It has already been said this country is going to elections right now and we will have to face our people and tell them if their voice was heard through us in this august House, that it is not fair and it is not right that we continue to pay our people in a currency that we do not use and do not want but continue to believe that they are fairly paid.

I must admit that I did not get the advance copy of the Bill and so I will raise this issue because we know that after the Zuva Judgement, employers by and large, have made sure that they avoid the retrenchment or the disciplinary processes when they are dismissing workers. So they simply give you a three months' notice and off you go.

I do not think a caring country, in the face of such evil, can just look the other way. That law is unjust, unfair and against the Constitution.

I hope that the Minister has taken cognizance of that and has made sure that it is rectified. We at least go back to where we were always before that Zuva Judgement where if a worker is to be dismissed, they must be taken through due process, not this issue that I am going to give you three months' notice and you are gone. You would not like it done to you and you would not like it done to your children or to any one of your family. So why do we want to think that Zimbabweans must feel represented in this House when we ignore such issues?

Before I sit down Mr. President, we must encourage collective bargaining because there is strength in numbers. Even as a country fighting against huge western powers. We have gone around the region and asked SADC and the AU to put our issues always in these multinational bodies. We must also allow our workers unionisation so that there is collective bargaining so that their voice is much stronger. The Constitution envisages a situation where the law is always on the side of the weaker person. The law, if it is a just law, must not be seen

to be siding with the employer because the employer is too powerful against a weak employee. I thank you.

**\*HON. SEN. CHINAKE:** Thank you Mr. President. I want to thank the Minister who has brought such a good Bill. A lot has already been said by the previous speakers but I do have a few additions. When we talk about labour issues, we are talking about human beings regardless of their colour, whether black or white. These companies that we have, the first asset of a company is a human being. If an employer were to buy machinery worth millions without the human being to start the machine, it will not work. This person who presses the button to ensure that the machine functions is being ill treated or he is not being recognised.

As we speak, we are talking of people that work in the industries, in the towns where we are as well as the farms where we do our agriculture. We have these human beings, but they have different unions. People are complaining about the laws that we are passing in this Parliament because what we debate in this august House is published in newspapers and it is broadcast from radios but no one is making a follow

up to find out if anything has been done about this worker over the good work that they will have done. The majority of cases, there are a lot of silent things that are occurring in the industrial areas. The majority of cases the bosses of workers committees are being chased away from work for representing the workers. No-one is doing anything about it and in the end, they go home and stay there. The remaining workers would be afraid to represent the interests of the workers because they fear that they would be dismissed.

This is a major issue that is happening in the industrial areas but no-one is resolving that issue that the leaders of the workers committees are being dismissed from work. We do not see the solution, where their cases are properly handled. At the time when we had the Land Reform Programme, all of us were happy that the land was being returned to us the original owners but we did not see the benefit that the farm workers got. Up until now, they are still suffering. I do not know in this regard whether there is a law that is catering for these people to see how best the issues can be resolved. They were not compensated when they left. They did not even get the land that was taken from the white farmers.

This is something that is quite sad. As leaders, they ask us and put us to task as to what had become of their issue on where they are going to live and when are they going to be compensated. There are still those outstanding issues.

For a country to develop, workers should be properly looked after. If you were to go home and find your house in order, it is because you have found your worker in a happy mood. It is my plea that the laws that we pass in this House, there should be a follow up on what will have become of the Act and see whether these laws are being implemented.

**\*HON. SEN. TONGOGARA:** Thank you Mr. President for according me the opportunity to add a few words on this Labour Bill brought by the Hon. Minister. First and foremost, I would like to thank our Government for the good work that they are doing to ensure that the workers are adequately remunerated.

If I were to look back upon our return from the war of liberation, a worker would get rations. They would sign for these rations which would consist of a bag of mealie meal, kapenta and other things. The

conditions of workers were gradually improved by our Government. His Excellency the President always talks about production because if we relate well with workers, sit down and come to an agreement and iron out differences that you may have, there is production. Before a worker comes to work, they would want to take a bath, take some food and adequately provide for their families. So collective bargaining is very important Mr. President because if you are an employer, you should know what you are going to get from your enterprise. Upon realising what you are getting from the enterprise, you do not need to be greedy. You share the cake with your workers because they are the ones who are assisting you as they work for you. That would be your starting point

The spirit that was there in the past that if one is a worker an employer would just do as he pleases, that law was scraped upon our country realising its Independence. I would like to say that the Minister did well. There is an old adage that Rome was not built in a day. This is what is now happening. We are sharpening and developing our laws up until where we get to a stage where we know everything is going well for us.

Furthermore, there is talk of some non-monetary perks that can be given to workers depending on the agreement between the employer and employee. If such arrangement were to be put in place, it would be very useful to the peace that will forever prevail in the country. A hungry village is not inhabitable. The stomach has to be full in order for peace to prevail. Once the country has peace prevailing like what His Excellency always talks about, there is harmony. There is no peace when people are hungry.

I just want to say that the Minister did well by bringing such a Bill. Let us put our heads together and see to it that the relationship between the employer and the employee is harmonious so that everyone will stay peacefully because they will be collaborating. That will make everyone happy and there will be no accusations and counter accusation between the employer and employee. We should sit down and put our heads together and come up with modalities so that you do good for your company and someone also does the same for their employers.



In the Civil Service, the workers are getting non-monetary remuneration. Workers are importing vehicles duty free. Such schemes give confidence to the workers and by so doing, it will translate into good work that will lead to the development of our country. I thank you.

**THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** Thank you Mr. President. I would like to thank the Hon. Senators for the debate. The encouraging thing is, all Senators commended the Bill and the need to ensure that our workers are protected, starting with Hon. Sen. Komichi who was very passionate that the rights of workers must be protected and I agree with him.

The reason why we have labour laws is because in a contract of employment, one part is more powerful than the other, like he alluded to. Therefore, our labour laws try to harmonise and ensure that the weaker part is protected and thus the basis for even bringing this. The whole range of amendments are trying to ensure that we harmonise and we

give our employees the rights that they are accorded to in the Constitution. I agree with him in that regard.

My Bill is bringing certain amendments. It is not looking at all the provisions as regards the labour law. Hon. Sen. Komichi was also of the view that workers must be given the same rights. Generally, that is the case but there are certain workers, even though it is not part of the Bill, I am obliged to respond to that. There are certain workers that we deem to be within an essential service and because of the nature of their job, you cannot group them together. They are supposed to be accorded certain special circumstances. Also, as workers in critical sectors, they have to acknowledge that by the very nature of the work that they are doing, they cannot be equated to others in terms of the rights that must accrue to them. Hence, I do not believe that we can then generally say let us just have a blanket law that is applicable to everyone because we have workers that are within the essential service.

Hon. Sen. Phugeni and Hon. Sen. Gijima are also supporting the Bill. Generally, Hon. Sen. Phugeni was worried about wages. It is not part of the Bill. The Bill is laying a foundation upon which employees

and employers must engage and remunerate each other but the issues that he was speaking are not part of the Bill. He was of the view that we must ensure that we do not stick to our currency. It is not again part of the discussion in this. However, I believe that the issue of the currency that workers are paid in, is a negotiation between the two parties. Our Government is giving an allowance in USD but we cannot then say let us abandon our currency. We need to ensure that measures are put. No country will develop using another country's currency and that we must be very clear all of us. Even though we may clamour that let us pay 100% but no country – we need to ensure that everything is normalised and we can pay in our currency a salary that will ensure that our workers are comfortable. It is something that is negotiated between two parties and again, it is not part of the Bill.

He spoke about the Zuva Judgement, I think we have removed that part that employers can just give you notice and then you are discharged. In fact, what most employers were now doing, instead of going through the processes of disciplinary hearings and all that, they will simply write you a letter and say we are giving you notice that after three months we

are terminating your employment. It was legal. They were now avoiding the processes of disciplinary hearing and they could just dispose of workers as and when they wanted. We have removed that provision that came about because of the Zuva Judgement and we believe that employers can negotiate if they are under distress. If they want to downsize, they pay retrenchment package as opposed to doing that.

Hon. Sen. Chinake was worried about farm workers, again it is not part of the Bill. The Bill is not looking at what happened in the past but we are trying to take corrective action that will ensure we harmonise the relationship between employees and employers.

I would like to thank Hon. Sen. Tongogara for supporting the Bill and raising issues that are pertinent that used to happen before. In fact, when we got our independence, we harmonised labour laws and ensured that workers are paid equal pay for equal work. We harmonised so that there is no discrimination. During the liberation struggle, like she alluded to, a black employee was paid less money when they were doing the same work with his white counterpart. We have abolished that.

With that, I want to thank the Hon. Senators for supporting the Bill and raising some pertinent issues that we need to have conversation around as we improve our laws. The law-making process is not something that is ending. We always refine our laws and make sure that we improve them for the better governance of our people. Having said that, I move that the Bill be now read a second time.

Motion put and agreed to.

Bill read the second time.

Committee Stage: With leave, forthwith.

### **COMMITTEE STAGE**

LABOUR AMENDMENT BILL [H. B. 14, 2021]

House in Committee.

Clauses 1 to 37 put and agreed to.

House resumed.

Bill reported without amendments.

Third Reading: With leave, forthwith.

### **THIRD READING**

LABOUR AMENDMENT BILL [H. B. 14, 2021]

**THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** I now move that the Bill be now read the third time.

Motion put and agreed to.

Bill read the third time.

**SECOND READING**

**CRIMINAL LAW (CODIFICATION AND REFORM) AMENDMENT**

**BILL [H.B.15A, 2022]**

Eighth Order read: Second Reading: Criminal Law (Codification and Reform) Amendment Bill (H.B. 15A, 2022).

**THE MINISTER OF JUSTICE, LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** Mr. President, it is an honour to bring before you this Bill to amend the Criminal Law Code in certain important aspects. I speak mainly to the new crime proposed to be created and I quote ‘willful injuring the sovereignty or national interest of Zimbabwe’, set forth in Clause 2 of the Bill and mention other amendments.

The proposed new Section 22(a) is a measure of national protection to criminalise behaviour on the part of our citizens and other residents that would, in more developed countries, be rightly regarded as unpatriotic and even treasonous.

The offence is divided in two parts and the first part deals with misconduct of a very grave nature, and consists of two separate sub-offences partly referred elsewhere in the Code in the shape of partaking in any meeting with the object of inviting military or armed intervention in Zimbabwe by a foreign Government or any of its agents, proxies or entities.

The second is partaking in any meeting with the objective of subverting, upsetting, overthrowing or overturning the constitutional Government of Zimbabwe in contravention of Section 22 of the Code.

Madam President, I have heard people say, why is there a need to legislate for these crimes if they are already mentioned in the Code. In reply, let me point out that good public policy may sometimes require us to identify particular behaviours that from our experience, need to be

singled out for special mention because the danger of their occurrence is very real.

There is nothing wrong in practice or in principle with framing an indictment in which the same criminal act is referenced generically and specifically in different parts of the Code. For instance, a person who meets an agent of a foreign country in order to influence that country to militarily attack us will be charged with violation of Section 20 as read with Section 22 (a) of the Code.

The second part of Section 22 (a) criminalises encouraging sanctions or trade boycotts against our country for which the penalty is less severe than for the sub-offences in the earlier part. Even so, it is hoped that the sanctions for this offence are deterrent enough to discourage the kind of behaviour it describes.

Let me now address the general purpose and motivation behind this measure. Is it not clear to us as Africans what we are dealing with here? The story of interference by outsiders in our continent, let alone our country is a very sorry one indeed. We are weak politically, therefore, we are weak economically. History is our witness that our



political fragmentation, our weak and divided allegiances to our own countries, people, and to our continent makes us an easy prey for colonial and neo-colonial exploitation. We are yet to recover from that legacy today for all our talk of political independence because the neo-colonial powers use smarter and friendly guises to advance their interest at the expense of our own in some ways; we make that legacy worse because of our blindness to their tricks.

Mr. President, applying the old imperialists principle of ‘divide and rule’, they look to see where they can drive wedges between us. The easier for them to interfere in our politics and plunder our resources, they become strong and wealthy at the expense of our weaknesses and of our wealth of human and material endowments.

I do not wish to discourage anyone, inside and outside our country who in good faith and hopefully in a constructive spirit, criticizes us where we fall short, whether in the sphere of human rights or otherwise. We question the moral standing of certain State actors and their agents who, while pleading respect of human rights as an excuse to interfere in our internal affairs, would view it as an act of hostility by us or any one

of our fellow countries in the developing world if we were to urge sanctions against or finance political initiatives by political opponents of their government in power or help litigants to pass criminal or civil suits against their governments in their own or in foreign or international courts over matters that are of domestic concern to them only and have nothing to do with interstate relations.

Mr. President, will they not accuse us of interference in their own internal affairs? Of course, they would and they would not hesitate to punish us in some way for doing so.

Hon Senators, let us not be naïve, this is not a world where the theoretical equality of sovereign states has become a reality. In fact, far from it, neither are we powerless to do something about protecting our own interest and national sovereignty. We did not become political independent to tolerate what would in more developed countries be rightly regarded as treasonous and unpatriotic behaviour. Who is our patron or our keeper now that we are free? We recognize as higher than ourselves only God and those institutions such as the African Union and the United Nations to which we are freely and collectively agreed to

seed some of our sovereignty as a people. It is not for any individual or some groups of individuals among us to choose for us some country or another what they think should be an arbiter of what is right or wrong as if that country is flawless and can give us instructions on these matters.

To reiterate, our constitutional order affords aggrieved citizens to vent their grievances against the State. This is a measure to encourage respect for our Constitution by our citizens and everyone who lawfully choose to live amongst us.

I will now briefly refer to the other amendments to the Criminal Law Code sought to be made by this Bill. The amendment of Section 65 of the code seeks to enact harsher penalties for the crime of rape in response to an epidemic of rape in our country and in the region. Other countries in the SADC facing a similar problem have responded by importing mandatory imprisonment. We propose to follow their lead.

Where rape is committed in aggravating circumstances, the new penalty is imprisonment for life or imprisonment for at least 15 years. Where it is shown that the crime was committed without aggravating circumstances, the penalty is a period of not less than five years.

I must, in this connection, single out a special mention on the role of women's party list delegation in the National Assembly in bringing the problem of violence against women to the forefront of our national policy making.

The amendment of Section 155 of the code excludes industrial herb from the scope of what is defined as dangerous as defined by the Criminal Law Code. This measure is needed to strengthen the implementation of Statutory Instrument 62 of 2018 which made it legal to farm industrial herb and export it. It was still however a crime to be in possession of it because of the broad definition of cannabis, hence this amendment.

Finally, the Bill seeks to amend Section 174 of the code relating to the crime of criminal abuse of office. In its present expression, Section 174 (1) is too broad in that public officers were exposed to prosecution for honest mistakes made during the course of their duties. The amendment now requires proof of the additional element of knowledge of acting abusively on the part of the public official in question.

I would like to urge Hon Senators to support and pass this important Bill and with leave of the House, I now move that the Bill be read a second time. I thank you.

**HON. SEN. MOHADI:** Thank you Mr. President for affording me a chance to add my voice to this Bill which is very important especially for us women who were being abused right, left and center whilst the penalty of offenders was very minimal. Let me say that I heard the Minister saying that it was debated especially on gender-based violence where the perpetrators sometimes would go scot free without anything happening to them. They are arrested today and they leave that place smiling and having nothing done to them. After that you do not hear how it ended.

I am so pleased to hear that the sentence is not going to be less than five years, especially for rape. A lot of our girl child are being raped wherever they go because they are vulnerable either at school or at work. I want to urge Government to put into use what has been put in that Bill so that there should be supervision of this Bill to see to it that it

is really being put into use. Without much ado, I so support this Bill. I thank you.

**\*HON. SEN. TONGOGARA:** Thank you Hon. President for affording me the opportunity to add my voice to this Bill that was brought by the Minister of Justice, Legal and Parliamentary Affairs. This Bill is good for us because if we were to look at what was happening in this country, you will realise that foreigners will just come here and do as they please, knowing that there will be no repercussions. They would do things to destabilise us as Zimbabwean people.

They do that well aware that Zimbabwe is a third world country, and there is nothing we can do to retaliate. This is a good law - we are aware of our colonisers' behaviour. They come in sheep's skin when in fact they are wolves. They will mislead us that they will do such and such things but their intentions would be to destabilise our country. They will allege that there are no human rights in Zimbabwe and as a result, they want to ensure that human rights are respected. As a result of the so-called human rights that are being abused, they will come and appeal to us as if we are small children that can be encouraged through

bribery of sweets. Zimbabwe is a sovereign country. It has its own resources and everything, hence it should not be disturbed by foreigners.

I just want to thank the Minister for the penalties that have been imposed. Five years would be less. They should spend life in prison so that they would know that Zimbabwe has its own owners. We do not go to their countries. We are always in our country, so they should leave us and our Zimbabwe alone and not want to use their rules of abuse of human rights here. We have been well with our chiefs and our traditional laws that were governing us well as Zimbabwean people. This law has come at the right time. People should be arrested. Those that offend against us should face the law. Everything that we do belongs to us. So, no-one should come here and tell us what to do. We have a proven record of how we have lived. This law is going to give us respect that we deserve as a country and as a people. I thank you.

**\*HON. SEN. KOMICHI:** Thank you Mr. President for affording me this opportunity. I also want to thank the Minister for this Bill. I see as if, in an attempt to try and want to correct anomalies, we might bring things that will hurt the citizens of the country. For one to come up with

such an offence, we need to interrogate and say why would one be talking to strangers because in English, they say it takes two to tango. What it means is that, that person and the State have equal responsibilities to ensure that there is no disagreement, injury to the country; the sanctions that were imposed to this country is a bad thing but what caused the imposition of such sanctions? The people of Zimbabwe and the State are to blame or were responsible because the State should not expect that if one is assaulted they should keep quiet.

A person by nature, once assaulted, they will express pain. When pain is being expressed, it has no boundary. You cannot then cry out loudly to a certain extent. You can do anything because you have been hurt. There is someone who told me that if you assault your wife in your home, she will cry out loudly; if neighbours hear the cry, when they come to help your wife, they will not knock at your door. They will budge in to serve the life of your wife. The person who is going to rescue your wife will be embraced by your wife. It does not mean that they are in love but your wife is only seeking protection because as a husband or as a wife, you would have wronged your spouse.



There are things that we know, whether it is a black, white or light skinned person, human rights issues have always been there. Even in our culture, we always have human rights. We have always had fair and just manner of dealing with cases. A chief would be described as being cruel, or humane or a good chief, depending on how he handles issues. There are such qualities of which people appreciate how issues are dealt with. If those that are in power are now dispensing justice in a different manner from the one that is expected by the citizens, then people will cry out loud. Therefore, leaders should know how to dispense justice.

Once every five years we go for elections. I do not believe that we would ululate if people were to assault each other; if homesteads were to be burnt and people are going to be assaulted. We will not ululate for that. This law that we should not fight against each other, did not come from the whites. It is part and parcel of African culture. We live in harmony as Africans. Even in our communities, we value and respect lives of human beings. We respect peace and all those rights are within our cultures as black people. We should not do what is contrary to what we are talking about here because that is when we give those that you

blame for taking measures against our country, the whites take advantage of what will be happening between us. Let us make sure that when we go for an election – because our elections are a centre of conflict, we conduct these elections freely and fairly and that they are credible. We must treat each other in the manner that you would also want to be treated.

Let us take the forthcoming plebiscites in August as an example, that no-one is going to assault anyone. No-one is going to insult anyone as we go into this election. We would want to see if those that talk about these laws that are infringed upon us will do it.

This law seeks to remove the rights to freedom of speech that is enshrined in our Constitution as well as our freedom of association. We are in a global village, we have exchange relationships. This law is oppressive. The right of expression is important to a person that if you think of something and you do not say it out, you can do anything. The things that we are trying to control or suppress; you end up doing that.

A few days ago, there was a case that emerged from the courts. A person wrote on *twitter* that people should go and demonstrate against

corruption. It was an expression of opinion but the courts said he was in the wrong and he was sentenced to three years in prison. How then are the people going to express themselves, more so if you come up with this law, the people will be smiling at you but they would be afraid.

They would not be free.

The problem however, is what causes people to get to this point of asking for interference or supervision from foreigners. It is because we are using their systems. The systems that they put in place. They are the ones that came up with elections and set up their standards. So they want to check their standards. The solution lies in that we should come up with our own Afrocentric way of doing things. Let us develop our local systems which have nothing to do with them like what China did. So once every 10 years when there is a change of guards, no one interferes.

With ours, there is interference because we are using their standards, and their systems. As Africans and Zimbabweans, we also encourage that we sit down and put our heads together so that we attend to these issues. The system that we have when we go for elections is the

scotched-earth policy. If I lose out, then you will see what will happen to you, but yet there are other means that we can use to come up with that are Afrocentric. This system of no win-win solution should not be encouraged at all. This is the system that causes evil.

Let us come out with things that are suitable for Africa. No one will want sanctions. No one can survive when we have sanctions. Let us have laws that are friendly, laws that do not infringe on us, laws that will enable people that are going to elections to be free and not laws that induce fear into the people. That is my request.

This is not necessary 40 years down the line after the war of liberation. We should be at a stage where we should be happy, but we are now enemies, children of one father, one person. We may have diverse political persuasions but we are one as Zimbabweans and Zimbabwe is the only country that we have. Let us sit down and collectively come up with ways to ensure that this country succeeds or develops.

It is hurting us today. Are we, as blacks, failing to sit down and come up with solutions? This law that we want to put in place shows

that we have failed. It shows that enmity amongst us has grown to greater heights because the ones that you are talking about feel threatened and once this person has been threatened, what are they supposed to say? They will say we are about to die here. We no longer have freedom of speech and freedom of association. Whatever it is that we will be trying to solve will not be solved. The State should be responsible.

That is my clarion call so that the citizens also become responsible. If the State is irresponsible, the citizens are also going to be irresponsible. Human nature by itself tends to feel oppressed and the nature of the human being will always react one way or the other. So we need to be careful and the State together with citizens should be responsible. I thank you.

**HON. SEN. PHUGENI:** Thank you Mr. President for the opportunity to debate these amendments brought forth by the Hon. Minister. I want to thank him for bringing them forward.

I must say at the onset, part of this Bill, drugs are a scourge in our communities Mr. President. The problems they create are beyond

expression. Some crimes are committed as a result of intoxication by drugs. We have an uncontrollable rate of teenage pregnancies that takes place because of drugs and some of these come with STIs which last forever. We know that we have not found a cure for HIV and we are struggling as a country trying to reach our goals but we are not able to because the drugs create all these problems that I have already said. They rob the youth of their future and destroys their lives. I have to commend you Minister for acting strongly to try and confront this challenge and get rid of drugs in our communities.

I also have to commend you on the issue of rape. It is said that you judge a nation by how it treats its women and children or its vulnerable. It is painful Mr. President, that in our societies where we live, we have abuse directed mostly at women and sadly so now even children. I know of a case in Bulawayo which was brought to my attention. A child was raped and the child identified the person. Told the mother that she was raped and taken to a doctor. The doctor confirmed that but because our court systems are so slow, by the time the case went to court, the prosecutor was compromised. There was no strong case put and the

person walked free and the child is there having to deal with this for the rest of their life.

I do not know what can be done Minister. I do not claim to have all the solutions but can something be done specifically to look at these prosecutors who prosecute rape cases, mostly that involve children because to demand a child to perform at a level where a mature person can be able especially on presentation of evidence, I do not know, but I live with that pain of this parent. We had a child raped, phoned right away and said Hon. Sen., here is the problem, directed her on what to do, but after the case was done, it was already compromised. The sentences, as I looked in the Bill, suggest that if there are aggravating circumstances, the minimum sentence must be 15 years or life imprisonment. That is commendable. It might deter others and the minimum sentence of five years even if there are no aggravating circumstances. I am proud today to call you my Hon. Minister on this one.

I am however, not proud Hon. Minister on the Patriotic Bill. I call it unpatriotic Bill. This is because we did go through this yesterday and I

do not want to debate what we did yesterday, but there is a danger here of penalising political speech. My colleague here has just taken us to an instance where a very known figure in this country tweeted ‘let us go and protest’, and he has been taken to prison for three years, for a tweet that says let us go and protest.

Part of the clauses in the Bill said even if it is proven beyond a reasonable doubt that the speech or the contribution of the accused person did not cause sanctions in this country, it says that is not defence enough or that does not constitute a defence. What type of a law is that? What type of a law that shifts the burden of proof to an accused person? The burden of proof beyond reasonable doubt must always rest with the accuser. If it is proven beyond reasonable doubt that whatever I say did not bring sanctions to anyone or the country, how can that not be defence?

This Bill is not sensible. I would think that we want to stop foreigners interfering in a manner that punishes the country and its developmental goals. After you presented this Bill in the National Assembly, the House of Commons had already discussed the Bill and



they had already challenged their foreign secretary to do something and not only with regards to Zimbabwe but to put pressure to our neighbouring states to do something about Zimbabwe.

I am saying this Bill is having a complete opposite of what we want to achieve. We are trying to be part of the Commonwealth, we are trying to be part of the International Community of Nations but this is not the way to go about it. In case there is any doubt, I am against sanctions. I think they do not work because the people who are sanctioned seem to live their lives largely. If you go out here and look, there is only one party which has got cars leading up to this election. The Opposition does not have cars and largely because there are sanctions in this country.

The people who are sanctioned are able to go on with their lives, accessing medical health outside the country and can be involved in economic activities. The ones who are supposedly calling for the sanctions are the ones who are sanctioned. No doubt, I do not support it. I have travelled around embassies telling them that these sanctions take

them away because if anything now, they are an excuse for the ruling elite not to perform.

This Bill is no way to go about it – we will not remove sanctions by this Bill. If anything, we are making our lives difficult. Of course, I have already said that the ruling elite are not affected by the sanctions, but if this action brings more sanctions to us, brings isolation, the very people who are unfairly carrying the blunt of sanctions now are going to be worse off. I thank you Mr. President.

**\*HON. SEN. CHIMBUDZI:** I want to thank the Hon. Minister who has brought this Bill. I am happy about Clause 3 that deals with rape cases. The issue of rape cases has been bothering the people. Relatives have been raping these girls. Immediate members of the family like brothers in law, cousins and so forth, are the ones that are the major culprits. They would leave their own children but go and rape their relatives' own children because they found out that the law was very relaxed in that regard.

I thank the Hon. Minister for coming up with a sentence of 15 years. All those that hear us will think twice about committing this

offence because of this impeding legislation. I want to thank you Hon. Minister because 15 years is going to make us very happy because it will protect our children and they will reach maturity. As a mother of only girls, I used to fear every time my girl child would go to school, whether they were going to be safe. So, because of this law, our children are now safe.

There is a ward that we have where we had a child raped. She was working very well, in good health and she would perform her duties every day. Upon her child being wrapped, the mother lost health and she could no longer walk and it hurt her badly because she was distressed by this. It distresses people to have their children raped. You have done very well by coming with this legislation.

Drug abuse has now become a menace. Our children do not want to work and they do not want to carry out heavy duties. They are reluctant to be send on errands but they want to relax using drugs. This law will also give the police officers work because there is now a law. Let me thank you Hon. Minister for what you have done. A lot has been

said and we want a country with its laws. Each and every country has its own laws and it is a culture.

It is not surprising that Zimbabwe has come up with its own laws to protect its country. Laws should be used to protect a country. The issue of foreigners, we do not want them. The SADC and AU are sufficient for us and we do not want these foreigners, leave them out. Thank you for the work that you have done Hon. Minister.

**THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** Thank you Mr. President. I want to thank the Hon. Senators for the debate. I am very pleased with the debate and the general support. Hon. Sen. Mohadi supporting the Bill in terms of the provisions of mandatory sentencing, the same with Hon. Sen. Tongogara and Hon. Sen. Komichi mentions part of it and Hon. Sen. Phugeni mentioned it. The Bill does not speak to the issues of drug abuse *per se*, but it is speaking about trying to ensure that since we now have a law that allows farmers to cultivate industrial hemp, it contains a certain percentage of cannabis which may be found in the ordinary cannabis that is smoked.

What the law is trying to do is to say industrial hemp with a certain percentage, below a certain percentage of cannabis, you can be found with it because you are cultivating it. Other laws, we have a ministerial committee that is looking at our drug laws so that we see how we can revamp to speak to issues that Hon Senators were speaking about in terms of drug abuse but it is not part of this law.

Having said that, again Hon. Sen. Komichi spoke about Clause 2 which pertains willful injury to the sovereignty of our nation. He said that he is disturbed by trying to come up with measures to convince the people. If you beat your wife people will budge into your house to try and ensure that the wife will not be assaulted. No-one is going to be hurt by these measures. The issue that is going to be included into our Constitution are crimes against the State when one goes out of the country – I am glad that all of you are saying that sanctions are evil; you go and see leaders of certain countries. If you meet your friend in a bar and say what is happening in Zimbabwe is not good, there is nothing wrong with that but to go there and meet leaders of certain countries and say that there should be measures not to trade with our country so that

those that are in power are removed or there is regime change. If one asks for trade boycott from leaders of countries outside Zimbabwe, you should have *mens rea*, your mind should know that what I am doing is wrong. The State should prove that where you were there were discussions that there be sanctions against the country, and you were supportive. Once the prosecutors prove that then you are guilty. This is now what it says.

We are doing it so that sanctions that are imposed do not work. The sanctions are hurting the person in the communal lands more than those in Parliament. It may kill innocent people. You are not different from a murderer. We have spruced up this law so that if you were to go and sit down with leaders of certain countries that there be trade boycotts against Zimbabwe, it is us who suffer. Once the prosecutor proves beyond doubt that this is what the accused person did, it is an offence. It is not about the issue of a husband and wife fighting and you run and interfere.

We have adopted a lot of things that are foreign to an extent that they give us barometers to say if you are doing elections, do 1, 2, 3 and

4. As Africans I agree. It is a conversation that we should have. Why should we have imposed standards and systems of governance? We should have our own and, in that regard, I agree that perhaps he is spot-on on that one.

On the issue of this Bill, there is nothing to do with issues of somebody tweeting, being arrested and convicted. It is a separate statute and it is something that I cannot discuss in here because the circumstances of what happened, I do not know. This Bill is totally different from that. We are looking at somebody who goes out there in a meeting with a foreign government and their proxies and discuss trade boycott. We are not talking about the issues whereby our laws stifle freedom of speech here in Zimbabwe. It is a debate for another day to say how we liberalise our speech. I believe that our laws are adequate in that regard.

I want to say that the debate in the House of Commons was totally misplaced. In fact, I am actually puzzled that they called themselves Lords and Ladies in that House and they debate provisions that are not in the Bill – that if you say something bad about the President, you will be

sent to jail. There is no reference to the President in this Bill. I was actually puzzled when I saw the clip of that debate. How ignorant and sometimes stupid that those individuals in that House can be to the extent of debating and agreeing on something that is not even there when you can actually get this Bill online. Look at it, no reference whatsoever to the President and they say that if you say something about the President there is no reference to that. I was actually ashamed that they could go that far.

By and large, I want to thank the Hon Senators for the robust debate that was enriching. I want to thank Hon. Sen. Phugeni for heaping some praises on me, I gladly receive for bringing the Bill on mandatory sentencing. I move that the Bill be now read a second time.

Motion put and agreed to.

Bill read a second time.

Committee Stage: With leave, forthwith.

## **COMMITTEE STAGE**

**CRIMINAL LAW (CODIFICATION AND REFORM) AMENDMENT**

**BILL [H. B.15A, 2022]**



House in Committee.

Clauses 1 to 5 put and agreed to.

House resumed.

Bill reported without amendments.

Third Reading: With leave, forthwith.

### **THIRD READING**

**CRIMINAL LAW (CODIFICATION AND REFORM) AMENDMENT**

**BILL [H.B.15A, 2022]**

**THE MINISTER OF JUSTICE. LEGAL AND**

**PARLIAMENTARY AFFAIRS (HON. ZIYAMBI):** I move that the  
Bill be now read a third time.

Motion put and agreed to.

Bill read the third time.

**ANNOUNCEMENT BY THE HON. DEPUTY PRESIDENT OF  
SENATE**

**BILL RECEIVED FROM THE NATIONAL ASSEMBLY**

**THE HON. DEPUTY PRESIDENT OF SENATE:** I have  
received the Electoral Amendment Bill [H. B. 11A, 2022] from the

National Assembly. Parliament staff are going to transmit this document on your gadgets tonight so that you may go through it.

*On the motion of* **THE MINISTER OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS (HON. ZIYAMBI)**, *the Senate adjourned at Twenty Minutes to Six o'clock p.m.*