

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 17th June, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

Report of the Departmental Committee on Justice and Legal Affairs on the appointment of the Director and two Assistant Directors to the Kenya Anti-Corruption Commission.

(By Mr. Abdikadir)

NOTICE OF MOTION

ADOPTION OF REPORT ON APPOINTMENT OF KACC DIRECTORS

Mr. Abdikadir: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the appointment of Director and Two Assistant Directors to the Kenya Anti-Corruption Commission laid on the Table of the House on June 17th, 2010.

QUESTIONS BY PRIVATE NOTICE

SALE OF LUMUMBA ESTATE IN KISUMU BY NBK

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Local Government the following Question by Private Notice.

- (a) Is the Minister aware that auctioneers, acting under instructions from the National Bank of Kenya, have advertised the sale by public auction of Lumumba Estate in Kisumu Town on 2nd July, 2010, on account of an alleged default in repayment by the Council?
- (b) Under what circumstances did the Minister authorize the grant of the commercial loan to either the Municipal Council of Kisumu and/or the National Housing Corporation and the deposit of title of the estate as security?
- (c) What urgent steps is the Ministry taking to stop the intended auction so that the residents are not rendered homeless?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I would like to seek the indulgence of the House so that I

can get additional information because what I have is still not adequate. I have consulted with the hon. Member. So, I hope he can accede to this request so that I can get more comprehensive information that relates to this Question.

Mr. Olago: Mr. Speaker, Sir, it is true that the Deputy Prime Minister and Minister for Local Government has discussed with me. I think it is necessary that we get much more information. As he seeks more information that could be satisfactory to all the parties concerned, could he kindly address his mind to the issue that there is urgency involved?

Secondly, as he seeks more information, could he ensure that the proposed sale of Lumumba Estate, which is scheduled for 2nd July, is suspended? Thirdly, could he address himself to the issue of the former treasurer of Kisumu Municipal Council in the 1990s, Mr. Bifwoli, who may have more information about this matter and the fact that the current mayor and councillors are not familiar with these facts because this took place long before they were elected?

Lastly, if the worst comes to the worst, could the Minister look at the possibility that if the estate has to be sold, then first priority be given to the tenants in occupation?

Mr. Speaker: Deputy Prime Minister and Minister for Local Government, indicate if you are able to make those undertakings particularly the one to the effect that Lumumba Estate shall not be sold until such time that you will have delved into the matter and given your Statement.

Secondly, indicate if Thursday afternoon at 2.30 p.m. is convenient to you.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, Thursday afternoon is convenient. I think I will have gathered the necessary information.

Secondly, I just want to state that I am in touch with the Managing Director of the National Bank of Kenya so that I can discuss this development further and hopefully, we can come to some consensus so that the tenants and the people who live in Lumumba Estate are not put under any stress.

Mr. Speaker: Mr. Deputy Prime Minister and Minister for Local Government, what the House is looking for from you on the score of sale of Lumumba Estate is the commitment that it will not be sold until after you have communicated to the House on Thursday afternoon.

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I make that undertaking.

Mr. Speaker: Thank you. It is ordered that that Question be answered on Thursday at 2.30 p.m.

(Question deferred)

STATUS OF STRATEGIC GRAIN RESERVE

Mr. Mututho: Mr. Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

- (a) Could the Minister state the current status of Strategic Grain Reserves (SGR) and reveal the food security forecast for the next 12 months, while indicating in what quantity milk powder has been included in the SGR?

- (b) What systems are in place to safeguard transit loss of relief food and delays in reaching the recipients and could the Minister consider the use of modern techniques such as electronic cards or manual cards to minimize losses and reduce logistical challenges of moving food physically?
- (c) Could the Minister also publish guidelines in Famine Relief Committees and empower proper scrutiny of beneficiaries, specifying the role of Members of Parliament, and could District Commissioners be compelled to submit returns of beneficiaries of relief food per consignment to the respective Members of Parliament?

Mr. Speaker: The Minister of State for Special Programmes is not here?

Hon. Members, given that this is a Question by Private Notice and the urgency in it, we will revert to it after we go through the rest of the Questions on the Order Paper. So, we will go to the Question by Mr. Affey.

CIRCUMSTANCES SURROUNDING RAID
AT DADAJABULA TRADING CENTRE

Mr. Affey: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

- (a) What are the circumstances surrounding the raid at Dadajabula Trading Centre in Wajir South Constituency by insurgents from Somalia on May, 27th 2010?
- (b) Could the Minister confirm the extent of the injuries to the casualties?
- (c) What does the Government plan to do to forestall such attacks in the future?

Mr. Speaker: The Minister of State for Provincial Administration and Internal Security is not here?

Hon. Members, we shall treat Question No.3 by Private Notice in the same manner as we have treated Question No.2 and we will, therefore, revert to it a little later.

ORAL ANSWERS TO QUESTIONS

Question No.150

CONFISCATION OF LIVESTOCK BELONGING
TO SAMBURU HERDSMEN

Mr. Letimalo asked the Minister of State for Provincial Administration and Internal Security:-

- (a) why the Government used Military choppers to round up and confiscate over 4,000 head of cattle belonging to herders while grazing at Naichamunye Plains in Samburu East in February, 2009; and,
- (b) who gave the authority for the confiscation of livestock belonging to Samburu herdsmen and what was the intention?

Mr. Speaker: Mr. Ojode, if you are ready to take on Question 150, proceed.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

- (a) Following reported cases of stock theft in Isiolo and Samburu Districts several head of cattle were reported stolen from people of different communities---

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. With due respect to the Assistant Minister, given the fact that he has come in late when the Question had been called, he was supposed to apologise first and explain why he was not here to answer the Question.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Chanzu): Mr. Speaker, Sir, I had just gone to get a copy of my answer for the Questioner. If that warrants an apology, I wish to apologize.

Mr. Speaker: Proceed, Mr. Assistant Minister!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, according to records held by police between October, 2008 and February, 2009, about 1,500 head of cattle had been reported stolen. Since the areas affected were within Eastern and Rift Valley provinces, a joint security operation was planned and executed by both provincial security and intelligence committees, Eastern and Rift Valley provinces, with the intention of recovering the stolen animals.

The areas of operation were rugged terrains of Isiolo and Samburu. It was decided that military choppers be requested for and used to aid ground security officers in locating the stolen stock. During the operation, a total of Kshs1,434 head of cattle were recovered, identified and handed over to their respective owners between 2nd March and 6th March, 2009.

(b) The authority given by the joint Provincial Security and Intelligence Committees of Rift Valley and Eastern was not to confiscate livestock from the Samburu. The authority was given to recover stolen livestock and hand them over to their rightful owners after positive identification. This task was undertaken and as earlier noted 1,434 head of cattle recovered. After positive identification, they were all handed over to their respective owners between 2nd and 6th March, 2009.

Mr. Letimalo: Mr. Speaker, Sir, at one time, at least, it is necessary for the Government to tell the truth. These animals were grazing. By using military choppers, were they able to identify stolen cattle from the Samburu herd? Why did you have to use brutal force and apply communal punishment on innocent civilians?

Mr. Ojode: Mr. Speaker, Sir, I do not know what to say because in meetings that were convened, where the Questioner is a member, we have been thinking of ways and means of recovering stolen animals. Because of the bad terrain in Samburu, we decided to use a chopper to know which routes the animals were being taken to. We managed to establish the routes which the rustlers were taking and we reconfiscated 1,434 head of cattle.

Between 2nd and 6th March, we called all those who were alleging to have lost their animals to the DCs office to identify those animals. I want to confirm to this House that the exercise was successfully done and the animals were identified and we handed them over to the owners. I do not know to what extent the Questioner does not want me to use a chopper because he knows that the terrain within Samburu is completely bad. I cannot use a vehicle to trace the animals. I can only use a chopper.

Mr. Abdirahman: Mr. Speaker, Sir, what the Assistant Minister calls a successful operation will be futile according to me and many others, because they have been doing this from 1960s and will not help pastoralists in the long run.

I am not saying that what the raiders did was a good thing. But I would want to tell the Government, particularly the Office of the President, that the approach has changed in many areas in the world inhabited by pastoralists . Traditional approaches are now preferred. They have called for several meetings. What is the Ministry planning to do to forestall this kind of a thing in the future? Are they planning to engage the communities directly? They should use communities themselves rather than the iron fist which they use and which is not yielding good results.

Mr. Ojode: Mr. Speaker, Sir, I agree with the hon. Member. We have several other options. We have identified areas where we go to brand the animals. There were some suggestions that we do e-animal or branding. That means a chip is inserted into the body of an animal to enable us identify which animal belongs to Samburu District and which ones belong to Isiolo District. So, we are doing something. The hon. Member knows that we have factored in some money to do exactly that.

Mr. Njuguna: Mr. Speaker, Sir, I would like to laud the Assistant Minister for making very strong efforts in terms of recovering these animals. Recovering 1,434 animals is not a simple matter. Nevertheless, what other efforts is he making to recover the difference of 66 animals that disappeared together with the others?

Mr. Ojode: Mr. Speaker, Sir, the operation to recover the balance is still ongoing. Once we have recovered the animals, we will call the owners to come and identify them.

Mr. Lekuton: Mr. Speaker, Sir, I really want hon. Ojode to be very serious about this issue. The same period that those animals were taken allegedly by Samburu, the same number or even more animals were taken from the Samburus as well. It looks like the target was only Samburus. Why did you not also do an effort to carry out an operation using choppers from the neighbouring communities that took animals from the Samburu to recover the animals and give them to the Samburu?

Mr. Ojode: Mr. Speaker, Sir, that is a very good suggestion. In fact, we are going that way. We are not just concentrating our efforts on the Samburus. If need be, we will even go all the way up to hon. Machage's place where there is a similar problem.

Mr. M'Mithiaru: Mr. Speaker, Sir, although I laud the Assistant Minister for the operation done, I will say that he did too little too late. Coming from a community where we are vulnerable to cattle rustling, I would say they have not yet recovered fully all the animals that were stolen. Just to correct him and my friend who asked this Question, the Samburus are not being targeted. What the hon. Member has not told the House that we have met severally on this issue together with the Ministry of State for Provincial Administration and Internal Security.

Already as I talk with you, six people from Samburu have been arrested and they are in custody, having been caught with stolen cattle. I am asking him when he will do the next round of operation to recover more animals.

Mr. Ojode: Mr. Speaker, Sir, this kind of crime is not new to this country. I am proud to announce here that we, as a Ministry, have really tried to recover the animals which have, so far, been stolen. We have recovered 1,434 animals. Out of that we are only remaining with 66, which I will recover within a month's time. They know that we are very serious Ministry. We will recover those animals and call the owners to come and identify them. We are not going to do the operation just within Samburu. I am going to extend the operation all the way up to Kuria and other areas where necessary.

Mr. Affey: Mr. Speaker, Sir, it seems that the Government has not stopped the aspect of collective community punishment when they are pursuing individual criminals within communities in pastoral areas. This is happening in this kind of operation. I would like the Assistant Minister to tell us what kind of gadgets the helicopters have to identify that these particular livestock that you have are actually the ones that were stolen and you are pursuing them?

Mr. Ojode: Mr. Speaker, Sir, that is a very good question. But I want the hon. Member to know that the chopper was just to identify---

Mr. Affey: How?

Mr. Speaker: Order, hon. Member!

Mr. Ojode: Can you protect me, Mr. Speaker, Sir.

Mr. Speaker: You are protected!

Mr. Ojode: Mr. Speaker, Sir, because of the bad terrains that we have within Samburu; the chopper is to identify some kind of routes which are used by the rustlers.

Mr. Affey: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Affey. You asked a question which the Assistant Minister is answering.

Proceed Mr. Assistant Minister!

Mr. Ojode: Mr. Speaker, Sir, it is the community to identify the animals which have, so far, been recovered. The chopper will just show the security team, the route which the rustlers use.

Mr. Bahari: Mr. Speaker, Sir, as late as last week, there have been incidents of cattle rustling between Samburu and Isiolo. It looks like it is a resurgence of what the Assistant Minister had managed to tame.

What action is he taking to ensure that this does not recur?

Mr. Ojode: Mr. Speaker, Sir, I have mentioned here that we are also educating people not to steal cattle. Secondly, we are thinking of doing the e-animal branding, to put a chip within the body of any animal for identification purposes. We have also agreed with the Members from that particular area, including hon. Letimalo, that we are going to brand the animals. Those are some of the measures which we will put in place and this will be a thing of the past.

Dr. Nuh: Mr. Speaker, Sir, I will forgive the Assistant Minister because he is not a pastoralist. On the same note of identification, how sure is he that the people who were identifying the head of cattle were not giving misleading information and were not taking other people's cattle? What effort did he put in place to ensure that those called upon to identify the stolen head of cattle were actually giving the right information?

Mr. Ojode: Mr. Speaker, Sir, I would believe that there was no complaint at all when the head of cattle was being identified. That is why we called all the people within the area who complained that their animals had been stolen. Through the security team, we found that the identified animals belonged to those who identified them. We have never had any complaint and I think it was a very successful operation.

Mr. Letimalo: Mr. Speaker, Sir, I thank you for allowing many hon. Members to interrogate the Assistant Minister. Now that the Government has forcefully taken over 4,000 head of cattle that belong to the Samburu and we know that livestock is the only source of livelihood to that pastoral community--- The Assistant Minister is misleading the House. They targeted one community.

Mr. Speaker: Order, Mr. Letimalo! Come to the question!

Mr. Letimalo: Mr. Speaker, Sir, now that the Government has forcefully taken over 4,000 head of cattle that belong to 86 Samburu families that entirely depend on livestock for their livelihood, how does it intend to assist those families that have been denied a livelihood, medical care and even education of their children?

Mr. Ojode: Mr. Speaker, Sir, you heard Mr. Letimalo allege that the Government forcefully took over 4,000 head of cattle from the Samburu. I categorically deny that. I would like to say that it is the Government which is helping the complainants to recover their stolen cattle. What I will do next time is to invite Mr. Letimalo to the identification parade so that he can see the way people identify their animals. I will extend an invitation to him so that he becomes one of the members identifying those animals.

Mr. Speaker: That will be well advised.

Mr. Abdirahman: On a point of order, Mr. Speaker, Sir. The Member for Samburu East had actually asked the Assistant Minister how those families will sustain themselves or how the Government will sustain those families since they have been denied their livelihood after the Government confiscated their livestock.

Mr. Speaker: That is a valid point of order.

Mr. Abdirahman: Mr. Speaker, Sir, my point of order is this---

Mr. Speaker: Order, Mr. Abdirahman! Order! You have an opportunity to catch the Speaker's eye and raise one matter on a point of order. I have heard you say that the Assistant Minister has not answered the question asked by the Member for Samburu East. That is a valid point of order. So, wait for a response.

Mr. Abdirahman: All right, Mr. Speaker, Sir. Thank you.

Mr. Ojode: Mr. Speaker, Sir, it is common knowledge that we do not go by allegations. As a Government we are only pursuing the 66 animals which we are yet to recover.

*(Dr. Machage was applauded as
he entered the Chamber)*

Welcome. If there is any genuine complaint from any individual about the stolen head of cattle, it should be raised with us so that we know it.

Mr. Speaker: Very well. Member for Mumias!

Question No.181

DELAYED PAYMENT OF CHRISANTUS
WASONGA'S RETIREMENT BENEFITS

Mr. Washiali asked the Minister for Education:-

- (a) why Mr. Chrisantus Peter Wesonga (TSC No.114025) who retired on 31st August, 2008 has not been paid his retirement dues;
- (b) why he was not also paid any salary between July, 2007 and 2008; and,
- (c) what measures he is putting in place to ensure the retiree is paid his dues and that the pension to all retired teachers is also promptly paid.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I beg to reply.

- (a) Mr. Chrisantus Peter Wesonga had no operational bank account and the tax clearance certificate from the Kenya Revenue Authority (KRA) which are mandatory requirements. The Teachers Service Commission (TSC) has thus been unable to effectively process his retirement benefits. Accordingly, Mr. Wesonga has been directed to obtain the tax clearance certificate to enable the TSC to process the retirement dues and forward the same to the Treasury for payment.
- (b) The salaries for July, 2007 to April, 2008 were paid through his bank account with the Kenya Commercial Bank, Mumias Branch. However, the salaries were returned to the TSC due to the closure of the account. Nevertheless, he later opened a new bank account No.5020011140250 with Kakamega Teachers Sacco from which the outstanding salaries have been processed and paid.
- (c) The following measures have been put in place to ensure TSC retirees' dues are paid promptly. Automation of GPU 178 to speed up the processing of claims; holding of meetings with the KRA to speed up the processing of Tax Clearance Certificates; establishment of an internal monitoring and evaluation team to assist in fast tracking of pension claims; and, the introduction of Integrated Payroll Personnel Data System will address the problem of documentation to a great extent.

Mr. Washiali: Mr. Speaker, Sir, I would like to take this opportunity to thank the Assistant Minister for the answer. However, I would like to notify him that the Mr. Wesonga does not need this money for investment only. He is also very sick and from the retirement benefits he would like to pay his hospital bills. What is the role of the TSC officers he has said he has posted in all the districts? What do they do if they cannot advise the retiring teachers about what to do? The Assistant Minister has talked about the KRA's Tax Clearance Certificate. The TSC officers should have advised the retiring teacher on how to go about it. It is three years since he retired and yet he does not know that he is supposed to avail the Tax Clearance Certificate.

Prof. Olweny: Mr. Speaker, Sir, as far as I know, retiring teachers are informed about the documents that they are supposed to provide to the TSC before their retirement benefits are processed. However, it is the retired teachers themselves that delay in doing this. I have a personal experience with retired teachers from my constituency. They do not provide this information to the TSC. I have to "push" some teachers here and there to provide these documents. Once they surrender these documents to the TSC, their retirement benefits are processed. I am sorry that Mr. Wesonga is sick but let him have those things done because it is him who can do them. After that, he will get his retirement benefits.

Mr. Gunda: Mr. Speaker, Sir, almost two years before teachers retire, they are asked to provide these details. After retiring, they take a long time before they get their pensions. Could the Assistant Minister tell the House what happens in situations like these where all the documents are provided but the pension is delayed?

Prof. Olweny: Mr. Speaker, Sir, when the Teachers Service Commission (TSC) gets all these documents we are talking about, they are taken to Treasury. That is where most of the delays are.

Mr. Mututho: Mr. Speaker, Sir, you heard that Mr. Wesonga is a very sick man. Could the Assistant Minister take it as a special case to ensure that he gets his benefits now, because there will be no good if he is dead?

Prof. Olweny: Mr. Speaker, Sir, let Mr. Wesonga bring the documents that we want because I will not go to his village and push him to come to the Kenya Revenue Authority to have the clearance certificate done for him. I would like to ask the hon. Member to bring those documents to me personally and I will have those things done for him.

Mr. Speaker: Last question, Mr. Washiali!

Mr. Washiali: Mr. Speaker, Sir, the Assistant Minister is aware that Mr. Wesonga is not only asking for his retirement benefits, but also for his salary for a whole year. From his answer, he is telling us that you paid him by cheque. Could he table a copy of that cheque and tell us when it was paid or give us the cheque number? As far as we concerned, there is no cheque that was paid.

Mr. Speaker: Order! Order, hon. Washiali! It is Question Time!

Prof. Olweny: Mr. Speaker, Sir, I have not said that we paid him using a cheque. However, Mr. Wesonga was paid on 12th April, 2010 salary arrears starting from 1st July, 2007 to 30th April, 2008. He had a gross earning of Kshs402,690. After all the deductions were made out of this money, Kshs13,062 were sent to his account through the Integrated Financial Management Information System (IFMIS), the modern technology. I have the IFMIS voucher here which was used to send the money to his account. The balance has also been paid today, which is for the month of June, July and August, 2008. The gross earnings of those three months is Kshs122,247. After all the deductions, the money sent to his account is Kshs14,918.30.

Mr. Washiali: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Member for Mumias, we have given this matter adequate time. The Assistant Minister has furnished information which you need to verify. So, follow up the rest with him.

Next Question by the Member for Gichugu!

Question No.104

PROHIBITION OF RAW NUTS EXPORTATION

Ms. Karua asked the Minister for Agriculture:-

- (a) what consideration motivated him to publish Legal Notice No. 109 of 16th June, 2009 prohibiting the exportation of raw nuts; and,
- (b) whether he could consider urgently revoking the notice to avert loss and financial injury to the farmers.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, I beg to reply.

Question (a) and (b) have been overtaken by publication of the Gazette Notice No.6208 of 31st May, 2010, lifting the ban on exportation of raw nuts.

Ms. Karua: Mr. Speaker, Sir, I just want to confirm that we have sorted out the issue and hope to engage in dialogue within the three months that the notice has been suspended.

Mr. Speaker: Fair enough! Given that this matter had been interrogated previously by the House and the sentiments expressed by the Member for Gichugu, this Question is, therefore, adequately addressed.

Next Question by the Member for Marakwet West!

Question No.140

NON-UTILIZATION OF FUNDS FOR MARAKWET
DISTRICT HOSPITAL

Mr. Kaino asked the Minister for Medical Services:-

- (a) why the Kshs.600,000,000 allocated for the construction of Marakwet District Hospital in 2004 was not utilized; and,
- (b) when the Government will re-allocate the money for its original purpose.

The Assistant Minister for Medical Services (Mr. Kazungu): Mr. Speaker, Sir, I understand that the answer is ready. The Minister had indicated that he was going to answer the Question himself, but he is late. So, I beg to ask that you give us some time. I am sure that he is on his way coming.

Mr. Speaker: We will keep the Question in abeyance and come back to it if we have time at the end.

Next Question by the Member for Githunguri!

Question No.188

REPAIR OF ROAD C65/NYAMBARI-GITHUNGURI

Mr. Baiya asked the Minister for Roads:-

- a) if he is aware that Road C65, particularly the section between Nyambari and Githunguri Town, is dilapidated; and,
- (b) what steps he is taking to repair the road, given that it passes through a densely populated and highly productive area.

The Minister for Roads (Mr. Bett): Mr. Speaker, Sir, I beg to reply.

- (a) Yes, I am aware that Road C65, Githunguri-Ruiru section of the road is in need of repair.
- (b) This financial year – the one which is ending now - I have set aside Kshs4,339,734 to do a holding maintenance while we make arrangements to do further works on that section of the road in the Financial Year 2010/2011.

Mr. Baiya: Mr. Speaker, Sir, I thank the Minister for that answer. However, his answer fails to appreciate the extent of the state of that road in the sense that the Kshs4 million which he has allocated will not do any work on that road. It is actually in a state of disrepair especially from Githunguri to Nyambari. If he is not going to redo the road, there is no need to repair it. Is he really serious that the Kshs4 million will be adequate to repair that road?

Mr. Bett: Mr. Speaker, Sir, I do appreciate the condition of that road, like I do appreciate similar conditions on various roads in the country. We have to find a way of sharing the little resources that we have on as many roads as there are in the country. This is because it is not only this road that is in that state of disrepair. The hon. Member

should also appreciate that out of the resources we have, we are putting aside Kshs4 million to do a holding maintenance while we prepare in the year 2010/2011 to put in a further Kshs22 million to that same section of the road. That is the much we can do, given the fact that there are so many other roads in the land that require attention.

Mr. Njuguna: Mr. Speaker, Sir, this is a major road in this region linking three constituencies, which are, Juja Constituency, Githunguri Constituency and Lari Constituency. It is about 40 kilometres and there is real threat in the three constituencies, where communities are almost planting bananas stems on the road because of the deplorable condition. I would, therefore, ask the Minister to reconsider this very insignificant amount of money, so that this road is made motorable as soon as possible and even to be---

Mr. Speaker: Order, Member for Lari! You must come to the question. What is your question?

Mr. Njuguna: Mr. Speaker, Sir, I am sorry. I am asking the Assistant Minister to consider increasing this insignificant amount of money and again to be specific as to when this project should commence because the road is in a very bad state.

Mr. Speaker: Mr. Assistant Minister, do the best you can but you have no question, as I followed the hon. Member.

Mr. Bett: Mr. Speaker, Sir, that must be a very significant amount. That is why it was difficult for the hon. Member to pronounce the word “insignificant.” So it must be a very significant amount.

Mr. Speaker: Order! Order, Mr. Minister!

Mr. Bett: That was with a light touch, Mr. Speaker, Sir. It is only one month before the next financial year when we will add Kshs22 million for road maintenance to each constituency. So, Kshs4 million plus Kshs22 million is, in fact, Kshs26 million.

Dr. Nuh: Thank you Mr. Speaker, Sir. The Minister has on several occasions complained that there were many roads which were destroyed by the rains. Could he explain whether the assessment he said that his Ministry would carry out is complete and whether the Treasury has complied to provide finances to cover for all the roads which were destroyed during the rains?

Mr. Bett: Mr. Speaker, Sir, there is no doubt about that and there is no hiding. The rain was so much that so many of our roads were destroyed. We continue to do assessments because the rains are still ongoing. So, it would be misleading to say that we have come to the conclusion of assessing the damage on our roads. The Office of the Deputy Prime Minister and Ministry of Finance has already given us funds which are contained in the current Budget Estimates or allocations for that attention and we expect them to consider us just in case emergency cases arise.

Mr. Baiya: Thank you Mr. Speaker, Sir. Given that the Assistant Minister has undertaken to do repairs on a road which by its state is irreparable, I could only ask him to give an indication of when his Ministry will consider redoing the road considering that it is a C class road that runs through three constituencies; and, through quite an agriculturally productive region.

Mr. Bett: Mr. Speaker, Sir, we are committed to rehabilitating all our roads in the country and I assure the hon. Member that when that time comes in accordance with our road sector investment programme, we will handle that situation accordingly.

Question No.171

STALLING OF IRRIGATION PROJECT FUNDED
BY ISRAEL GOVERNMENT

Mr. Mwakulegwa asked the Minister for Water and Irrigation:-

- (a) to reveal the circumstances that led to the stalling of an irrigation project to be funded by the Israel Government which was meant to benefit farmers in Taveta, Mwatate, Voi and Kinangop constituencies;
- (b) when the Government would actualize the project; and,
- (c) How much it would cost.

Mr. Mwakulegwa: Mr. Speaker, Sir, I have not received a written answer.

The Assistant Minister for Water and Irrigation (Mr. Kiunjuri): Mr. Speaker, Sir, we have not issued a written answer to the hon. Member because we would like to request that this Question be directed to the Ministry of Regional Development Authorities because it is the one which is responsible for this project.

Mr. Speaker: Fair enough! It is so ordered! Hon. Member for Voi, please, note that. This Question has to be directed to the right Ministry as stated by the Assistant Minister. The Question is, therefore, deferred to Thursday 2.30 pm next week.

Clerks-at-the-Table, please, note and redirect that Question accordingly.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

Mr. Speaker: We will now go back to Question No.2 by Private Notice.

STATUS OF STRATEGIC
GRAIN RESERVE

Mr. Mututho: Mr. Speaker, Sir, I beg to ask the Minister of State for Special Programmes the following Question by Private Notice.

- (a) Could the Minister state the current status of the Strategic Grain Reserve (SGR) and reveal the food security forecast for the next 12 months while indicating in what quantity milk powder has been included in SGR?
- (b) What systems are in place to safeguard transit loss of relief food and delays in reaching the recipients and could he consider the use of modern techniques such as electronic cards or manual cards to minimize losses and reduce logistical challenges of moving physically?
- (c) Could the Minister publish guidelines in Famine Relief Committees and empower proper scrutiny of beneficiaries specifying the role of Members of Parliament? Could District Commissioners be compelled to submit returns of beneficiaries of relief food per consignment to the respective Members of Parliament?

Mr. Speaker: Order, hon. Members! With respect to Question No.2 by Private Notice, I received a letter this afternoon at 2.15 pm from the Minister of State for Special Programmes. In that letter, the Minister asserts that both she and her Assistant Minister

are away on official duty. She has not taken care or bothered to say what official duty she and her Assistant Minister are away on.

In my opinion therefore, and, indeed, on behalf of the House, I consider that very casual treatment by the Minister because the provisions of the law and the operative position are that a Minister is accountable, first, to the people of Kenya and it must be through this House. Secondly, the Minister is answerable to the appointing authority who would be His Excellency the President. I have ruled on similar situations previously that the duty of a Minister is, first, to Parliament and that they must attend to Parliamentary business promptly.

(Applause)

I do not, therefore, take kindly the letter of the Minister coached in the manner that I have cited to the House this afternoon.

That notwithstanding, I will reluctantly accede to the request and hope that the Minister, when she shows up next week - this Question will be deferred to Tuesday 2.30 p.m. - that she will offer an explanation that will be acceptable not just to Mr. Speaker, but also to the House as to why she has chosen to treat the House in that casual manner.

The Question is deferred to Tuesday afternoon at 2.30 p.m.

(Question deferred)

CIRCUMSTANCES SURROUNDING RAID AT
DADAJABULA TRADING CENTRE

Mr. Affey: Mr. Speaker, Sir, for the second time, I beg to ask the Minister of State for Provincial Administration and Internal Security the following Question by Private Notice.

- (a) What are the circumstances surrounding the raid at Dadajabula Trading Centre in Wajir South Constituency by insurgents from Somalia on May 27, 2010?
- (b) Could the Minister confirm the extent of injuries to the casualties?
- (c) What does the Government plan to do to forestall such attacks in future?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I apologized for not being in the House when the Question was being asked. However, I will seek the indulgence of the Chair to allow the Minister to answer this Question on Wednesday morning. I say so because we received this Question yesterday and we have to send our officers on the ground for details so that I can answer this Question satisfactorily.

Mr. Speaker: What is your reaction, Ambassador Affey?

Mr. Affey: Mr. Speaker, Sir, the nature of the Question is such that it touches on the security of Kenyans. This matter took place about a month ago. The matter is such that six Kenyans are nursing bullet wounds as a result of this incident in Wajir District. There is a young girl aged seven years, a student, who is nursing bullet wounds as a result of this incursion. I would like to request the Assistant Minister, as he prepares an elaborate answer, to consider whether the Government will pay for the medical bills of

these Kenyans who have been affected by this incident and find compensation for them, in the meantime.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, in order to avoid speculation, I would want to check who is in hospital and what type of bills they have incurred. If, indeed, it is true that there are people in hospital, after checking, as Government, we will come in and assist.

Mr. Speaker: Is Wednesday afternoon good for you?

The Assistant Minister, Ministry of State for provincial Administration and Internal Security (Mr. Ojode): Yes. That is okay.

Mr. Speaker: That Question is deferred to Wednesday, at 2.30 pm. That brings us to the end of Questions by Private Notice.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.140

NON-UTILIZATION OF FUNDS FOR MARAKWET DISTRICT HOSPITAL

Mr. Kaino asked the Minister for Medical Services:-

(a) why the Kshs600,000,000 allocated for the construction of Marakwet District Hospital in 2004 was not utilized; and,

(b) when the Government will re-allocate the money for its original purpose.

The Minister for Medical Services (Prof. Anyang'-Ny'ong'o): Mr. Speaker, Sir, I beg to apologize for coming late. I am sorry.

Mr. Speaker, Sir, I beg to reply.

(a) The Ministry never allocated Kshs600 million for construction of Marakwet District Hospital in 2004.

(b) There is, therefore, no money to be re-allocated since there was no allocation of the Kshs600 million in the first place.

Nonetheless, I would like to give the Member a background to this issue. We, in the Ministry, are aware that there have been proposals to construct Marakwet District Hospital, which are yet to materialize. The District Development Committee (DDC) meeting held in 2003 proposed the construction of the hospital at Kiprabai Forest, but the site was later changed to Cheseweu, which was found to be more suitable. This was done by the DDC's decision in March, 2005. At that time, the project was estimated at Kshs600 million. In 2005, the community donated 40 acres of land to the Government situated 12 kilometres from the district headquarters at Kapsowar. A revised cost estimate was done by the District Works Officer, which was communicated to us at a region of Kshs450 million. By that request, the Ministry made provisions in 2006. But unfortunately, the ceilings for the then Medium-Term Expenditure Framework could not accommodate the expenditure.

As I speak, the building of a full district hospital will cost between Kshs750 million to Kshs1 billion. The development Budget of the Ministry as allocated in this financial year is very little and has to be spread along many other concerns of the Ministry. In as much as we would like to construct this district hospital, we are constrained by the budgetary allocations from the Ministry of Finance.

Mr. Kaino: Mr. Speaker, Sir, I wish to thank the Minister for the history that he has given on the proposed construction of Kapsowar District Hospital. The Kapsowar District Hospital is the only health centre which is in Kapsowar. We used to have a big hospital in Tambach in Keiyo District. The DDC requested the Ministry to construct a district hospital in Marakwet. I did not know that this Question was coming up today. This morning when I saw it in the Order Paper, I asked my people to fax me the history of the hospital. Unfortunately, this has not been sent. In the meantime, what plans does he have for the people of Marakwet at the moment?

Prof. Anyang'-Ny'ong'o: Mr. Speaker, Sir, for the Marakwet people, I have a very big heart. I am very ready to do my best to respond to their concerns, especially in the area of medical services. The hon. Member knows that he and I have been to Kapsowar. We have looked at this issue and have made budgetary requests to the Ministry of Finance. As you will realize from the Budget Speech and from the Estimates that you will soon receive, the Ministry of Finance has not responded positively to our entreaties. I am quite prepared to go an extra mile to request the House to work hard with the Ministry of Finance to put before us sufficient funds that we can use in building district hospitals.

I have stated in this House previously that in this day and age, no constituency should be without a sub-district hospital and his constituency is no exception. However, as I have stated, to build a full-fledged district hospital from scratch, you need Kshs750 million to Kshs1 billion, if all the requisite facilities have to be provided. So, at this point in time, I can only plead to the House to pressurize the Ministry of Finance to allocate to the Ministry of Medical Services sufficient funds to respond to the desires and needs of every constituency.

Mr. Lessonet: Mr. Speaker, Sir, in the past year, we succeeded as a House to pass the Fiscal Management Act, which enables the Minister to know what the Minister for Finance is likely to bring to this House as he presents the Budget in June. Could he, therefore, confirm to this House whether the priorities which he forwarded to the Ministry of Finance, included Marakwet District Hospital?

Prof. Anyang'-Ny'ong'o: Mr. Speaker, Sir, I have already given a history of the requests that the Ministry has made to the Ministry of Finance regarding this particular hospital. The last request, which is still pending in the Ministry of Finance, was the request for funding vide letter dated 2nd March, 2006, Ref.MOH/MRT/GEN26/Vol.1/68. That letter came from the Medical Superintendent of Chebimit District Hospital and it was immediately included in the Mid-Term Expenditure Framework, which the Ministry of Finance has to this very day.

So, it is not as if the Ministry of Finance does not have facts in its files regarding this hospital. The only thing the Ministry of Finance can do is to revise the figures, as I have said, and they know this, from the Kshs450 million that was then requested to Kshs750 million or Kshs1 billion. That fact, too, the Ministry has in the letters that we

have written to them. So, we have done our part. We cannot allocate ourselves resources. It is only the Ministry of Finance that can give us those resources.

Mr. Mbugua: Mr. Speaker, Sir, you will concur with me that there are a lot of hospitals and dispensaries which do not have equipment. Why should we not divert this money into equipping those hospitals which are not equipped?

Prof. Anyang'-Ny'ong'o: Mr. Speaker, Sir, you will realize that every constituency and hospital require services. When we get a request from the Member for Kamkunji for a hospital in his constituency which lacks some equipment, he would not be happy if we tell him that we are diverting that equipment to another place which equally lacks it. So, we have priorities of where this equipment is needed most. However, I wish we could have enough money to respond to every need.

Indeed, I have stated in this House before that were we to have every sub-district, district and referral facilities up to the mark, we would require about half the Budget of this Republic. That is not possible. So, as of now, up and until we can get sufficient resources from the Ministry of Finance, I am afraid, we shall keep on wanting more to respond to the needs of our people. In the meantime, we have received resources from our development partners, which we are using to rehabilitate several hospitals in the Republic as I speak today. I hope that before this calendar year is over, we are going to open quite a number of those, but that still leaves us with over 150 district hospitals un-responded to.

Mr. Kaino: Mr. Speaker, Sir, as the Minister struggles with the Ministry of Finance to get funds for Marakwet District Hospital, I would like to remind him that during the visit of the Prime Minister and himself to Kapsowar, he promised that he was going to upgrade Kapcherop Health Centre to a sub-district hospital. Could he confirm whether his promise to those people is still firm, as we wait for the Ministry of Finance to allocate money for construction of a district hospital in Marakwet?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, my promise is still holding. The only thing that we require is the District Development Committee in his constituency (DDC) to discuss the issue and pass it, and send us the minutes of that DDC meeting indicating that, that particular hospital has been prioritised by the DDC to be a sub-district hospital, and we shall act accordingly.

Mr. Speaker: Hon. Members, that brings us to the end of Question Time.
Next Order!

STATEMENTS

DISRUPTION OF GITHUNGURI DAIRY FARMERS CO-OPERATIVE MEETING BY POLICE

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, on Wednesday, 9th June, 2010, the Member of Parliament for Githunguri, Mr. Njoroge Baiya, stood on a point of order and sought a Ministerial Statement on disruption of Githunguri Dairy Farmers Co-operative meeting by the police. The Member of Parliament wanted explanation on why the local administration and the police interfered with the Special General Meeting of Githunguri Dairy Farmers Co-operative Society that was held on 29th May, 2010.

In particular, he wanted the Minister to clarify why the police used force and threw teargas canisters on peaceful members who had already been screened with a view of dispersing and excluding a majority from participating in the meeting.

The hon. Member also wanted to know why the police are preparing to arrest and prosecute some members on trumped up charges, hence intimidating dissenting members, and whether in the light of the foregoing, the local administration and the police were acting within the law, which requires them to be impartial and non-partisan.

Mr. Baiya also sought to know the action the Minister intends to take to assure members of the co-operative society that they can safely attend meetings and participate effectively without fear.

Mr. Speaker, Sir, the said meeting did take place amidst heightened tension on Saturday, 29th May, 2010 at the Githunguri Stadium. The District Security and Intelligence Committee (DSIC) had from March this year, anticipated a disruption at whatever time the Directors of the Society would call their Annual General Meeting. This is due to the fact that the immediate former Chairman of the giant society, hon. Njoroge Baiya, who is now the Member of Parliament for Githunguri, is alleged to have distributed copies of a letter addressed to members, claiming that some funds had been misappropriated at the society.

This culminated in a war of words between the current directors, led by Charles Mukora, and the area Member of Parliament. Since then, there has been a spirited campaign by the two camps, one led by the current Chairman, Mr. Mukora, and the other one led by the area Member of Parliament, under the guise of farmers' education, trading serious accusations against each other.

Mr. Speaker, Sir, it was out of this tension that the DSIC, sitting in April and May, 2010, decided to advise the management of the society to consider postponing a Special Annual General Meeting planned for 8th May, 2010. The society management obliged, and the meeting was postponed.

The DSIC agreed in principle that for the sake of the majority of farmers, who have nothing to do with the wrangles between the former and current chairman, the meeting should be allowed to go on, and that adequate security measures be put in place. So, on notification, the DSIC embarked on making sure that the society gave the two-week notice in accordance with the Co-operative Societies Act, of which the society complied. Therefore, the security team had to put in place adequate security measures.

Mr. Speaker, Sir, the meeting was arranged for Saturday, 29th May, 2010. The DSIC mounted proper security and members started arriving at Githunguri Stadium as early as 5.30 a.m. Security personnel were on the ground, and ensured that only members with proper identification accessed the stadium. At around 9.45 a.m. some rowdy people forcefully entered the stadium. The District Commissioner (DC), Githunguri, intercepted and beseeched them to allow the meeting to go on.

No sooner had the prayers started than they abruptly started pulling down some of the erected tents and, therefore, causing a stampede. The police moved in immediately to disperse them. The rowdy group had worn red caps and T-shirts. Thus the police could identify them easily. The police repulsed them by throwing teargas canisters at them. The majority of the farmers were very happy with the action taken, and the meeting went on peacefully thereafter.

Mr. Speaker, Sir, as the meeting was going on, hon. Baiya walked in. The farmers who were then listening to the Provincial Co-operative Officer's Report were agitated by his arrival. The DC, therefore, decided to allow neither the Member of Parliament nor the current chairman to speak, since doing so would raise more tension. The two obliged and the meeting went on peacefully, to the delight of the majority of farmers.

Therefore, police did not use excessive force on the otherwise calm and peaceful members of the society. No bullets were fired. The DC and his security team were present to ensure restraint on the part of all the security personnel.

Mr. Speaker, Sir, the police and the Provincial Administration have never been partisan on matters of security, and they will continue to uphold the rule of law. No member of the society has been arrested or arraigned in court on trumped up charges, as being alleged.

However, the police have launched investigations into a case of malicious damage of property as the manager of the society reported, vide Case File No.CR216/138/210, that property worth Kshs120,700 was destroyed during the Annual General Meeting. This report was made on 31st May, 2010.

Mr. Speaker, Sir, I want to assure hon. Members of this House that Githunguri Dairy Co-operative Society members and, indeed, all Kenyans, will continue enjoying protection from the security agencies whenever they hold legally constituted meetings. However, all incidents of lawlessness and insecurity will be dealt with firmly and decisively.

I would like to table a copy of leaflets that are purported to have been authored by the Member of Parliament for Githunguri. It is written in the Kikuyu language, and there are some portions which amount to incitement of members of the society.

(Mr. Ojode laid the document on the Table)

Mr. Speaker: Hon. Members, that statement calls for any requests for clarification. We want to begin with the Member of Parliament for Githunguri.

Mr. Assistant Minister, please, take notes.

Mr. Baiya: Mr. Speaker, Sir, could the Assistant Minister confirm whether these photographs, which were taken during that meeting, do not, indeed, reflect use of excessive force by the police? I would want to table samples of photographs taken during that meeting, showing the state of affairs then.

Mr. Speaker: Order, the hon. Member for Githunguri! Who took the photographs and when?

Mr. Baiya: Mr. Speaker, Sir, these photographs were taken by a journalist whose name is known.

Mr. Speaker: What is the name of the journalist?

Mr. Baiya: I can produce the name of that journalist later on.

Mr. Speaker: Bring it to the House, so that we can accept those photographs.

Mr. Baiya: I beg your pardon, Mr. Speaker, Sir!

Mr. Speaker: What is the name of the journalist who took the photographs and what is the date that they were taken?

Mr. Baiya: Mr. Speaker, Sir, the photographs were taken on the same day of the meeting by the journalist from one of the media houses. I undertake to give his name.

Mr. Speaker: Which media house?

Mr. Baiya: It was the Kenya Broadcasting Corporation (KBC).

Mr. Speaker: I am just trying to be helpful to you, otherwise we would not admit those photographs.

Mr. Baiya: Mr. Speaker, Sir, I am aware of the rules of production of photographs. The photographer from KBC can be identified.

Mr. Speaker: And the date?

Mr. Baiya: The date is 29th May, 2010. That was when the meeting took place.

Mr. Speaker: Proceed and table the photographs.

(Mr. Baiya laid the photographs on the Table)

Mr. Assistant Minister, please look at them. What is the clarification that you want to seek?

Mr. Baiya: Mr. Speaker, Sir, some of those photographs show the police throwing teargas canisters at ordinary members of the co-operative. These are old men and women---

Mr. Speaker: *Mheshimiwa*, indicate the clarification precisely.

Mr. Baiya: Mr. Speaker, Sir, they also indicate violence being applied by the police on a member of the co-operative and injuries being inflicted.

Mr. Speaker: Order, the hon. Member for Githunguri! Is the clarification that you are seeking for the Assistant Minister to confirm that excessive force was used?

Mr. Baiya: Yes, Mr. Speaker, Sir. The other clarification that I am seeking is that if there was an offence committed whether by myself or anybody else why they have not taken action they said they would take.

Mr. Speaker: Mr. Assistant Minister, just hold your horse because you have to take a few more.

Hon. Member for Naivasha!

Mr. Mututho: Mr. Speaker, Sir, I presume that this is one of the photographs that has been laid on the Table. It shows a grey-haired man bleeding profusely. What actually agitated the formerly very successful co-operative in dairy farming? We are interested that such a model has now been scuttled. Who are the other people involved in this scam and what has the Government done to uphold peace and stability in that co-operative.

Mrs. Shabesh: Mr. Speaker, Sir, could the Assistant Minister clarify to us whether he is aware of the kind of brutality that has been used in the past by the police and other co-operative societies like Mboi-Kamiti which led to its death? Could he also tell us whether that is the kind of scenario they want to continue in dealing with issues where there could be conflict in co-operative societies?

Mr. Bahari: Mr. Speaker, Sir, I would like the Assistant Minister to clarify why he is treating the House to allegations that the hon. Member is purported to have circulated pamphlets when he has the machinery to confirm that. Is that meant to intimidate the hon. Member?

Mr. Ngugi: Mr. Speaker, Sir, could the Assistant Minister clarify to this House whether they had prior information, because the Government has the necessary machinery that there would be violence in that general meeting? What steps had they taken?

Mr. Speaker: Mr. Assistant Minister, you may now respond.

Mr. Ojode: Mr. Speaker, Sir, I will start with Mr. Ngugi's intervention. I did mention here that we were told that there will be mayhem and that is why we had to beef up security. That is why the security team decided that the Annual General Meeting (AGM) must be post-poned.

Mr. Bahari has asked whether these pamphlets are real. The hon. Member has not denied that. So, I assume that they are real and they were authored by him. Mr. Mututho has asked a very pertinent question. Since I have laid these documents on the Table, I will refer to the hon. Member's pamphlet on page nine. The problem of this co-operative society lies with money and nothing else. This is known. Whether it is Mbui-Kamiti or the other one mentioned by Mrs. Shabesh--- There is a part here which says; "mitambo mihuthire". Since quite a number of Members are not conversant with this language, it translates to "they wanted the committee to go for a second hand plant or machinery for second hand which will cost less than---"

Mr. Baiya: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, the hon. Member for Githunguri. Relax! You will be accommodated all the time. What is your point of order?

Mr. Baiya: Mr. Speaker, Sir, is it in order for the Assistant Minister to refer to a document in a language he does not understand to mislead the House about the meaning when he can have an English translation?

Mr. Ojode: Mr. Speaker, Sir, that is why I asked a friend of mine to translate for me what the pamphlets meant. I want him to confirm whether he is the author of this pamphlet. If you go through these pamphlets, you will find that it amounts to incitement which I do not want to go into now. I will direct my detective to check whether, indeed, it amounts to incitement.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to lay on the Table or utter in the House a translation which was provided by his friend who is not an official translator? His friend is not certified to translate. Is that admissible in this House?

Mr. Ojode: Mr. Speaker, Sir, I also request the Chair to ask a translator to translate what is written in this pamphlet after the hon. Member admitting that he is the one who gave out the pamphlets.

Mrs. Karua: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to avoid the issue by referring to documents he calls inciting and can be investigated separately when the issue is the violence metted out by the police on farmers on the day in question?

Mr. Speaker: Order! Mr. Assistant Minister, you already had that request and I assume that you will come to it.

Mr. Ojode: Mr. Speaker, Sir, before I answer my good friend, the hon. Member, on Thursday 27th May, 2010, he held a meeting with about 150 youths at the BTL College Conference Hall in Ruiru. The information we received indicated that the same youths were paid Kshs500 each to cause mayhem. These are the same youths who were being blocked by the District Commissioner from entering the venue. We only expected members of the co-operative to go to the stadium.

Mr. Mututho: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, the hon. Member for Naivasha! Let us hear the Assistant Minister.

Mr. Ojode: This is a very sensitive issue, Mr. Speaker, Sir.

Mr. Speaker: Proceed, Mr. Assistant Minister!

Mr. Ojode: Mr. Speaker, Sir, I have also instructed the police to find out whether there is any evidence that the youths were paid Kshs500 each to disrupt the meeting at the stadium. I will get the report soon.

With regard to the photos, it is not indicated anywhere whether it was at Uhuru Park, whether it was at Mombasa in 1992, whether it was wherever. I cannot admit that these are the photos taken at Githunguri Stadium. It is the discretion of the Chair to check whether this photo as you see it, indicates that it was taken at Githunguri stadium. I do not have any other equipment to check the document---

Mr. Speaker: You made your point, Mr. Assistant Minister. Carry on!

The Assistant Minister, Ministry of Provincial Administration and Internal Security(Mr. Ojode): I would also want to appeal to my honourable friend that matters related to co-operative societies must be left to co-operative society members. I have given you the background why there is a wrangle. The wrangle is because of the money; those who want to buy the second hand equipment for the UHT processing are on the Member's side. There are those who do not want to spend Kshs150 million to buy a completely new UHT plant. Those are the fellows with Mr. Charles Mukora, who is the current chairman. I rest my case.

COMMUNICATION FROM THE CHAIR

MEMBERS WORKSHOP ON OPERATIONALIZATION OF CONSTITUENCY ROADS COMMITTEE

Mr. Speaker: Order, hon. Members! Before we go to the next Order, I have the following communication to make. The Ministry of Roads, through the Kenya Roads Board has organised a half day workshop for all Members of Parliament on Tuesday 22nd June, 2010 at the Inter-Continental Hotel, Nairobi. You will recall that the Kenya Roads Board Act was amended last year and some of the amendments affected Constituency Roads Committees. The purpose of the workshop therefore is to deliberate on the operationalization of the amended Act, especially with regard to the amended sections pertaining Constituency Roads Committees.

During the workshop, maintenance of bitumised class B and Class D roads will be discussed among other issues. The Office of the Clerk is distributing invitation letters to all Members together with the workshop programme.

I appeal to all Members of Parliament to attend this important workshop.

Thank you.

BILL

Second Reading

THE PREVENTION OF ORGANISED

CRIMES BILL (BILL NO. 4 OF 2010)

The Minister for Provincial Administration and Internal Security (Prof. Saitoti): Mr. Speaker, Sir, I beg to move that the Prevention of Organized Crimes Bill be now read a Second Time.

I would like to say at the very outset that this Bill has been formulated in view of the need to enact the necessary law to detect, prevent, investigate, criminalise and punish organised crime in Kenya. This is in the view of the threat posed by the criminal organized groups to the national security and the negative impact on the economy, the health and the general livelihood of Kenyans. The Government has come lately under very close scrutiny over the spate of criminal activities being perpetuated by the organised criminal groups impacting negatively on the safety, the economy, health and well being of the society in general.

(Mr. Speaker left the Chair)

*(The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, while security organisations have and continue to put in place concerted efforts to combat organised crime, the existing laws seem inadequate to assist in preferring appropriate charges and meting out deterrent penalties against the offenders. Therefore, this particular Bill is expected to fill in the legal lacuna that exists in our laws. I should also wish to add that this Bill is drafted in line with the principle of the United Nations Conventions against organised crime, the year 2000, at the Palermo Convention and to which Kenya is a party.

Mr. Temporary Deputy Speaker, Sir, at this particular stage, I would like to turn on the structure of the Bill and much more important, to be able to refer and clarify some of the definitions, that are used in the body of this Bill. Therefore, turning to part one of this Bill, this one deals with preliminary matters focussing on the title and announcement and the interpretation of clauses.

Clause 2 of this Bill provides for a definition of the various terminologies which are used in the Bill including the definition of criminal group funds, organized criminal groups, serious crime and structure group. So, the meanings are shown below. The criminal funds refers to the funds that may be applied or used for the commission of furtherance or in connection with the acts of organised criminal groups, and includes proceeds of the commission of such criminal acts and resource link to such a group.

The organised criminal group means a structured group of three or more persons existing for a period of time and acting together with the objective of committing a serious crime in order to benefit the group. The clause also defines what is a serious crime. Serious crime is one that its conduct constitutes an offence under the laws of Kenya punishable by a term of imprisonment of at least six months.

It further defines a structured group as a group that is not randomly formed for commission of offence and does not need to have formally defined roles for its members, continuity of its membership or a developed structure. In reference to clauses 3 to 7 of the

Bill, it sets out activities constituting organised criminal activities. In other words, which are the activities which are considered to form criminal activities?

Clause 3 deals with organised criminal activities. There are quite a number of them. They are defined from a to f, and I think because this is an extremely important Bill, perhaps I would like to seek your indulgence if I could actually go through them so that it becomes very clear what they are. I am aware that in the course of the Bill, hon. Members will have gone through it but at the very outset, I think it is extremely important to actually state these activities right here.

Clause 3 states as follows:-

A person engages in organised criminal activity where the person -

- (a) is a member or professes to be a member of an organised criminal group;
- (b) knowingly advises, causes, encourages or recruits another person to become a member of a criminal group;
- (c) knowingly advises, causes, encourages or recruits another person to become a member of an organised criminal group;
- (d) being a member of an organised criminal group, knowingly directs or instructs any person to commit a serious crime;
- (e) threatens to commit or facilitate the commission of any act of violence with the assistance of an organised criminal group;

We know very well that, that has been taking place quite a lot in the recent times because quite a number of our own citizens have actually been kidnapped and those who have kidnapped them have been asking for ransom. This has created a lot of problems in recent times. So, those who are committing those acts of kidnapping people will now have to understand that when this Bill becomes an Act, they will, therefore, be deemed to have committed organized criminal activity. They will be dealt with in accordance with this law once it is given consent.

(iii) Endangering the life of any person or causing damage to his property.

Again, we know that there are those ones in order to compromise people. Once they do this, mainly they cause damage to people's property, including even endangering their lives. That will become, once again, under the framework of a criminal activity.

(e) Possession of an article connected with the commission of a serious offence.

That will be another criminal activity.

(f) Organizing, addressing or attending a meeting for the purposes of encouraging support for the group – that is the organized criminal group.

Clause 5, Mr. Temporary Deputy Speaker, Sir, criminalizes oathing activities. It provides that a person commits an offence if such a person who-

- (a) is present at and consents to the administering of any oath or engagement in the nature of an oath purporting to bind the person who takes it to belong to an organised criminal group or engage in an organised criminal activity;
- (b) administers an oath or engagement in the nature of an oath purporting to bind the person who takes it to belong to an organised criminal group or engage in an organised criminal activity;
- (c) takes any such oath or engagement in the nature of an oath; or
- (d) by use of physical force, or by threat or intimidation of any kind compels another person to take such oath or engagement in the nature of an oath---

Mr. Temporary Deputy Speaker, Sir, I think is very clear that these sorts of activities that I have just outlined are activities are actually taking place today. But, once again, the law has actually been very weak. That is why those who commit these acts continue to do so with impunity, knowing very well that they will only receive light sentences. But once this particular Bill becomes a law, it is not going to be business as usual. There will be stiff penalties as far as these criminal activities are concerned.

Mr. Temporary Deputy Speaker, Sir, Clause 7 provides for factors which the courts shall have regard to in considering whether a person is a member of an organized criminal group. This includes admission to being a member, identification as a member, adoption of the name, colors, symbols, language, style of dress, use of hand signs associated with the group, knowingly associating with its members or knowingly receiving any financial or material benefits from the group or ascribing to the groups ideologies, mannerisms or general conduct.

Mr. Temporary Deputy Speaker, Sir, Part Three of the Bill – and here I am referring to clauses from eight all the way to 14 – the Bill provides for the offences relating to obstruction of justice, retaliation against witnesses and unauthorized disclosure of information. Clause 9 outlaws any retaliatory acts against a witness for having given evidence under this Act. Clause 12 criminalizes intimidation by a person for purposes of compelling another person:

- (a) to abstain from doing anything that a person has a lawful right to do.
- (b) to do anything that the person has a lawful right to abstain from doing under the Act; or,
- (c) causes the person to reasonably fear for his safety or the safety of anyone known to him.

I think this is extremely important, Mr. Temporary Deputy Speaker, Sir, because this is where a person is compelled to do something against the law. Once again, when one is compelled to commit these criminal activities, then somebody is definitely going to be liable for having broken the law that will be enacted once this Bill becomes an Act.

Part Three which, of course, runs between clauses 15 to 19 of the Bill provide for tracing, confiscation, seizure and forfeiture of organized criminal group's property. A number of these organized criminal groups are known to operate for purposes of collecting money illegally which they use for furtherance of their criminal activities for their benefit. When that money then is found, it will be traced; and once it is traced, then forfeiture is required and it can be frozen. When that is done, that is what is stipulated in Clause 15 which authorizes the Attorney-General to trace the property that is suspected to belong to an organized criminal group for purposes of investigation of an offence under the Act.

Mr. Temporary Deputy Speaker, Sir, Clause 16 provides for an application by the Attorney-General to the High Court for a provisional order to temporarily suspend dealings related to all the monies and property belonging to or held by an organized group or a person suspected to be a member of the group. Clause 17 empowers an authorized officer to seize and detain any car suspected to belong to or being used by an organized group. Clause 18 provides for the forfeiture order of property of an organized criminal group by the courts when a person is convicted of an offence under the Act that constitutes an act of an organized criminal group.

Mr. Temporary Deputy Speaker, Sir, clauses 20 to 25 provides for a general penalty for offences under the Act in mutual co-operation with other states, consequential amendments of the laws of Kenya relating to extradition and the powers of the Minister

to make regulations. That is where, for example, in Clause 22, the powers of the Minister are then stated that it will empower the Minister in charge of Internal Security to declare a group as an organized criminal group where he has reasonable grounds to believe that such a group is engaging in the organized criminal activity under the Act. Of course, there is a proviso where a group has already been declared by the Minister to be a criminal organized group to be able to challenge that particular declaration.

Mr. Temporary Deputy Speaker, Sir, as I said earlier, we have had a lot of criminal activities taking place by the organized criminal groups from kidnapping to all other many activities, all of which are intended to intimidate people to even act against the law and even against their conscience. When they do not obey those directives, a number of them are actually either injured while some of them are actually made to lose their lives. When the perpetrators of these crimes are then taken to court, the legal framework, because of the existing lacuna to deal with this sort of thing, they end up getting away with very light sentences. They fail to know these criminal activities. What happens at the end of this? The police would arrest these people, take them to court, they come out, and they face each other in the streets where they will have acts of ridicule to the police officers. In the process, the police officers become totally demoralized.

Mr. Temporary Deputy Speaker, Sir, the police officers have become demoralized because the court, given that lacuna that exists, cannot mete out stiff penalties. They are let out. When they come out, because many of the citizens do not know the technicalities of the law, end up blaming the police that they are sleeping on the job. Even in this Parliament, I am sure we have condemned the police and said that they have gone to sleep. It is very clear that in many of these cases, the police do their work. They arrest them and take them to court. At that particular time, the police can do nothing.

But again, the court will also conduct its own work in accordance with what has been laid down in law by this Parliament. If we have not laid out a legal framework to deal with these kinds of offences, these people are actually let free or are given very light sentences. Then the police are the ones to suffer.

Mr. Temporary Deputy Speaker, Sir, I hope that this particular time, it will be possible for Parliament to deliberate very seriously on this particular Bill and to arrive at a conclusion that this Bill will be very necessary. Even if it is amended, I am sure many Members would appreciate that we will need to amend this Act. That is well and good but the key thing is that we need a legal framework that can address the existing crimes. There are many organized crimes in the world. Even offences related to drugs and drug trafficking, there are many who traffic drugs in this country and many other places.

If you look at it very carefully, you will trace it to organized criminal groups. What do they do? They bring the drugs in this country and target our youth. Our youth end up destroying their brains. In fact, our own youth are destroyed. They become incapable of working or doing anything for themselves. In the process, they end up resorting to crimes. We cannot allow this!

Mr. Temporary Deputy Speaker, Sir, as I said, there are also these criminals who have lately surfaced. We never used to have these problems of kidnapping. Unfortunately, it has now come to the fore. Criminals are kidnapping children and other people then use telephones to ask for ransom. In the process, the people kidnapped have been killed. I am, however, happy to say that when it comes to kidnapping, with the acquisition of more sophisticated instruments on the part of the police, I will call it

technology; the police have been able to trace the whereabouts of these organized kidnapers. A number of them have been nabbed.

Mr. Temporary Deputy Speaker, Sir, even when they are arrested, again, the penalties are not stiff enough. With the passage of this Bill, it will deter these criminals from kidnapping innocent people because the penalty will be very stiff. It is absolutely important that we do that.

There are also many other crimes that are coming up today which are fairly sophisticated because of the new technologies of the world. Once again, if you trace them, they are also organized crimes. Those are the ones this Bill is targeting.

Mr. Temporary Deputy Speaker, Sir, I should not close my remarks without drawing the attention of Members of this hon. House that sometime back, a similar Bill was prepared by the Government. At that time, it was prepared by the Attorney-General and he had wished to have it discussed. When one looked at the whole issue, the Bill was actually tabled here and then committed to the relevant Departmental Committee. The Departmental Committee examined this particular Bill very carefully. It also held meetings with stakeholders and unfortunately, at that time, before the committee could come with its recommendations to this House, it coincided with the dissolution of Parliament. That was in 2007 and the Bill was, therefore, not deliberated on by this House.

Since then, you can see that a lot of crimes of the nature we are discussing here have taken place. Had it, therefore, been enacted into law towards the end of 2007, a lot of these innocent people who have suffered and some killed would have been saved by now. It is for that reason that I strongly wish to recommend this Bill to this hon. House.

With those few remarks, I beg to move.

The Minister for Foreign Affairs (Mr. Wetangula): Thank you Mr. Temporary Deputy Speaker, Sir, for allowing me an opportunity to second this very important Bill.

If you look at the history and philosophy of organized crime, you will see that in many jurisdictions at one time or another organized crime or criminal gangs have literally brought very strong governments to their knees. If you look at the history of the United States of America (USA), Chicago, New York and other big cities have at one time or another, succumbed to organized crime.

Mr. Temporary Deputy Speaker, Sir, in Italy, organized criminals even kidnapped a former Prime Minister. They held him in captivity and killed him. You have heard of the stories of the Buddermen in Germany and the Japanese organized crimes.

In this country, I think we have come to Parliament with this Bill a little too late to the extent that what looks like village games have mutated to dangerous frightening criminal groupings that are now in some places ruling the countryside and places in the city of Nairobi.

Mr. Temporary Deputy Speaker, Sir, organized crime feeds on society. Where the society is poor, their mode of operation is largely violence. Where the society is rich, their mode of operation is more sophisticated, more commercial oriented and money making. You will find organized crime groups running what looks like legitimate business; import/export, banks, money transactions in very large quantities and so on and so forth.

This Bill attempts to address that. I would wish that when we come to the Committee Stage, the Minister who has moved it will be enriched by the debate and perhaps improve it.

I would want to see us moving from the known to the unknown. I would wish to see the Minister actually having a clause in the Bill proscribing all known criminal groupings in this country. Such as *Mungiki*, *Siafu*, *Msumbiji Angola*, *Chinkororo*, *Amachuma*, *Bagdad Boys*, *Jeshi la Mzee*, *Kamjesh* and all the others. I would wish to see that this Bill proscribes those known criminal groupings, so that they do not operate anywhere in this country. Let us also have a clause that will deal with those that will come later. If you look at the Chang'aa Act, you will see how we dealt with chang'aa. We described it in each and every of its form, for example, *machwara*, *machozi ya simba*, *owino rachar*, *kill me quick* and so forth. All those were described in the Act! I would wish to see the proscriptions done in this Act.

Mr. Temporary Deputy Speaker, Sir, I also want to urge my colleague the Minister that the description in Article 2(c) on page 90 where you say; "organized criminal group means a structured group of three or more persons existing for a period of time." It should not be! Even where there is an intention to form a criminal group or gang, they should be captured by the Act. We should not give them time that because they have existed for a period of time, therefore, they become part of the net of the act.

The Minister has also talked about the sentences and the offence created in Article 4. I want him to see the danger in this. In Article 4(i) and (ii), he is prescribing the sentence by giving the maximum. If he is running away from too weak penalties for offences of this nature, then prescribing the maximum is still leaving the latitude for the courts to go to the minimum. For example, if you say that a person who engages in any organized criminal activities specified in Section 3 commits an offence and shall upon conviction be liable to a fine not exceeding Kshs1 million - a fine not exceeding Kshs1 million can be Kshs1. Courts can do that legitimately. Further, it says; "or to imprisonment for a term not exceeding 14 years." A term not exceeding 14 years can be one day in jail! Then we will not be achieving what we are looking for. The Act should prescribe for the minimum. That you will not be fined anything less than, then you go above.

In many jurisdictions, if you go to Italy, when they battled the Cosa Nostra, the sentence they give even to the gun runner, leave alone those who handle guns, is a life sentence. And if you want to deal with organized crime effectively, 14 years with parole ends up with just about nine years. Many of these young people will come out even more hardened. We must make organized crime very painful for those who engage in them and we must prescribe sentences that are truly deterrent. That is the only way we can fight organized crime. We should prescribe for sentences that will reflect the seriousness with which we take this organized criminal activities. I know that the Minister and the Government and all of us are informed by the events of the day to the extent that the Bill is almost 90 per cent focusing on crimes of violence. We should look at most sophisticated crimes than just violence. We have organized crimes in human and children trafficking, prostitution and economic crimes. If you go to Naples in Italy where the Cosa Nostra rules, they run huge conglomerates like fishing. How do they do it? They make sure that nobody fishes in the waters. Even in Government, they run construction and legitimately win tenders. How they arm twist everybody to win those tenders is what we

must be fighting. You will find legitimately that they are supplying everything; on the face of it, it looks legitimate, but they are using criminal arm twisting tactics to win those tenders. You will find that they are in literally everything, including manufacturing. So, this Bill should be more sophisticated than what we have today. I know we are informed by the activities of *Mungiki* and other violent crimes that we are seeing. But as we achieve our Vision 2030, violence will become outdated. The criminals will see no need to be trotting with guns on the streets and they will now move into more sophisticated areas of crime. We must anticipate that and provide for it in this Bill. This will ensure that when we reach there, the Minister does not have to come back to Parliament to change the law to deal with organized crime.

What the Minister, I think intends to call the lesser offences, where he is giving, if you look at Clause 20, a prescription of sentences of Kshs500,000 as the maximum and ten years as the maximum. Again, what I said on the other sentences apply.

Clause 22 of the Bill worries a bit because the Minister is trying to give himself a discretion that is unfettered where he says:

“Where the Minister has reasonable grounds to believe that a specified group is engaged in any organized criminal activity under Section 3, he may, by notice, declare that specified group an organized criminal group for the purposes of this Act.”

As we fight these criminal groupings, of course, we must also take into account due process, human rights, rule of law and all the tenets of civilized society to the extent that we should not give a Minister alone discretion to reasonably believe and then strike a group that may not necessarily be organized criminal group. For example, if today an excited Minister decides that the “No group” against the Constitution is an organized group pursuing something he does not like, he can proscribe them. That will be an abuse. I must own up that I am plagiarizing the thinking of my Chairman here. I think this Clause should give the Minister an advisory committee where he places his reasonable thoughts to a committee to advise him, so that we take care of possible abuse because Prof. Saitoti may be good, but somebody else may not be as good. Somebody else may be driven by tyranny and dictatorship and abuse the law that we have, in very good faith, passed in this House. So, we must avoid that! As I always say on the Floor of this House, if you want to test a good law, imagine that law in the hands of one of your worst enemies. If you feel safe, then it is a good law. If you feel frightened, then it is not a good law. So, I would want to see that. that is also addressed.

Mr. Temporary Deputy Speaker, Sir, on the whole, as I come to my conclusion, I fully support the Bill. It is long overdue and it should be improved in the terms that I have suggested. I am sure many more of our colleagues will suggest focusing on economic crimes and other crimes of an organized nature. The sentences must be stiff. Above all we, as leaders, must all be on the front line of speaking candidly and openly against organized crime because it has led to many of our young people into jail in China, Iran and many places. I am talking of drugs! They have brought down governments. If we do not check them and nip in the bud, they will eventually affect our societies.

With those many remarks, I strongly second this Bill.

(Question proposed)

Ms. Odhiambo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill which is coming at an opportune time in the country when we are dealing with a lot of cases of organized crime. We have seen in the recent past increased cases of kidnapping, trafficking in persons, drug trafficking and many other cases of organized crime other than the ones of the violent nature that the seconder of the Motion alluded to.

It is actually interesting that coincidentally, this Bill is coming at the same time as the Counter-Trafficking in Persons Bill which is the order that they follow even in the UN. Under the UN, you have the United Nations Convention on Organized Crime of 2000 that is supplemented with the UN Protocol on Trafficking in Persons, especially women and children which is otherwise referred to as the Palermo Protocol. Therefore, I think in Kenya, we are alive to the fact that we need to deal with issues of trafficking in persons and other forms of organized crime in the country. I would also want to say in supporting this Bill that we must, as a country, deal decisively with cases of crime. One of the things that we have excelled as a country in the last 10 or 15 years is coming up with very many new laws, but the challenge has been the implementation.

So, it is not enough for us to come up with these laws, but we must show that we are serious in dealing with issues that affect us as a country. That is why I was personally happy that decisive action is taken, especially where there are allegations of hate speech. I know those who are innocent shall be found innocent in the courts of law. As a country, we must take decisive action because we do not want to see us going to our knees the way we almost did in 2007.

Mr. Temporary Deputy Speaker, Sir, I, however, wish to join hands with Mr. Wetangula by urging that certain amendments be moved to this Bill. One, if you actually look at the definition under Clause 7(c), it states as follows:-

“In considering whether a person is a member of an organized criminal group for purposes of this Part, the court shall have regard to the following factors, namely that such person-

(c) resides in or frequently visits a particular organized criminal group’s area and adopts the name, colours, symbol, style of dress and grooming, use of hand signals, language, tattoos or other representation associated with the organised criminal group;”

Mr. Temporary Deputy Speaker, Sir, my concern is that if this passes the way it is, the way I am dressed, I might actually be arrested as being part of Mungiki. While in other parts of Africa, the hairstyle I adorn is actually a mark of Pan-Africanism and intellectualism, in Kenya it is largely identified with a specific organized or purportedly organized criminal group. Therefore, we must find a way of re-wording it. Whatever colours people want to adorn, if I love green or red, really it cannot be a crime. So, we need to find a better way of defining that part.

If you look also at 7(d), it is also very largely oppressive. It says:-

“knowingly receives any financial or material benefit from an organised criminal group.”

There are many members of organized criminal groups who have gone to churches to pray and get saved. That will even preclude them from seeking salvation. So, we would like to look at this in light of constitutionally guaranteed rights of association and freedom of worship. We need to draw a very clear line to what is criminal activity and what are human rights. If you actually do certain activities and then commit criminal

acts at the end, we should punish your criminal acts but not certain activities that do not necessarily amount to criminal acts.

Again I would also want to agree with Mr. Wetangula when he says that the Minister has very wide discretions in defining what organized crime is. This again amounts to subverting our human rights as guaranteed under the Constitution.

Mr. Temporary Deputy Speaker, Sir, I would also want to urge the Minister that when we are looking at the amendments, let us also include the issue of coercion of women and children to join organized criminal groups because we know that in Kenya, that has been a big problem especially with the known organized criminal groups that a lot of women and children are coerced into joining that group. There should be a heavier penalty for that.

As Mr. Wetangula said, the trend is that now, we provide for minimum sentences; I support that. But the other trend is also that we provide protection for victims. So, in this Bill, could we also have a very specific provision that protects victims of organized crime? I would suggest that the proceeds that may have been received from crime should go into a victim protection fund.

Finally, I would also want to add my voice in saying that if you look at the UN convention of 2000, it is much wider and broader than this. Let us think more progressively as a country and let us not just look at the things that have affected us today, but let us look at organized crime very broadly.

With those few remarks, I support.

The Assistant Minister for Education (Prof. Olweny): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to make a few comments in support of the Bill.

Mr. Temporary Deputy Speaker, Sir, Kenya as a nation has suffered a lot from organized crimes since the colonial days. You remember during the colonial days, we had a lot of oath-taking taking place here and there. After Independence, we had a lot of that also, though the ones before Independence were associated with liberation. So, we can put it aside that it was part of our struggle.

After Independence, we had continued oath-taking which came in, in the days of Moi and people were forced to get involved in oath-taking activities. Very little was done to those people committing such crimes. It is good that the Minister has covered that quite well in the Bill.

We know that we have organized groups in Kenyan villages, urban centres and cities. Mr. Wetangula has talked of such well known groups as Angola Musumbiji and Mungiki which is terrorizing people across the country, the touts who have organized their groups that are terrorizing travelers and people operating matatus. We have heard about Bhagdad. The Chinkororo are very notorious for what they do in Kisii. They are all over the place. These people get away with crimes. Chinkororo cut people, they do all kinds of things but very few of them have been taken to court. Even if they are taken to court, they end up getting a light sentence. They come out and continue with the criminal activity. I have not heard of serious punishment being meted against people interfering with travelers or the operation of matatus. Mombasa Road is very notorious for organized robbers.

We have well organized robbers along Mombasa-Nairobi Road. Sometimes back in early 1990s, I was one of their victims. There were organized groups which always

terrorise travellers at night along Mombasa-Nairobi Road. Very few of them are apprehended. We did not have an Act in place to take care of this crime.

In this country where we have organized kidnappers, a few people have been taken to court over this crime. I think they are not the only ones who have been doing it. Imagine some drinking human being blood? This is terrible. You may be surprised that he may get very light punishment and, probably, come out again and continue with what he was doing. You may even be surprised that the court will say that there is not enough evidence to convict the man.

Mr. Temporary Deputy Speaker, Sir, our women have also suffered from organized rapists. We have them in villages and urban centres. But nobody addresses such issues squarely.

We also have incidents of piracy in Lake Victoria and Indian Ocean. This is affecting our economy because there is so much money which has been reported by the Central Bank of Kenya that we have around, which is not accounted for? It is, probably, monies brought in by pirates. If we have ways and means of getting this wealth from these criminals, they will be discouraged. People will be discouraged of getting into these criminal activities because if you do it, whatever you get out of it is taken away from you and you are jailed.

I agree with hon. Wetangula, some of the sentences stated here are big jokes. Do you want some people who have killed like Mr. Onyancha to be freed? This Bill says a maximum of 14 years. He can be sentenced for three months and after that he comes out and starts sucking blood. Let these years indicated be minimum; a minimum of ten years without an option of fine. That will adequately discourage such criminal activities in our country.

Mr. Temporary Deputy Speaker, Sir, the time has come for us to do something about this issue. A time has for us to do away with *Mungiki* and *Chinkororo* which politicians use. Even cattle rustling is actually organized crime. Some people say that it is part of their culture. How can your culture be organizing murders and maiming people? I do not think it should be allowed. This should be taken care of by this Bill. The time has come for us to take stern action against organized crime. This can only be done by this Parliament supporting and passing this Bill, so that we have an Act that takes care of this matter.

With those few remarks, I beg to support.

The Minister for Public Health and Sanitation (Mrs. Mugo): Thank you for giving me this opportunity to also support this Bill. This is a very important Bill. What is happening in our country is horrifying.

I have just come from a funeral of the young boy who was killed by the so called Onyancha, the blood drinking criminal. The parents who are asked to pay ransom cannot even afford Kshs1,000, leave alone Kshs40,000. So, things have gone bad. It makes everyone shed tears. As I was at that funeral, I wondered what has our country come to?

Mr. Temporary Deputy Speaker, Sir, we know these things that happen in other countries as well, especially the developed world. I was thinking what was causing our people to do these foreign cultures which are not African. I think as we look at the emergence of these crimes, we must also look at our entertainment programmes on televisions, newspapers and theatre. There used to be a time when some of those pictures were edited or censored. Today, you watch anything courtesy of the freedom of the Press.

Are we going to allow such messages to poison our people's minds? Kidnapping is foreign crime. It is not part of us.

Mr. Temporary Deputy Speaker, Sir, we should look into these programmes called entertainment and what it is doing to our people. If need be, we should introduce censorship again. Censorship of the media content was there, especially when the Kenya Broadcasting Corporation (KBC) was the only channel. But when many stations came up, it is horrifying to watch what goes on there. People, can argue, yes, it is in the internet. But the people who are committing this crime are not watching this through the internet. They do not even have those facilities.

As we enact this law, we must look at the root cause of these ills in our society. I do not think we have lack of enough laws to bring law and order with this country. I think the problem lies in implementation. This law will be there, yes, but who will implement it? Two months ago, in April, that is when this boy was kidnapped. This boy comes from Dagoretti. The parents gave to the police the telephone numbers of the person who was calling them for ransom. It took two months for the police to trace these people. It is said that sometimes you have to bribe or give *kitu kidogo* for your case to be followed. These people do not have *kitu kidogo* to give to anyone to follow their cases.

Mr. Temporary Deputy Speaker, Sir, I request the Minister in charge of Provincial Administration and Internal Security that even as he brings this law, he puts measures that will make the implementers of the law, that is the police officers accountable. When they get vital information they should not take, for example, two months before they arrest somebody like Mr. Onyancha who was leaving bodies everywhere. He did not even bother to conceal the murders, and yet they were never discovered. To me, it is not lack of enough laws rather than lack of implementation.

Three to four women were raped and murdered in the same place and yet the people who committed the crime have not been arrested. I support this Bill, but I also want to see some seriousness and strictness in the implementation process. We should have a special unit in the Bill that deal with these terrible crimes. These officers should be trained in this.

The organized groups such as Mungiki and Baghdad Boys have godfathers. It is the big people who organise these crimes and not the small boys who look for handouts. Will we first nab the organizers before we get to the young men and women who get into these problems? Most of those godfathers and mothers are really politicians or big businesspeople. As we make this law, let us think whether we are serious or it is just making another law.

Again, we hear that some of those who are recruited to the organized crimes are forced into it. Some are young school children who should be rescued. If they refuse to join the groups, they are killed or threatened. Even as we make this law, first and foremost, we must determine whether we are providing enough protection to the young people who are forced to join these organizations.

Mr. Temporary Deputy Speaker, Sir, as I support this Bill very strongly, I want to stress that it is the implementation that is lacking. There is also lack of seriousness. We should find out whether we need to retrain our police and judges so that when they pass sentences--- We should also eliminate corruption in these cases. I know what I am talking about and I feel very pained. This is because the father of this young boy tried very hard. I was even involved in calling the CID, the DC and the PC to get this case sorted out.

Although I support this Bill, I feel really pained. We do not lack enough laws but the implementers.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support the proposed Bill. First of all, I would like to say that I have been very impressed by the Police Force of late. Whatever it is they are doing, we need to give them the right tools and the right facilitation so that we keep hearing that criminals are apprehended when heinous crimes occur.

The gangs which are kidnapping and raping Kenyans--- I saw scenarios where people paid ransom, but the kidnappers still raped and killed them. Kenyans are living in fear. For those of us who have daughters, you do not know what will happen to them. For those of us who have children, you do not know what will happen to them because there is a section of the society which has decided to terrorise the majority. I, therefore, welcome this Bill.

I want to plead with the Minister who has moved this Bill that it should be wholesome. We could use this opportunity to do a bit more. When we say that a penalty for commission of an offence is for a period not more than 14 years, I do not think we are curing crime. In fact, we are creating an opportunity for corruption, given that latitude. We have a scenario where Kenyans know their neighbours who are criminals but cannot go to jail because of the laws that we make that say, not more than so many years. I recommend to the Minister that at the Committee Stage any person who commits a crime such as kidnapping or gang raping should go for life imprisonment without option of fine or leaving prison. That is the way I know they end such crimes world over. If there is really fear of somebody being jailed or hanged--- There is no reason for us to pamper these people in the society. We need to get the maximum jail term possible for certain crimes in this country. Right now the discretion is too much on the side of the Judiciary. It is our opportunity, as Parliament, to legislate once and for all, against such crimes.

There are some things we must do and are related to the current forms of crime. We passed a Motion in this House sometime last year which said that every person with a phone must register the SIM-card. The Government ought to know who owns that phone. It is too much for the police to keep tracing or chase these people. If you go to the United Arab Emirates, you will realise that it takes you very many hours to apply for a phone and before the phone line is activated. That is meant to curb crime. So, you cannot use a phone to intimidate somebody by saying, "I have your son, bring me Kshs 1 million or else---" An Asian friend of mine was captured in Thika and they stayed with him for almost 24 hours. The family had to raise Kshs3million. That kind of crime can be stopped immediately by implementing the Motion that this House passed. I understand the phone companies have turned into cartels because they smell money but we cannot live under that kind of regime.

We must know who owns what telephone line. After all, if you do not want to be known, you have no business being on public phone book. So, the mobile phones are fueling these crimes in such large proportions that we need to do something about it.

Mr. Temporary Deputy Speaker, Sir, I also want to urge the Minister that the title of this Bill need not be "organized crime" only. It needs to be "premeditated crime," such that if I sit somewhere and I go rent a gun and come to rob you in your home, I need to be charged under this kind of law and not under the Penal Code. This is very important. So, it is premeditation and not organized. Right now because of poverty, those people

manning bus stops decide when to harass our people. I think we can stop this by just doing the right thing. I think the opportunity is here. The Minister is a good Minister. I know he will work with Parliament and bring all these amendments at the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, in Uganda, there is no such a thing as organized crime, because it is tit for tat. In Uganda, President Museveni came up with something called Wimbledon operation. They gave amnesty and said: "If you do not come and turn in your guns by such-and-such a date, we shall consider you a militant group and deal with you militarily." Anybody who never turned in their gun was killed. In Uganda until today, if you commit a crime using a gun or you are caught with an illegal gun, you cannot be taken to the normal court. You are court martialled because you are a soldier. When you carry a gun carelessly, you turn into a soldier. Therefore, you will need to be treated as such. I think this is our opportunity because it is happening too much. Too many Kenyans are terrified and we cannot continue living without confronting it.

Mr. Temporary Deputy Speaker, Sir, I want to agree with Prof. Olweny that another big crime which is terrorizing our borders is cattle rustling, because it is a sport of the past in some communities. If you say that anybody who premeditates a crime of this nature will be charged under this law, you will end cattle rustling with a stroke of the pen as long as you do not leave the latitude for the courts to set people free. A criminal will end up staying in remand in Kamiti Maximum Prison for three years and then the courts rule that there is not enough evidence. This is because at that time relatives will have gone and seen the authorities. As a result, the people who provided police with information will now be terrorized by the same people who should be behind cells.

Mr. Temporary Deputy Speaker, Sir, lastly, I am impressed by the operations of the police in relation to these organized crimes. They say that there are so many illegal guns in this country. I have personally been caught up in a robbery where the guns used were G3 rifles. It was just here in Buru Buru. The way those people behaved showed that they were actually trained to use a G3 rifle. I know that you want to amend the Firearms Act. Do a simple thing. Each policeman must have a gun registered to their name so that they do not rent them out to criminal gangs. At the moment, a policeman would go and turn in his gun in the evening. It is then rented out and the following morning, it is given to another police officer. That loophole in itself is what is contributing to so many guns on our streets, particularly at night. I think we need to do that, so that it can help clean up the loopholes which pervade the force itself. I know that they are trying, but I think we need to make a law here that will make even our police force change once and for all.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Abdikadir: Thank you very much, Mr. Temporary Deputy Speaker, Sir. I also support the proposed law. I think we should have passed this law a long time ago.

Mr. Temporary Deputy Speaker, Sir, I think there is some confusion among hon. Members. This is the Prevention of Organized Crimes Bill. It is not a law against murder or robbery with violence or rape. We already have those crimes in our books, so that if you want to fight murder, the offence of murder is already known in our laws. If you are convicted, the punishment is death. Robbery with violence, which includes cattle rustling, again is punishable by compulsory death sentence. So, those laws already are, indeed, in our books. What was not in our books, which this Bill is trying to address, is

the organized nature and dealing with the organized entity and, therefore, making it a criminal offence to belong to that organized unit.

Mr. Temporary Deputy Speaker, Sir, again, I must agree with hon. Mugo that, indeed, our problem is not lack of enough laws. Recently, we passed the Anti-money Laundering Bill and we are now debating the Prevention of Organized Crimes Bill right now. In the next Order, we have the Counter-Trafficking in Persons Bill. We passed a Bill on drug trafficking sometime back in this House. So, the laws are, indeed, there.

The Minister for Public Health and Sanitation (Mrs. Mugo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I did not say that there is lack of enough laws. I said that we have enough laws. So, the hon. Member should not disagree with me.

Mr. Abdikadir: Mr. Temporary Deputy Speaker, Sir, actually, I agreed with the hon. Minister that we have those laws. As I enumerated, we have laws dealing with money laundering and proceeds of crime. We also have laws dealing with drug trafficking and substances such as those, murder, rape, kidnapping or any of those major offences. What this proposed Bill is addressing is the organized nature and then dealing with it. So, I think that is important to understand because the Bill is, indeed, correct in listing those offences under Part 2, Section 3 and then pointing out the offences and penalties under Section 4.

The reason why I do not agree with putting a minimum is exactly that. The Bill does not deal with a specific offence, for example, called murder. If you are dealing with murder, then you must say, for murder, we must say that we will have a minimum of a life sentence. That would go. For robbery with violence, the law says once convicted, one gets a death sentence. That is already concluded. However, for a Bill like this one, you have a particular minimum, the nature of the organized crimes are completely varied. Some are very minor while some are extremely major. When we say that the minimum sentence should be 15 years, the court would have no option but to give 15 years. The court's hands being tied might lead to a lot of injustice, which is the reason why the Bill rightly says that the maximum is either life sentence which is in Section 4(2) and that is not a small imprisonment or 14 years which is also not a small number of years. So, I agree with that. That does not in any way say that when you are guilty of murder or robbery with violence or rape, that you should be given one or two years. No! The penalties for those crimes are already known in law and they are severe.

Mr. Temporary Deputy Speaker, Sir, let me look at a number of issues concerning the Bill. I will start with the definitions. The first is the definition of "serious crime". Serious crime means a conduct constituting an offence against the provision of any law in Kenya punishable by a term of imprisonment of, at least, six months. That is not a serious crime under our laws currently. A crime that is punishable by six months is considered a misdemeanor. Misdemeanors are considered to be minor offences. Indeed, any crime that attracts an imprisonment of three years is considered a minor offence and that is how our law is structured. Even the structure of our courts is such that the lowest courts deal in criminal nature with crimes whose punishment is two years or below or a fine of Kshs10,000 or below. Those are the lowest and they are considered very junior subordinate courts or magistrates second class courts. Six months jail offences are considered at the lowest level. These are called petty offences. To make serious crimes is to bring a conflict within the law and this is not a reasonable thing. I think the Minister

needs to consider changing this definition so that serious offences are felonies. Felonies are any offences that attract a sentence of more than three years in imprisonment.

In the same paragraph, it says, an offence against a provision of any law in a foreign state for a conduct which if it occurred in Kenya would consist of an offence. Again, why would we want to tie into our municipal laws? If we have extradition issues, they can be handled through extradition. We should not bring in that, in my opinion.

Next is what a number of hon. Members have referred to, Section 7 which has a number of issues which are very broad. For example, we have Section 7(c) which Mheshimiwa Odhiambo talked about; groups area. How would you define a group's area? Would it be a location, a sub-location, a house or a town? If you reside or frequently visit that area, you will be considered to be a member of the group. That would require a lot of tightening. The same thing applies to "d". The word "knowingly associate", if you go to church with somebody who is a member of the *Mungiki* sect, is that considered associating or ascribing to the ideologies, practices or values? How would you define ideologies and so on?

While I agree with the need for the law being absolutely necessary, while we support the Minister in terms of the timely law, it requires a bit of tightening in those areas. I also agree with Minister Wetangula as far as Section 22 is concerned. Even though Clause 22(2) tries to address that in saying that the person aggrieved can go to the High Court and apply for the High Court to redress, I think this is a modern law. Hon. Members who feel that we need to deal with rape or kidnapping have misunderstood the nature of the law. I think it is a wonderful piece of legislation and if it is corrected, the House should give it all the support.

I support.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Bill. I also want to associate myself with the sentiments expressed by my colleagues in supporting this Bill. This Bill ought to have been enacted a long time ago. This country has experienced problems in crime. Even if one thinks that the crime is not organized, I want to believe that a lot of crime that is being committed in this country is organized. The robberies that we see in this country are organized. Recently, we have been witnessing people robbing security firms and no one knows where the funds go. Surely, this must be organized crime. When the Minister was moving the Bill, he alluded to the kidnappings which are now rampant in this country. We know that we have organized crimes. We have people trafficking drugs locally and internationally. If we were to go by the examples of other countries, it is time we addressed these issue of organized crime carefully because we know that some countries have suffered immensely owing to the neglect of organized crime.

We know of mafias and as we speak, we know that Mexico is undergoing very serious problems of organized crimes and drugs. People are being killed and murdered every day. Human trafficking, prostitution and other crimes are rampant in this country. That is why I am saying that we ought to have introduced this Bill a long time ago. Oathing has been described in the Bill. We have heard stories where people take oaths to be bound to certain modes of crimes. It is not news in this country. It is very real.

I want to take this opportunity to commend some members of the police force who have gallantly handled some of the organized crimes. We know that some of them

have risked their lives and some have been killed. These policemen have done a great deal of job. However, at the same time, I just wonder whether our police force is capable of fighting organized crimes if the crimes which have already been committed in this country are anything to go by. Therefore, as we talk about enacting legislation to fight organized crime, I think we must, at the same time look at our police force. Is our police force able to detect crime? The ability of the Kenyan Police to detect crime and even to prosecute it to conclusion is in question. Therefore, as we pass this Bill, we must consider, very carefully, whether the Kenyan Police force is capable of investigating, detecting and prosecuting. This is why I welcome another Bill or even the proposed constitution that creates the position of Prosecutor General who will be prosecuting some of these crimes. Prosecution in this country has been wanting. Most crimes go undetected and when they are detected, they are not properly investigated. When they are investigated, they are not properly prosecuted and, therefore, you end up with criminals being let loose. Therefore, I am advocating for strengthening the Kenya Police Force. We need to equip it adequately to be able to detect, investigate and prosecute successfully. With the Prosecutor-General's office coming up, I have no doubt this can be done.

Mr. Temporary Deputy Speaker, Sir, only a few days ago, we witnessed the bombing of innocent Kenyans in Nairobi. The trend in this country has been that whenever a crime is committed, the Police Commissioner calls the Press and tells them: "We are going to leave no stone unturned and we are going to apprehend the criminals who are responsible for this crime." This happened on Sunday and Monday. During the first one week, we hear too much about what is happening and then after one week, the matter dies and we do not hear about it anymore. Therefore, even before I continue, I want to urge the Kenya Police, in this particular case, to know that their credibility is on the line. Unless they successfully investigate this case of the bombing on Sunday and even prosecute it successfully, Kenyans will have lost faith and confidence in them. I am saying this because this has been going on for too long, many kidnappings are taking place every day and the case of Onyancha is very fresh in our minds. The man has killed about 19 people. Every time the relatives of deceased reported the matter, they were told that action was going to be taken. But no action was taken. This man was hoping to continue killing until his 100th victim.

Why would the Police Force allow a single person to kill so many people without detecting him? If they are unable to detect Onyancha, how would they detect these organized criminals who are more sophisticated? Therefore, I want to agree with those who have said that it is true that laws are there, and others are being passed, but implementation is lacking. It is not because we do not have laws. We have laws, but our police officers who have been given the task of protecting Kenyans have not lived to the expectation of Kenyans. Therefore, as we pass this Bill, I would like to urge the Minister responsible to let the Commissioner of Police know that Kenyans are not satisfied with the service that is offered to them by the Kenya Police in terms of detecting, preventing and even prosecuting crime. Even the economic crimes that have been committed in this country in the past, like the Goldenberg and the Anglo Leasing, the police has been unable to investigate them successfully. I am even wondering whether we will get people who will be able to investigate these sophisticated crimes.

Mr. Temporary Deputy Speaker, Sir, the penalty provided in the Bill, as the Minister for Foreign Affairs has said, is up to Kshs1million. So, it could be Kshs1 or

Kshs2. The imprisonment is up to 14 years and so, it could be one day or one month. At the Committee Stage, we will expect the Minister to come with an amendment to the penalty, so that the penalty is a minimum of Kshs1 million fine and a minimum imprisonment of 14 years or any other period, but not to say not more than 14 years or Kshs1 million. The penalty provided in this Bill is inadequate and it will be appropriate if that was amended.

Also, the definition of “organized crime” needs to be refined. The definition of “two or three people” needs to be refined. I want to agree with hon. Wetangula that some of the organized criminal groups which are known in this country should be stated in this Bill because already they are there. They should be prescribed. We keep on saying that *Mungiki* is a dangerous organized criminal group, but what action has the Government taken? We keep on talking about *Jeshi la Mzee* and *Kisungusungu*, but what is the Government doing? This is not because there are no laws. If this Bill is meant to strengthen the Police Force and protect Kenyans more, then this House will support it. But supporting the Bill and passing it will not help unless we put our acts together and improve the performance of criminal investigation in this country. Unless we ensure that everybody who commits a crime, whether individually or collectively is put to account, the law will not help.

Mr. Temporary Deputy Speaker, Sir, I support the Bill, but I urge the Minister to make amendments as we are suggesting during the Committee Stage. At the same time, I want to underline the importance of making the necessary improvements in the performance of the Kenya Police, so that any law that we pass here may be effectively implemented.

With those few remarks, I beg support.

Mrs. Shabesh: Thank you, Mr. Temporary Deputy Speaker, Sir. Most of the issues that I wanted to raise have been raised by my colleagues who have spoken before me. So, I will only speak on a few issues and leave the rest of the time for my other colleagues to contribute.

I would like to start by speaking on why we have organized crimes and to note to the Minister that irrespective of how well we formulate these laws, as has already been expounded by my colleagues, if we do not deal with the fundamental problem of our young people being jobless and restless outside, there will always be this problem perpetuating itself. No law can supersede the law of human nature of survival instincts. Unfortunately, we have found that some of our young people are recruited into these organized crimes because they see this as an avenue of getting some way of sustaining themselves. It is unfortunate that they then go into criminal activities, then into oathing and from then on become members of an organized society.

I would like to ask the Ministry, as they are passing these laws that help them curb these issues, they must also work in tandem with other Ministries that must be doing something to create jobs for our young people. Otherwise, all the work that you do may not be implemented because we continue to have more children who are out there after school and having nothing to do. As I am sure the Minister is aware, these organized criminal groups have filled a vacuum in some of the areas, especially in Nairobi, that has been left open by the security agencies. If today, you were to walk within Mathare or Korogocho, you would find that those organized groups provide security in these areas. As they provide security, they also intimidate people. They take the hard-earned money

from women who have been selling *mbogas* the whole day on the streets. This is a call to the Minister and the security personnel to pull up their socks and fill up the gap that is being filled by these organized groups.

Mr. Temporary Deputy Speaker, Sir, here is where I want to speak about the police. Within the Police Force, unfortunately, there has been some infiltration by these organized criminal groups, either through fear, intimidation, bribery or just generally wanting to be identified with that membership. We do not know which is which, but sometimes when you try to deal with the organized criminal groups as Members of Parliament or even as leaders and you go to the police, you find a block within the Police Force.

Mr. Temporary Deputy Speaker, Sir, I would like these laws to be able to address fundamentally how we should deal with our own security forces who take part in perpetuating organized criminal activities. Therefore, my plea to the Minister is that this law will be a good law but will not be implementable if we do not deal with the basic issue of the young people in this country who are restless and who need jobs created for them, so that we can deal with this issue once and for all.

I support.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Thank you, Mr. Temporary Deputy Speaker, Sir. Let me also add my voice to this Bill which has been moved ably by the substantive Minister.

I agree that at times there are problems here and there but you know when you are condemning the whole Police Force just for the sake of doing so, I do not think it is right. This particular Bill, which I request Members of Parliament to pass today, will give us a new lease of life. We will be able to identify those who bring criminals within our system. Kenya is not the first country with this kind of Bill. You will agree with me that even America has this Bill. The courts decide what to do with those who are arrested with these kinds of activities. In South Africa, there is an Act since 1988, although they have not enforced it. I would not want to see a similar thing happening in Kenya.

Mr. Temporary Deputy Speaker, Sir, if this Bill is passed, convicted criminals, after serving their jail terms will not come out and enjoy their loot. It is said here very clearly that once you have served your jail term, the proceeds from your loot will be sold. The Bill targets gangs, as my colleagues have also indicated, including human and drug traffickers. We are talking of corporate fraudsters, counterfeit currency printers, pirates, the *Mungiki et cetera*. However, we are hesitant to mention that we are going to target *Mungiki, Taliban* and so on. That is why the Minister has left a leeway. If you just target *Mungiki* and these other fellows, then they are going to use other names. They will keep on changing names.

Mr. Temporary Deputy Speaker, Sir, the Bill also says that:-

“A fine not exceeding Kshs1 million or imprisonment for a term not exceeding 14 years or both--“

The Attorney-General will have the powers to order a forced search for these criminals or their assets.

I will give one other example. G4S and some commercial banks have been hit by massive in-house fraud. That is organized crime. You remember the last two weeks we arrested some G4S employees and I know that after finishing their jail terms, they will be

left free to enjoy that particular money. About Kshs100 million is being stolen every now and again.

Mr. Temporary Deputy Speaker, Sir, there was a time taxis were brought into this country through Somaia. Later Somaia was arrested and jailed in-house just for two years after which he was set free to enjoy what he had looted. This Bill now targets the “Somaiais” of this world so that they will never enjoy what they have looted. Hon. Musila said that the police will not be able to enforce this new law. I beg to differ. The issue of police not enforcing any kind of Act is not because they are compromised. The police are getting demoralized because they do not have enough funds to remunerate them.

Last time, my Minister had constituted an Implementation Committee on Police Reforms and we had agreed even with Treasury that we are going to improve on the salaries and allowances of the Police Force. When we saw the Printed Estimates, there was only an increment of Kshs1, 500. If we are not serious with the allowances and the salaries of the police, this will be an exercise in futility and we are not getting anywhere. We do not want our police officers to be demoralized. We will train these police officers, equip them and they will be able to enforce this particular law.

Mr. Temporary Deputy Speaker, Sir, look at what the Printed Estimates are stating; that we will be given money for Closed Circuit Televisions (CCTVs). That particular money is within the Treasury. It is not given to us as a Ministry to implement. As long as we are going to have a demoralized police force, even if we pass this Bill and do not enhance their allowances and salaries, it might be an exercise in futility.

You are aware that kidnappers cannot get anywhere these days. It is simply because we have acquired new technological equipment to trace them. We did that simply because we had some money. So, I am very sure that even if we fund the purchase of equipment for the police, some of these things that we are talking about all the time will not happen again.

Mr. Temporary Deputy Speaker, Sir, we are proposing an amendment in this Bill to have a new Clause 26 which says that:-

“The Firearms Act is amended by inserting the following new section immediately after Section 4 of the Firearms Act.

4(a) 1: Notwithstanding the provisions of Section 4, any person who (a) is licensed under this Act to possess any of the firearms specified under Sub-section 2 and hires or otherwise allows another person to possess or use that firearm or is otherwise found to be in possession without a license of any of the firearms specified under Sub-section 2 shall be liable to imprisonment for life.”

Mr. Temporary Deputy Speaker, Sir, what are we trying to do here? We are trying to avoid the misuse of firearms by those who have acquired them through a licence or otherwise. If this Bill is passed and we implement this new clause together with the other clauses which we have introduced, I am telling you the criminal activities will reduce by 70 per cent. Why? It is because if the firearm holder does not have money in his pocket and he has a firearm--- The firearms we are talking of are the G3, AK-47 and the MG-5 or in wholesome, the automatic rifles, so to speak.

Mr. Temporary Deputy Speaker, Sir, we have lost innocent lives, including those of academicians. We have lost professors as a result of mishandling of firearms by criminals. So, we are saying that once this Bill is passed, if you are found with a firearm

without a firearms licence, you will be taken to prison for life. You will have to explain what you were doing with that firearm.

I would request my colleagues that as we debate the Finance Bill, 2010, they should consider seriously the issue of funding the Police Force. I would not want us to just condemn the police. We should not condemn them because they are not third class citizens of this country. They are also human beings. If we do not fund them properly, what would you expect a policeman to do?

Mr. Temporary Deputy Speaker, Sir, I would like to request Treasury to ensure that any anomalies detected in the Printed Estimates are corrected forthwith in order for us to be able to pay police officers Risk Allowance and salary as was recommended by the Implementation Committee.

With those remarks, I beg to support.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and thank the Minister for finding it timely to bring it to the House.

I am certain that if this Bill was introduced in this House a little earlier, many of the crimes and executions that we have witnessed in the past may not have happened. It is a Bill that is going to help the Police Force to track and deal with organised gangs in the country. I am particularly impressed with the way the penalty has been drafted.

It is important that we take cognizance of the fact that we have many people who have been crafted into these groups forcefully, some of whom are very young. Some of them were in Standard Eight when they were recruited into these gangs. It is important that the courts are given some leeway to deal with such young offenders or people who may have found themselves in situations they were not quite aware of, or who had no capacity to appreciate the full implication of the same.

Mr. Temporary Deputy Speaker, Sir, an hon. Member has suggested that penalties should be provided to deal with members of the security agencies who may find it necessary to be part of such gangs when they are supposed to prevent these crimes. That way, we will be able deal with security agents who massively benefit from the proceeds of such crimes. It is important for us to recognise the fact that we have people within the security agencies who only serve to help expand these gangs when they should be fighting them.

That is not to say that the police have not done a good job. They have done a good job but, as it has been said many times by the Minister himself, you are always bound to find a rotten potato in a bag of potatoes, and it is important that stiff penalties are provided to deal with officers who go out of their way to do things that are not useful to this nation.

Mr. Temporary Deputy Speaker, Sir, many hon. Members have talked about Clause 7(b). I want to add my voice on this one and say that it is rather too general, and that it is a bit tricky because we have locations which have many gangs. Virtually everybody in such a location could be a gang member. If you find yourself in such a location, that should not make you pay the Kshs1 million fine or get imprisoned for 15 years.

Clause 7(d) talks about a person who knowingly associates with members of an organised criminal group. There are areas where I am currently engaged in rehabilitation of people who have been in such groups. It is important that we differentiate these issues, so that you do not find yourself on the wrong side of the law by just having taken a

positive step towards getting these young people, who may have found themselves in places they never desired, out of them. So, it is important that we shield leaders who may have taken the initiative of trying to get some people out of such groups.

Mr. Temporary Deputy Speaker, Sir, again, it is important to appreciate the fact that when we go out looking for votes, we actually go to each and every person, including those in prisons, just in case they are released during the voting period. So, it is important that we do not provide for something that will come to implicate us just because we are doing what we are supposed to do; which is looking for votes.

I am also happy with the provision of confiscation and seizure of property. It is almost common knowledge that many of these gangs are sometimes meant to benefit some persons in authority and, more often than not, people who are fairly rich in society. It is important that the issue of forfeiture of property that may have been brought through activities of organised crime is enforced. We will have room to deal with people who put others on the front while they are the ones who benefit from all that is done by those people in the frontline. It is important that that provision is enforced once this Bill is passed into law.

Mr. Temporary Deputy Speaker, Sir, Clause 18(2) provides that the court may order the forfeiture of any money or other property. Paragraph 4 seeks to allow people who would think that they have offended to make their case. In so doing, we will make it clear that being part of such gangs will be of no use.

I do not want to say many things, but let me say that one of the very worrying things that some of us came across when we had an activity to do on these groups was when mothers would come before a committee and confess that their young boys were members of those gangs. They would explain it casually that the young ones joined the groups because they are poor, they have no education, they are not provided with this or that. So, it would look like something that one can just engage in at will.

Mr. Temporary Deputy Speaker, Sir, this Bill makes it clear that there is no casual business any more. You cannot say that your son is in such gang because there was nothing for you to eat, and that he joined the gang to look for money so that you can be fed as a family. There should be some kind of civic education on this law, especially in areas which are heavily affected by these gangs. Again, you cannot allow people to come and undertake oaths within your compound, or within your farm, because that farm could easily be taken away by the Government once the crime is proved to have been committed within that farm.

So, for many other reasons, and the few that I have mentioned, I want to support this Bill and say that it is timely. I think we should pass it. I want to thank the Minister for bringing it at this point in time. It will help this country to move forward. It will also help in terms of economic development. It will help young people in terms of making them exercise their minds more, so that they can earn a living rather than choosing the easy way out of earning a living from other people's sweat.

Thank you.

The Assistant Minister for Livestock Development (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, thank you for giving this chance to support this Bill. We are talking about organized crime which has a very long history. The organized crimes that we find today in the world like in Italy, Colombia, Afghanistan and even the United State of America (USA) were one day at the infant stage of the *Kamjesh*, *Mungiki* and

other gangs we have in this country. With time, these gangs will grow and penetrate the financial sectors and other important sectors of this economy. We are talking about prevention and control of organized crime in this Bill. This Bill must clearly specify how we form a very responsible implementation organ that makes sure that this Bill is implemented. We know that in this country and in many parts of the world that organized gangs have infiltrated societies. These gangs have taken advantage of free movement of goods and services across the borders. They have also taken advantage of the free movement of persons across the borders. This is within Kenya and also within the region. These gangs have, in many occasions exploited the differences that are in the legal system of different parts of the world. I want to give an example. Today, the European Union has harmonized the organized crime legislation in all those countries because they have realized that the legislation in Italy, Sweden and the United Kingdom gave rise to a system where the gangs could operate. So, they have gone for a harmonized organized crime legislation.

Mr. Temporary Deputy Speaker, Sir, this Bill has come at the right time because Kenya must be part of the global world. We must be very competitive. If you look at the countries we are competing with like South Africa, you will find that it enacted this law in 1998. The law was specifically meant to fight organized crime, money-laundering and make sure that all tainted assets are traced in South Africa.

I would like to touch on the issues that I see lacking in this Bill. I call them the strategies. What are the strategies for combating organized crime if this Bill has to serve this country and the bigger East African Economy? I feel that we need to strengthen the collection and analysis of data on organized crime. We must not only specify ourselves to Kenya but even to our neighbours. If this Bill has to see the light of the day and we see its benefits, then we must prevent the penetration of organized crime in both the public and the legitimized private sector. Organized crimes are in the private sector, public sector, in the economy and in the political sphere. I believe that if we had very good legislation on organized crime, what happened on Sunday at Uhuru Park could not have happened. I feel that in order for this Bill to be workable we must strengthen the prevention of organized crime and create a partnership between the country's criminal justice system and the civil society or the people in general. There must be harmonization. The criminal justice system based on the organized crime Bill must be in harmony with the other aspects of the society. We must always review and improve legislation. We might pass this Bill today and come back here tomorrow to review it. We must have controlled regulatory policies for this Bill to be implemented both nationally and regionally. This Bill has given us a clearly defined mechanism to trace, freeze and confiscate all proceeds of crime.

Mr. Temporary Deputy Speaker, Sir, finally, we must develop a systematic, regional and global co-operation with other countries. This Bill will not serve us if it will for Kenyans. This Bill must deter criminal gangs in Uganda, Tanzania, the pirates in Somalia and other countries which we are neighbouring. It should not just be a Bill which will only take care of *Mungiki* and *Kamjesh*. It should be a law that will deter the gang from Italy, Colombia, pirates in Somalia and drug dealers in Afghanistan from penetrating our market. This Bill is among the many Bills that the Tenth Parliament has passed and will pass that will put Kenya in a more competitive global business, secure, peaceful and stable.

Mrs. Shabesh: Mr. Temporary Deputy Speaker, Sir, since we have really exhausted debate on this Bill and would like to move it to the next level, would I be in order to request that the Mover be called upon to reply?

The Temporary Deputy Speaker (Mr. Abdikadir): I believe you have not contributed on this Bill.

Mrs. Shabesh: I have, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Abdikadir): Then you are barred from making that request!

Yes, Mrs. Laboso!

Mrs. Laboso: Mr. Temporary Deputy Speaker, Sir, would I be in order to request that the Mover be now called upon to reply?

The Temporary Deputy Speaker (Mr. Abdikadir): Indeed, you are in order.

(Question, that the Mover be now called upon to reply, put and agreed to)

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Thank you very much, Mr. Temporary Deputy Speaker, Sir. First of all, I want to record my appreciation to all the hon. Members who have spoken in support of this Bill. This is an indication that this Bill was overdue. From the crimes we have experienced especially the kidnapping, we want to ensure that this Bill is enacted into law so that the police can address this menace that Kenyans experience all the time. Hon. Members have given various reasons for the existence of a number of organized criminal gangs. I agree that our economy cannot create employment opportunities to all the young people who are qualified.

This has also created a lot of problems. But at the same time, we must also take into account the fact that one of the most important factors for ensuring the sustainability of economic growth is security. Security is extremely prime and indeed a major determining factor as to whether both foreign and even local investors want to actually invest in this country. The local investors, even if their businesses are doing extremely well, if they know they are being threatened from time to time by these organised criminals, they would rather downsize because as they expand their own enterprises, they become targets of extortion and of various crimes. If they have surplus funds, it is used for consumption. Consumption does not contribute to the development of the economy. Foreign investors with substantial resources who will also want to invest in this country would like to know whether their investment is going to be secure. If they think their investment is not going to be secure and that they are going to incur a lot of expenditure just because, for example, of bureaucracy or red tapes, then they are going to wonder whether they are also going to be safe. Are they going to end up being exploited, which, of course, is not the case here? But more important, are they going to spend more money because criminals or organised gangs are there all the time, taking profits so that they cannot work? Then they are not going to invest.

I want to appeal to Members of Parliament and this House as well, it is true that we need a reliable and highly motivated Police Force to ensure that the criminals are actually brought to book. Why then do we normally say that our police do not do their work? When something has happened, we condemn them, because they are very visible.

As the Minister who is in charge of internal security and the police, I have looked at the working conditions of the police and I know where they live, I know what they earn and I have to be clear and state this message clearly.

Once a person is employed as a police officer, his starting salary is Kshs11,000 per month. This is very little. You then go and look at the living conditions of these people, they have got families and children who are at school. These people are expected to work 24 hours a day and yet we say we have got to pay them just like the ordinary civil servants. The ordinary civil servant reports to work at 8.00 o'clock and they have a lunch break. They leave their offices at 5.00 o'clock and work for five days. Police officers are expected to work for 24 hours, seven days a week. They have been exposed to major risks. We need to establish a task force to go and check exactly what needs to be done so that we have motivated force. We want police officers who can do their work without asking for bribes. That is the only way to zero in on them. How many people think in terms of making sure that these people have certain things so that we can lean on them? Use the carrot and stick and get rid of the rotten ones.

How are we going to have security if the people that we depend on for our own security do not have enough money to feed themselves and their families? That should trouble our conscience, we, as leaders in this country. Yes, this is an important Bill and we want to pass it to deal with organised crimes. There are many cartels in this country. Those cartels are the ones which are destroying fair competition in business as such it is hard for it to grow. Those are the ones who are deterring major investors from coming and putting their resources here. So if you employ somebody as a police officer and then you pay him Kshs11,000 a month and somebody else comes and offers him Kshs50,000, he will think twice and say: "Oh, yes, let me be caught and go to hell, but at least, I want my family to get some food." I am not defending the corrupt police officers. We are determined to remove them from the force. I am determined to carry our major reforms, I am determined that we have the best police force here but that will cost money.

To reform the police, we are going to pay. If we think that reforming the police is expensive, then you try crimes and see what happens to the country. So that is what it means and my appeal is that this country has the potential abroad and it is a country respected all over internationally because the Kenyan people are resourceful. Indeed, in the entire continent, I do not think you have more hard working people than the Kenyans. They are the most industrious people. It is true. Whether it is in agriculture, whether it is in business, whether it is profession; if you go to South Africa, you will find Kenyans there working in the banks and the medical services. If you go to the universities, they are there. Kenyans are working in every southern African country as professionals. We have them in Tanzania and Uganda. If you go into the hospitality industry, you will find that Kenyans are managing important hotels in West Africa and even in Europe. How many Kenyans do we have even in industrialized countries and they are all professionals? I think it is high time we also started knowing that we have moved far ahead than other countries. However, we need to sort out some few issues properly and security is one of them. We have also got to ensure that security comes along with responsibilities. The careless utterances we also make are amazing.

So I want to assure the hon. Members that at the Committee Stage, we will introduce the amendments they have proposed. Indeed it was stated by my own Assistant Minister that one day we are going to deal with the merchants of arms and weapons and

the warlords. There are a number of them. Every country has gone through what we have gone through. It happened in the industrialised countries. That is why they put in these strong legislations. Italy was one country by the way which suffered heavily as a result of the machinations of the mafia. Mafia played Italy. All the time you look at the statistics, Italy was a poor country because no money was being collected to go to the Exchequer. Most of it went into the hands of the criminal gangs, the Mafia, the Mafioso as you call them.

We also know that even countries like Russia have gone through this problem. They have the Russian Mafia, but they have actually been dealt with effectively. In the Ukraine, we have them. So, we must move! In Latin America, we have many of those criminal gangs in drug trafficking and women trafficking. All these things we must bring them out.

Mr. Temporary Deputy Speaker, Sir, I am very happy with the manner in which this Bill has been received by hon. Members. I think once the Bill goes ahead and becomes law, we would have actually gone one, two or three steps in ensuring that our country is peaceful. But remember, when we come to discuss about the police remuneration and other things, we have to understand that security also costs money.

With those few remarks, I beg to move.

(Applause)

(Question put and agreed to)

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

The Temporary Deputy Speaker (Mr. Abdikadir): Next Order!

THE COUNTER-TRAFFICKING IN PERSONS BILL

Ms. Odhiambo: Thank you, Mr. Temporary Deputy Speaker, Sir, I beg to move that the Counter-Trafficking in Persons Bill be now read a Second Time.

This Bill is a Bill for an Act of Parliament to implement Kenya's obligations under the United Nations Conventions against Trans-National Organized Crime, particularly its protocols to prevent, suppress and punish trafficking in persons, especially women and children; to provide for the offences relating to trafficking in persons and for connected purposes.

Mr. Temporary Deputy Speaker, Sir, I would want to say at the outset that I have worked a lot over the years on issues of counter-trafficking. Before I joined Parliament, I worked with Cradle, the children's foundation which is an organization that works for the rights of the child. While at the Cradle, I came across a lot of cases of trafficking in persons and consequently, started working on a draft Counter-Trafficking in Persons Bill. So, by the time I came into Parliament, we already had a draft Bill.

I want to acknowledge several persons and organizations that we worked with. I want to acknowledge the Cradle, the children's foundation, the Federation of Women Lawyers, Association of Media Women in Kenya, the Law Reform Commission, the

United Nations Office for Drugs and Crime (UNODC), the International Organization for Migration (IOM), the Ministry of Justice, National Cohesion and Constitutional Affairs, the Office of the Attorney-General and the Ministry for Gender, Children and Social Development. Even when I came to Parliament we worked with the Parliamentary Caucus on Children and the Kenya Women Parliamentary Caucus.

Mr. Temporary Deputy Speaker, Sir, as I had indicated earlier, it is actually coincidental that we are actually bringing the mother and the child on the same day; that even at international level, the UN Convention on Organized Crime is actually the mother convention, and the Palermo Protocol actually supplements it. So, what this Bill does is actually to supplement the Bill that has just been passed. Therefore, I am, indeed, happy because it speaks very largely to the same issues, save that it is very, very specific on issues of trafficking and specifically on trafficking of women and children.

Trafficking would be considered as modern day slavery. In the past, slavery as was done, was actually acknowledged and accepted by the State and even by the Church, and the action by persons who were practicing slavery was sanctioned by these groups. The major difference now is that it has become an underground organized criminal activity that is done by several groups and has both the national, regional and international dimensions. It is the third most lucrative organized crime worldwide, second only to drugs and crime trafficking.

Mr. Temporary Deputy Speaker, Sir, according to UN estimates, it actually generates US\$7 to US\$10 billion annually. According to the UN Protocol to prevent, suppress and punish trafficking in persons, especially women, which is the Palermo Protocol, it is defined - and I want to read:-

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons”

Which in our international parlance we call the “what” of trafficking;

“by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person---”

Which is what we consider the “how”; and for the “why,” which is:-

“for the purpose of exploitation.”

Exploitation at a minimum, means:-

“Exploitation shall include, at a minimum, the exploitation of the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”

Mr. Temporary Deputy Speaker, Sir, under the Bill that I have brought, we have tried to Kenyanize it and, therefore, when we talk about exploitation, we actually have not made reference to prostitution, which is actually criminalized under the Kenyan law. I would also want to say that if you actually look at the definition, it comes back to some of the issues that hon. Members have spoken about in the previous Bill; that there is a very big or distinct difference between organized crime and organizing to commit a crime. Organizing to commit a crime, even if there are two or more people, does not necessarily make a crime organized crime. But there are very, very clear elements and for trafficking in persons, there must be the “what”, the “how” and the “why.” There must be a level of a group of persons, which is three or more, and the activity must include some

movements. It must also include very elaborate organizing and it must be for purposes of exploitation.

Mr. Temporary Deputy Speaker, Sir, trafficking in persons has several facets. It has the human rights facet. If you look at the human rights facet, it deals with issues of denial of the right to life because at times the victims of trafficking end up being killed. It has to do with the denial of rights to movement, denial of the right to liberty and sometimes it also affects our right to physical integrity because a lot of the victims of trafficking are subjected to torture, cruel, inhuman or degrading punishment or treatment. It also has immigration components because a lot of times, especially for trans-boundary trafficking, a lot of people have to use fake documents and in Kenya we are a target because of our porous borders.

It has a gender dimension, because a lot of the persons who are trafficked tend to be women. Then, it has a child rights component because a lot of the persons who are trafficked are also children. It also has justice issues because in a lot of countries, victims of trafficking tend to be treated as criminals when, in fact, they are actually victims and should be treated as such.

If you look at the prevalence rate of trafficking in persons, as at the year 2006 the US State Department estimated that between 600,000 to 700,000 persons were trafficked annually. The United Nations Development Programme (UNDP) estimated that they were between 700,000 to 2,000,000 people who were trafficked internationally. But if you look at the trans-national trafficking then it moves to 4,000,000.

The International Labour Organisation (ILO) estimated it at around 12.3 million people annually. In Kenya the figures are very big especially if you look at the issue of internal trafficking. If you look at the one that is very problematic to us as a country, especially the issues of sexual exploitation of children, between 10,000 to 30,000 children are sexually exploited in child sex tourism in the coastal region of Kenya.

Mr. Temporary Deputy Speaker, Sir, as at the year 1997 Kenya was defined as a transit country by the UN Special Rapporteur on violence against women. Unfortunately, over the years Kenya has moved from being merely a transit country to a source country and destination country, especially in relation to trafficking of women and children. Because of that, Kenya has consistently been put under Tire II which means that it is always on the international watch list. This is because there is evidence of trafficking but as a country we have not done enough to stem the rising tide of trafficking against persons especially women and children.

In Kenya we have seen many cases. In the year 2005 or 2006 we remember the case of Anne O'Brien who originally came from Kiambu and married an Irish man. She was actually trafficking many Kenyan girls to the United Kingdom (UK). Anne was jailed but it actually brought to the fore cases of trafficking. We also saw the case of Bishop Deya who was performing miracles, save that the miracles which were being performed had to do with our children being trafficked to places outside Kenya. Kenya is not the only African country that has that challenge. Many West African countries have a big problem in relation to trafficking in persons. Countries like Nigeria and several other countries have had a big problem especially of their young women who are trafficked to Italy especially for purposes of sexual exploitation.

Mr. Temporary Deputy Speaker, Sir, in Kenya predominantly, our women end up in the Middle East especially for exploitation of their labour. We also have internal

exploitation of child labour. We also have child sex tourism as I had indicated before. We also have a growing concern on issues of illegal adoption. About a year ago, there was a case that was tried in one of the courts in the UK which involved a child who had been moved and taken out of Kenya illegally and had been adopted illegally. The challenge is that sometimes people may be desperate to have children and may not harm them. But when you have those kinds of leeway then you might have situations where children are removed out of the country and eventually their organs are removed.

Some of the causes of trafficking in persons include poverty, especially in Kenya and then the lie that we frequently refer to as “the better life syndrome”. This is where most of our poor and desperate young people are told that if they go out of the country, there are prospects of better life. However, when they go out they discover that, indeed, there is no better life. They instead do jobs that are generally called the 3Ds – Dirty, Dangerous and Degrading jobs that residents of those countries cannot do themselves.

Mr. Temporary Deputy Speaker, Sir, one of the other reasons that causes trafficking in Kenya is our porous borders, our weak legal framework, wars and internal armed conflicts especially following the 2007 conflict, we had a lot of cases reported to the organizations that I worked with which involved trafficking in persons. Whenever we have calamities like the one we witnessed in Haiti then suddenly you see many people who may come pretending that they want to assist but they use our children and take them out for purposes of trafficking.

Another challenge that we face as a country is flawed birth registration system. I want to say that many people have been misinforming the public that, especially, Article 14 of the proposed new Constitution, will be used to allow children especially from Somali to be taken to Kenya because it provides that any child below the age of eight years will be presumed Kenyan.

The persons who suggested that clause are persons like me who work with children’s organizations and have seen the way our flawed birth registration systems have been detrimental to our own children. Some have been stuck in institutions for years because we cannot document them as a country. Some then become targets of crooks who then use fake systems like the case I was reporting about in the UK, where a child was taken away using fake birth certificates. That child had at three instances a Kikuyu, Luo and Luhya names with all birth certificates. These birth certificates were issued in Kenya. Therefore, what we said is that if we have a child below eight years, they will be presumed Kenyan. The reason they will be presumed so, is because in law when you talk about a presumption, it means that if we find other reasons to show otherwise, then it will be rebutted. So it is not guaranteed and then in any event, a law shall be passed that will ensure that there is a mechanism that will show us. Many of these children are Kenyan children, speak with Kenyan accents like me and you. They speak our local languages and, therefore, indeed, they are Kenyans. We cannot tell who their mothers and fathers are, either because they were thrown in dustbins when they were born and so forth, we are not able to document them. That is one of the reasons that we, in the children’s sector and not mischievous persons as has been indicated, especially from outside the country, encouraged such provisions be put into our proposed Constitution.

Mr. Temporary Deputy Speaker, Sir, one of the things that has also promoted trafficking in persons is the gender inequality and low status that the society has put on women. Because of this, many of our women are mistreated and become vulnerable to

persons who want to abuse them. According to statistics, as at 2006, we had 892,000 orphaned children, especially as a consequence of HIV/AIDS, in this country. These children become very easy targets of persons who cannot traffic them out of the country. We also had 250,000 street children as at last year. As I am speaking now, the numbers have, probably, increased; I do not have the figures, but this shows that unless we have a very strong legal framework, we cannot aptly protect our children.

Another thing that may or has, indeed, caused trafficking is the growth in technology; that now through Facebook and other systems, we are able to very easily communicate across borders. There are many children who hide in Facebook and pretend to be who they are not. So many young people meet persons who they think are their friends and not only in Facebook, but other internet chat rooms. Many children have either been sexually abused or trafficked through such ways. So even though technology is positive, it also has its disadvantages that we must also look at very carefully. There is also the issue of marriage and mail order brides. In Kenya, especially among certain communities, they are encouraged that for you to get a good and wealthy husband, you can do it through mail order. We have many Kenyan girls who have then gone out of the country and have found that whoever they thought they were marrying never showed up. I did a research 2006 and many of the girls said that they were promised marriages; they went out of the country, but instead they were turned into prostitutes.

Mr. Temporary Deputy Speaker, Sir, the other thing that makes trafficking very lucrative is the issue of sale of organs and occultic practices. We might think that some of these things were strange, but we saw very recently in the case of Onyancha who said that he was recruited by a fellow Kenyan. We may not know right now because it may just be a tip of the iceberg, but it might be a ring because in the UK and---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Abdikadir): Order, Ms. Odhiambo! You have a balance of 44 minutes.

Hon. Members, it is now time for interruption of the business of the House. The House is, therefore, adjourned until Tuesday, 22nd June, 2010, at 2.30 p.m.

The House rose at 6.30 p.m.