

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 22<sup>nd</sup> June, 2010

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the resolution of the House on 3<sup>rd</sup> June, 2009, urging Government to facilitate induction and training on financial and resource management for all Ministers, Assistant Ministers and other Constitutional Office Holders.

*(By the Assistant Minister, Ministry of State for Public Service  
(Maj. Sugow) on behalf of the Minister of State for Public Service)*

## QUESTIONS BY PRIVATE NOTICE

WITHDRAWAL OF MEGA INITIATIVE  
WELFARE SOCIETY COURT CASE

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

Under what circumstances are the Police withdrawing the case of conspiracy to defraud (Re. CR/121/283/2010, CF542/2010) in respect of Mega Initiative Welfare Society?

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

Mega Initiative Welfare Society was formed in the year 2004 by about 3,000 members under the Chairmanship of one Peter Kuguru. In 2005, the Society resolved to form Mega Bank Ltd. with a board of Directors chaired by Prof. Francis Gichaga. But by 2007, the Society had only raised Kshs42 million which was short of the Kshs250 million required to form a bank. As a result the members resolved to form a micro-finance institution instead in their meeting held on the 20<sup>th</sup> July, 2007, at Sagret Hotel, Nairobi under directorship of the Board of Directors of Mega Bank Limited. This meeting was chaired by Mr. Peter Kuguru.

Mr. Deputy Speaker, Sir, on 15<sup>th</sup> January, 2010, Peter Kuguru who had earlier resigned as the Chairman of the Society, reported to CID Headquarters that the current

Directors had embezzled funds of the Society. Consequently, the following suspects were arrested and charged before the court: Kamau Muchuha, Andrew Nkiiri Thirinja, Newton Kamau Ngathe, John Mutua Ngathi and Edward Nyaga Mashimba

All the five suspects were charged with the offence of conspiracy to defraud contrary to Section 317 of the Penal Code vide police file No.CR.121/283/2010, court file No.542/2010 on 7<sup>th</sup> April, 2010.

Mr. Deputy Speaker, Sir, investigations into the case are ongoing. The CID Director decided to seek advice from the Attorney-General and on 14<sup>th</sup> May, 2010, the file was forwarded to him for advice vide his forwarding letter No.CID/IB/SEC/4/6/Vol.111 (27).

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, my Question was very specific. For the benefit of the Assistant Minister if he did not understand it, my question was simply: Under what circumstances are the Police withdrawing the case of conspiracy to defraud in respect of Mega Initiative Welfare Society?

He has not responded to this Question. I say so, because there is a letter here from the Director of CID. Let me read the letter with your permission. The accused are Kamau Mukuha and four others. The letter says:-

“The Director of the CID has instructed that the case be withdrawn under Section 87 of the Criminal Procedure Code to allow further investigation of the case.”

These the tactics the police use to deny justice. Under what circumstances are the police withdrawing the case because investigations have been completed?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I want the hon. Member to disregard that letter.

Mr. Deputy Speaker, Sir, we have taken the file to the Attorney-General for advice. We have charged these fellows with nine counts. We are yet to get the witnesses. That is why the investigations are still going on. We forwarded the file to the Attorney-General by 14<sup>th</sup> of last month. So, the issue of a letter coming from the Acting Director of CID or anybody else should not arise. I would want the hon. Member to ignore that letter. If he wants us to put it in writing we would do so.

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Assistant Minister in order to ask the House to ignore a letter that has been tabled which is signed by the Acting Director of CID advising the OC, Prosecution of Kiambu Law Courts to withdraw the case under Section 37(a) of the Criminal Procedure Code to allow further investigations?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, that letter has been overtaken by the unfolding events. That is why I have told the hon. Member to ignore the letter. Even if you read this letter, it was written sometimes back. We have a letter which was written on 14<sup>th</sup> May, 2010, taking the file to the Attorney-General for advice. That is why I am asking him to ignore that letter.

**Mr. Linturi:** Mr. Deputy Speaker, Sir, many times the police have taken law into their own hands. They harass people who are perceived to be criminals, indeed, when they are not.

Mr. Deputy Speaker, Sir, in this matter, if I got the Assistant Minister right, the matter was withdrawn because they were still pursuing certain evidence. Why did the police charge somebody before collecting enough evidence that could have enabled them prosecute the matter to completion?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, that is a very good question. When the matter was reported that there was embezzlement of Kshs42 million, they had to move fast in order to get back the money. There are cases that are still pending because of evidence. First, the police wanted to verify the signatures of the directors. Secondly, it was very difficult for the police to co-operate with the banks. The bank managers were not co-operating with the police officers. We have decided that the case is ongoing. We have written a letter to the Attorney-General to give us the interpretation. Within a month or two some evidence will come out and the case will continue.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, how long had they taken from the time it was reported until today to take that mild action?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, it is not a question of how long. This is a fraud case just like the Goldenberg case which has not been resolved up to now. It is important for us to zero in on the person who took the money or who wanted to steal the money. So, it might take two or three months, or one year. The police must zero in on the person who took the money. We cannot just arrest any Tom, Dick and Harry.

**Mr. Mututho:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to list some crimes as Goldenberg type so that they will never be prosecuted because of shortcomings in the police? Why can he not tell this House that fraud was committed on this day and people have been taken to court?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, I just gave an example. Ordinarily, on fraud cases you must zero in on the person who got the money through false pretence. The police are doing good work. Within two months I will be in a position to inform this House what we have so far come up with. We are going to arrest these fellows once the Attorney-General gives us the go-ahead.

**Mr. Deputy Speaker:** Mr. C. Kilonzo, ask your last question on the same.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, the example the Assistant Minister has given of Goldenberg case is a very bad example. The reason that case should not be used as an example is the complicity within the Government and the police force. It took the officials of this society to write to the Commissioner of Police who later wrote to the CID for these people to be arraigned in court. Now that they are in court, we want an assurance. We want the Assistant Minister to table a letter here withdrawing the earlier letter showing that the case is not being withdrawn by the police.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, there is no need of tabling another letter. I have assured this House that we will arraign these guys in court once the Attorney-General has advised the CID. Two months is not a long time. We will arraign these guys in court once we have collected evidence that, indeed, they committed the crime.

Mr. Deputy Speaker: Let us move on to the next Question by Mr. Olago Oluoch!

INTRODUCTION OF *TUK TUK*/MOTORCYCLE  
LEVIES BY KISUMU MUNICIPAL COUNCIL

**Mr. Olago:** Mr. Deputy 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 the Municipal Council of Kisumu plans to levy Kshs880 per month for each *Tuk Tuk* operating within its jurisdiction and a further Kshs500 per month

for each motorcycle with effect from 1<sup>st</sup> July, 2010 and if so, could he clarify the legal validity of the levies?

- (b) Could the Minister demonstrate the level of stakeholder consultations that took place before the levies were effected?
- (c) Could the Minister confirm to the House that he will degazette these levies as a matter of urgency before 1<sup>st</sup> July, 2010?

**The Assistant Minister, Office of the Deputy Prime Minister and Minister for Local Government** (Mr. Nguyai): Mr. Deputy Speaker, Sir---

**Mr. Olago:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is it, Mr. Olago?

**Mr. Olago:** Mr. Deputy Speaker, Sir, I wish to state that I have not received a copy of the written answer the hon. Assistant Minister intends to give. In view of the circumstances of this Question, it is important that I interrogate it properly. I will not be able to do that if I do not have a copy of the written answer.

**Mr. Deputy Speaker:** Not when it is a Question by Private Notice. When it is a Question by Private Notice you could have the written answer or not.

**Mr. Olago:** Mr. Deputy Speaker, Sir, may I seek your indulgence. I am aware of the rules. In view of this, I ask for special leave to get a copy of the written answer so that I can have time to interrogate it even if it means taking this copy and dealing with this issue within the week. It is very important. The issue of *Tuk Tuk*, *Ngware* and *boda boda* in Kisumu is very emotive.

**The Assistant Minister, Office of the Deputy Prime Minister and Minister for Local Government** (Mr. Nguyai): Mr. Deputy Speaker, Sir, the procedures for Questions by Private Notice are quite clear. It will take me a few minutes to read out the answer. He will then interrogate. There is no opportunity now to give him a copy of the written answer.

Mr. Deputy Speaker, Sir, I beg to reply.

**Mr. Deputy Speaker:** Order, Mr. Nguyai! Under the circumstances, since you claim that the Question is very short, the Chair directs that you furnish it to the Questioner with a copy of the answer and the Question will come after the last Question by Private Notice.

Let us move on to the next Question!

#### STATUS OF STRATEGIC GRAIN RESERVE

**Mr. Mututho:** Mr. Deputy 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 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? 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? Could

District Commissioners be compelled to submit returns of beneficiaries of relief food per consignment to the respective Members of Parliament?

**The Assistant Minister, Ministry of State for Special Programmes** (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, I beg to reply. First and foremost, I want to take this opportunity to apologise to the House. Last week both the Minister, Dr. Naomi and I were not in the House because of unavoidable reasons. I had gone to my constituency because there was some tension on the ground. I had made proper arrangements, but unfortunately a conference came up and the Minister had to open it.

Mr. Deputy Speaker: Fair enough! The Chair is satisfied.

**The Assistant Minister, Ministry of State for Special Programmes** (Mr. M.M. Ali): Thank you very much.

I beg to reply.

- (a) The current status of the SGR stock stands at 3 million bags of maize each weighing 90 kilogrammes. This is expected to rise because farmers are selling maize to the National Cereals and Produce Board (NCPB). The Government is in the process of buying more from the farmers.

In the legal gazette notice that created the SGR, provision has not been made for powder milk to be part of the SGR. Therefore, we do not have any amount of powder milk as part of the stocks.

- (b) The forecast for the next 12 months is good because we have received a lot of rain in the agricultural parts of the country. The actual forecast in terms of projections falls under the mandate of the Ministry of Agriculture and this part of the Question should be directed to the relevant Ministry.

With regard to systems---

*(Loud consultations)*

Mr. Deputy Speaker, could you protect me?

**Mr. Deputy Speaker:** Order, hon. Members! Order, Mr. Lessonet! The Assistant Minister deserves to be heard in silence.

**The Assistant Minister, Ministry of State for Special Programmes** (Mr. M.M. Ali): Mr. Deputy Speaker, Sir, with regard to the systems used for transportation, we use the traditional ways of transporting food from the depots to the places required. No much loss has been reported. However, there are occasions where food has been delayed due to bad roads. We are moving with speed and co-ordinating with the relevant Ministries to ensure that our roads are done properly so that food reaches the designated areas efficiently.

As to the modern techniques, electronic cards and food vouchers are being considered under social protection programme, that is, the food subsidy programme which is being co-ordinated by the Office of the Prime Minister and implemented by the Ministry of State for Special Programmes in collaboration with various Ministries. In the event that this proves to be efficient, we shall revert to this system accordingly.

The hon. Member wants us to publish the guidelines by the famine relief committees. I hereby table the guidelines so published.

Mr. Deputy Speaker, Sir, the hon. Member also wants to know what role the Members of Parliament play. Members of Parliament are also members of DSGs which meet regularly in the districts and identify needs and distribute food accordingly.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, you heard the Assistant Minister's response to part "a" of the Question. He said:

"The actual forecast in terms of projections falls under the mandate of the Ministry of Agriculture which deals with crop production."

Mr. Deputy Speaker, Sir, could the Question be directed to the Ministry of Agriculture, so that we know the truth for sure? Where is the trial being conducted on the electronic format of food distribution, given the bad history of food distribution which results to loss as various chiefs try to take consignment such that at the end of the day---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Order, hon. Cheruiyot! Hon. Members, please, if you have to consult, then do so in very low tones.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, I will repeat the Question for the Assistant Minister to hear. Could he specify any area where the electronic format or card system is being used, even on trial basis, to minimize the agony many families have to go through before they receive this hard earned famine relief?

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, we are on pilot basis. We are trying the electronic system in the slums of Kibera and Mathare. We are in the process of doing the same in Turkana area.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, could the Assistant Minister indicate to this House what plans the Ministry has to increase the Strategic Grain Reserve (SGR) from the three million bags because of the increasing population of our people in this country?

*(Loud consultations)*

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, the level of consultation by the hon. Members, unfortunately, is still high, but I will attempt to be loud enough for those who are interested.

**Mr. Deputy Speaker:** Order! Order! Hon. Members, the Chair will have no option but to send some hon. Members out of the House, because they do not seem to have come to debate the matters that are on the Floor. If you have to consult, do so in very low tones. Allow the hon. Members who are asking questions, those who have interest in those Questions, and the Ministers to be heard.

Proceed, Mr. Assistant Minister!

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, we have plans and we have always had plans to increase the level of SGR. Unfortunately, finances have never been available to ensure that we have the right levels required in the country. We are expected to have a minimum of eight million bags at any one time, but today, we only have three million bags. We have submitted our budgetary requirements to the Treasury to the tune of Kshs18.4 billion. We only received Kshs1 billion in the Financial Year 2009/2010. In the

current financial year, we also received Kshs1 billion. This leaves a shortfall of Kshs15 billion. Therefore, once funds are available, we will be able to provide that level of stock.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, you have heard the hon. Assistant Minister confirm and convey the bad news to this country that we do not have adequate SGR. He has confirmed that we do have approximately 30 per cent and the funds in place are approximately 15 per cent. What can be done in the short-term, even if it means stopping everything else, so that we are prepared for the impending drought, and have eight million bags of SGR? Can anything be done from your side or who is sitting on his job?

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, unfortunately, nothing can be done from my part because the rest of the resources I have in the Ministry are actually not even enough to run the rest of the programmes. However, we have written to the Minister requesting for a meeting with the Treasury officials so that this matter can be discussed and dispensed with once and for all. For now, I cannot give you any answer on that.

**Mr. Mututho:** On a point of order, Mr. Deputy Speaker, Sir. This country has a tradition of having food shortages that end up being mega scams in terms of food supplies. Is the Assistant Minister in order to sit there and confirm to this nation that as we enjoy the heavy rains and bumper harvest, we are still at 30 per cent of our projected quantities of SGR and further that we sit here and wait until our people start dying in North Eastern Province and other places?

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, I doubt if that is a credible point of order. Unless the hon. Members wants me to lie to the House, I want to report the situation as it is. We have asked for finances to the tune of Kshs18 billion and have only received Kshs1 billion. What can we do?

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. I am wondering whether the Assistant Minister is in order to keep on harping that he could not get the Kshs18 billion he needed and only got Kshs1 billion, while part “b” was asking what efficient methods he is using, including electronic cards, so that he can actually reduce expenses on road transport and other paraphernalia to do with procuring the food items, and give people the correct value. What are you doing about it?

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, I do not know whether the hon. Member was in the House or he was probably consulting---

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. You can bear me witness. I was in the House before it started and I have been consulting with the Chair. How can the Assistant Minister say that he is not sure whether I was present? Could he apologize because he is imputing improper motives on my part?

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, I actually did not finish my statement. I was going to say that either he was not in the House or he was consulting loudly. You have attempted severally to call for order in the House. I have answered that part of the Question very clearly.

**Mr. Deputy Speaker:** Could you respond to the point of order by hon. Ethuro?

**Mr. M.M. Ali:** Mr. Deputy Speaker, Sir, in response to the point of order that he has raised, although I want to repeat that we have already answered that question, on the efficient method of transportation - which hon. Mututho had earlier raised - we have a pilot project with regard to the electronic card system that we have in the country. We are

doing it as a pilot project and if it proves to be efficient, we will adopt it in the whole country.

AWARD OF BACHELOR OF EDUCATION DEGREE  
TO SELF-SPONSORED DIPLOMA TEACHERS

**Mr. Pesa:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Higher Education, Science and Technology the following Question by Private Notice.

Could the Minister clarify whether or not the group of 400 self-sponsored diploma teacher students, who joined Kenyatta University in 2006 in the second year and were exempted from 16 units, will be awarded their Bachelor of Education degrees at the graduation on 2<sup>nd</sup> July, 2010?

**The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria):** Mr. Deputy Speaker, Sir, I beg to reply.

It is not true that 400 Kenyatta University students will be locked out of the forthcoming graduation ceremony because in 2006, 440 self-sponsored institutional based programme diploma education holders were admitted to the university. However, out of those 440, only 231 are officially registered up to now. Many dropped out due to various reasons. Diploma certificate holders are required by the university policy to apply individually for credit waiver. It is not automatic that just because you have a diploma, you will be given the waiver. The policy on credit waiver is such that students who are eligible for credit waivers are the ones holding diploma certificates from diploma institutions that have been validated by the Commission for Higher Education and not just any diploma.

Secondly, such students would be eligible for up to 18 units out of an average of between 51 and 54 that you require to graduate. Due to differences in programmes offered in the colleges and the individual student performance, the university policy does not allow for blanket waivers as I said earlier on.

The following factors are considered: First, you must apply. Secondly, you must have a credit pass for a minimum and thirdly, the course content must be similar to what you are applying the waiver for. In view of that, out of 231 who are officially registered, only 70 applied. Out of those, only one will graduate. A total of 66 diploma holders applied for credit waivers between 20<sup>th</sup> May and June 16<sup>th</sup> and, out of those, 46 got the credit waivers for the subjects they were applying for. However, they still need to fulfill other requirements. So, they are not qualified to graduate. A total of 20 students were awarded credit waivers in some units and, therefore, they have to meet what is required for other units. Three students did not apply.

In brief, it is only 70 students who applied out of the 231 and only one qualified for graduation. The others will graduate depending on when they will fulfill the conditions.

**Mr. Pesa:** Thank you, Mr. Deputy Speaker, Sir. This is very sad. We have been told that out of 231 students who did that course, only one will graduate. That indicates that most of the students were not aware of those conditions when they were admitted. Could the Assistant Minister confirm whether those students were aware of the conditions before they were admitted?



**Dr. Mwiria:** Mr. Deputy Speaker, Sir, there is a clear policy on admissions and I would like to confirm to the hon. Member that when you apply to join a university as a diploma holder, you are given some conditions for accreditation. There is that policy. You are also given a form that you should complete. That form is evaluated by the department where you have enrolled. It is then submitted to the Senate and on the basis of that information, a decision is made on how much you should be credited in terms of the credits.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, the Assistant Minister has talked very vaguely about the 209 students who fell by the wayside. Could he give us a clear breakdown of the students who dropped out and why they did so?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, I was not being evasive. I said that out of the 231, only 70 applied and out of those, one will graduate.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, he said that in total, there were 440 students. He then said that 209 students dropped out. I would like to hear why they dropped out.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, they dropped out due to various reasons. The main reason why most of our students are dropping out is financial ability. Secondly, other students take up other programmes with a view of getting other employment and so on. However, there are those who also decided to enroll in other degree programmes.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, the Assistant Minister has confirmed that part of the reason why they dropped out was financial problems. We know that most of the self-sponsored diploma teacher students are actually primary school teachers. If 50 per cent of them dropped out, what are you doing to help them?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, let us first appreciate the fact that you enroll for a parallel degree programme out of choice, and the assumption is that you can afford to go through the programme. However, we are now making provisions for students who are even in the parallel programmes to have access to university loans. So, they can also apply for university loans. From last year, it has been possible for them to apply as a way of helping them out. It is not a lot of money. It is Kshs60,000 per annum but that helps. For teachers who are working, it is a good relief given that they have some other income. However, let us appreciate that funds will continue to be limited even for regular students. However, where possible, we will open up ways to all students who are applying to join our universities. That is because some of the students under parallel degree programmes are quite poor.

**Mr. Pesa:** Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House and Kenyans that the Government will provide an enabling environment for students who have dropped out this year to complete their courses? The same should even be extended to other students who will join the university later!

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, we appreciate that enrolling in a university is a cost for both the Government and the individual investors, including the students. So, it is in our interest to have as many students as possible graduate. That is the reason why we are making loans available even to students under parallel degree programmes. However, there are students who will drop out just because they cannot measure up. So, we must appreciate that. However, we will make every effort. I agree to that absolutely. We will ensure that those who enroll do not drop out because that would be a waste of both private and public resources.

CIRCUMSTANCES SURROUNDING RELEASE OF  
CIVIC EDUCATION MONEY TO COE

**Mr. Jamleck Kamau:** Mr. Deputy Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) Under what circumstances did the Government release Kshs.553million to the “Committee of Experts” for civic education?

(b) Could the Minister provide a detailed analysis of the source of the money, considering that Parliament has not approved the expenditure?

**The Assistant Minister, Office of the Deputy Prime and Ministry of Local Government** (Mr. Nguyai): Mr. Deputy Speaker, Sir, the hon. Deputy Prime Minister and Minister for Finance is not in today. He has asked if it would be okay for this Question to be answered on Thursday afternoon.

**Mr. Deputy Speaker:** Fair enough! The Chair has that notice. The Chair directs that the Question appears on the Order Paper on Thursday this week. Mr. Olago, ask your Question.

**Mr. Olago:** Mr. Deputy Speaker, Sir, I have seen the answer that the hon. Assistant Minister intends to give and I have no objection for him to give it now.

INTRODUCTION OF *TUK TUK* MOTORCYCLE  
LEVIES BY KISUMU MUNICIPAL COUNCIL

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

(a) Is he aware that the Municipal Council of Kisumu plans to levy Kshs.880 per month for each “*Tuk Tuk*” operating within its jurisdiction and a further Kshs.500 per month for each motorcycle, with effect from 1st July, 2010 and, if so, clarify the legal validity of the levies?

(b) Could he demonstrate the level of stakeholder consultations that took place before the levies were effected?

(c) Could the Minister confirm to the House that he will degazette these levies as a matter of urgency before 1st July, 2010?

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Nguyai): Thank you Mr. Deputy Speaker, Sir. I now know that hon. Olago has calmed his nerves and so, I beg to reply.

(a) I am aware that the Municipal Council of Kisumu plans to levy Kshs880 per month for each *Tuk Tuk* operating within its jurisdiction and a further Kshs500 per month for every motorcycle with effect from 1<sup>st</sup> July, 2010 as stipulated under section 148 Cap. 265 of the Laws of Kenya.

(b) The Council ought to have complied with Section 203, Cap.265, Laws of Kenya, which stipulates---

*(Loud consultations)*

Mr. Deputy Speaker, Sir, I cannot hear my own voice.

**Mr. Deputy Speaker:** Order! Order, hon. Members!

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Nguyai): Thank you, Mr. Deputy Speaker, Sir.

The Council ought to have complied with Section 203, Cap.265, Laws of Kenya, which stipulates that a notice of intention and invitation for objection from the residents or stakeholders should be served with a 14-day notice. I have established that the Council did not adhere to that requirement.

(c) The Council has been directed to de-gazette the levies until due process is followed as stipulated in Section 203, Cap.265.

Thank you.

**Mr. Deputy Speaker:** Are you satisfied, hon. Olago Oluoch?

**Mr. Olago:** Mr. Deputy Speaker, Sir, my question to that answer is: If the Assistant Minister is satisfied that the Council offended the provisions of Section 203 of the Act, and that the notice they issued, including that on *Ngware* and others that included market women and market men were illegal, could he confirm that, indeed, this communication will be made to the Council and that they will not continue to harass *boda boda* and *Tuk Tuk* operators, and the market traders?

**Mr. Nguyai:** Mr. Deputy Speaker, Sir, I want to reiterate that wherever the due process has not been followed, we will de-gazette the notice. Further to that, we will issue a circular to ensure that all councils follow the due process in terms of issuing notices and holding stakeholders' meetings.

**Mr. Deputy Speaker:** Are you satisfied, hon. Olago?

**Mr. Olago:** Mr. Deputy Speaker, Sir, I must say I am very satisfied.

**Mr. Deputy Speaker:** Question No.137, hon. Boaz Kaino!

## ORAL ANSWERS TO QUESTIONS

### *Question No.137*

#### FUNDING OF ARROR-CHEPKUM DAM BY JAPAN

**Mr. Deputy Speaker:** Is hon. Boaz Kaino out of the country on official parliamentary business, by any chance?

The Question is dropped!

*(Question dropped)*

**Mr. Deputy Speaker:** Question No.172, hon. Eugene Wamalwa!

### *Question No.172*

#### SQUATTER PROBLEM IN TRANS-NZOIA DISTRICT

**Mr. Wamalwa** asked the Minister for Lands:-

(a) what the Government is doing to address the squatter problem in Trans-Nzoia District; and,

(b) what progress the Government has made in addressing Agenda Four on Land Reforms in compliance with the National Land Policy passed by the House in 2009.

**Mr. Deputy Speaker:** Hon. Minister for Lands!

**The Assistant Minister for Lands** (Mr. Bifwoli): Mr. Deputy Speaker, Sir, I am from another meeting, but the Minister has the answer. He is on the way coming.

**Mr. Deputy Speaker:** Fair enough! We will come back to that Question later.  
Next Question, Dr. Otichilo!

*Question No.043*

RE-CARPETING OF MAJENGO-LUANDA ROAD

**Dr. Otichilo** asked the Minister for Roads:-

(a) why he has not re-carpeted the road between Majengo and Luanda (C38), which is in a deplorable condition, despite his promise to the House in 2008; and,

(b) when the Ministry will repair and re-carpet the important road.

**The Assistant Minister for Roads** (Mr. Kinyanjui): Mr. Deputy Speaker, Sir, I beg to reply.

(a) My Ministry could not re-carpet the road because the design of the road had not been finalised. The final detail design for the road is expected to be finalised by the end of July, 2010.

(b) Once the design is finalised, my Ministry will source for funds to re-carpet the road.

In the meantime, I have procured a contract of Kshs4 million for maintenance of the road.

Thank you.

**Dr. Otichilo:** Mr. Deputy Speaker, Sir, what I would like to know from the Assistant Minister is whether Kshs4 million is adequate to even patch the road between Luanda and Majengo, which is about 20 kilometres long.

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, as I have indicated, these are just emergency repairs. Once the design is complete, we will be able to do final rehabilitation. This is just to keep it motorable in the meantime before we can do the rehabilitation work.

**Mr. Abdirahman:** Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that once the design is ready, they will fund the rehabilitation works. I just want to know whether the Ministry has taken a survey across the country to establish the status of Road Classes "A", "B" and "C", in terms of prioritising. Do you really do so? Do you have any such plans in the coming financial year?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, as I answer that Question, I would like to take the opportunity to thank the many hon. Members who found time this morning to come for a seminar to be able to get proper information from the Ministry regarding how roads are prioritised as well as on the operationalisation of the Finance (Amendment) Bill of 2009. Some of the issues, including the one that has just been asked by the hon. Member, were addressed this morning.

However, I wish to assure the hon. Member that we are coming up with the Road Sector Investment Programme, and we will be able to stipulate all the roads that will be

funded in the next few years. As soon as that Framework Paper is ready, we will table it in this House for hon. Members to interrogate.

**Mr. Were:** Mr. Deputy Speaker, Sir, I had the opportunity to pass through that road two weeks ago. I would want to know from the Assistant Minister the basis on which they decided that Kshs4 million was enough to repair that road, given the condition in which it is right now.

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the decision was based on the estimates of the Road Engineer on the ground, and on the resources available. However, in the event that it is not possible to do the work with that amount, we will re-visit the matter.

**Mr. Deputy Speaker:** Last question, Dr. Ottichilo!

**Dr. Otchilo:** Mr. Deputy Speaker, Sir, I wish to know when the Assistant Minister intends to do the repairs he has assured us on this road, which is between Luanda and Majengo. When is the work going to commence?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the contract has already been awarded, and the funds are available. So, in the next two weeks, you will see the work start.

**Mr. Deputy Speaker:** Next Question by hon. Ochieng!

#### *Question No.159*

#### NON-PAYMENT OF RETIREMENT BENEFITS TO BERNARD OCHIENG' ORIENY

**Mr. Ochieng** asked the Minister for Medical Services when Mr. Bernard Ochieng' Orieny, a former employee of the National Hospital Insurance Fund (NHIF) (No.88078859) who was retired on 1<sup>st</sup> October, 2000 as a result of re-organisation and abolition of the office, will be paid his full retirement package.

**The Assistant Minister for Medical Services** (Mr. Kingi): Mr. Deputy Speaker, Sir, I beg to reply.

Following his retirement from the NHIF on 6<sup>th</sup> January, 2001, Mr. Bernard Ochieng' Orieny was paid a retrenchment package of Kshs128,504.80 through Cheque No.048262 of 052001. The sum paid was calculated as follows:-

Severance Pay	-	40,028.25
Basic Salary for five days of January, 2001	-	2,340.83
Leave Allowance for year 2000	-	2,000.00
Three Months Basic Salary in lieu of notice	-	42,135.00
Golden Handshake	-	128,000.00

Mr. Deputy Speaker, Sir, besides the retrenchment package, Mr. Orieny qualified for pension. For this purpose, his pension documentation and personal file were forwarded to the Department of Pensions on 17<sup>th</sup> February, 2010, where his pension is being processed under Pension No.APN/PC225345.

Presently, the Pensions Department is awaiting confirmation of Mr. Orieny's bank details in order to finalise his case.

**Mr. Ochieng:** Mr. Deputy Speaker, Sir, as of yesterday, Mr. Bernard Ochieng had not received his terminal dues as indicated in the Assistant Minister's answer. Could he table any evidence of payment so far?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, I have his last payment certificate, dated 1<sup>st</sup> July, 2007 attached. Also attached is his payroll number indicating the last payment, which was made on 1<sup>st</sup> August, 2000.

I beg to table the documents as evidence of payment.

*(Mr. Kingi laid the documents on the Table)*

**Eng. Rege:** Mr. Deputy Speaker, Sir, the Assistant Minister has not answered the question. The information about the cheque does not indicate that it was cashed in the bank. Could he produce evidence that the bank actually cashed the cheque?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, once we process the cheque and give it to the owner, it is not our duty to follow whether it will be cashed or not. So, as much as we are concerned as the Government, we paid and I have indicated the cheque number. He received it and signed that he had received the cheque. So, what happened to the cheque is not our business.

**Mr. Deputy Speaker:** Mr. Ochieng, are you satisfied?

**Mr. Ochieng:** Mr. Deputy Speaker, Sir, you can see in his answer that it has taken the government ten years to forward this gentleman's file to the Pensions Department. Are they ready to pay this man all this time he has suffered without receiving his pension?

**Mr. Kingi:** Mr. Deputy Speaker, Sir, as you are all aware the National Hospital Insurance Fund became a parastatal through an Act of Parliament in 1998. Subsequently, the Board of Management embarked on the organization of staff, rationalization and right-sizing. That exercise led to the abolition of some officers. They could not trace the file of the officer because he was transferred from the Ministry of Public Health to the NHIF and then there was subsequent re-organization of the parastatal. However, the Ministry made a skeleton file to make this payment. That is why it was done.

**Mr. Ochieng:** On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister is not coming out very clearly whether the skeleton file that has now been forwarded to the Pensions Department will enable the Office of the Deputy Prime Minister and Ministry of Finance to pay Mr. Bernard Ochieng his pension.

**Mr. Kingi:** Mr. Deputy Speaker, Sir, I think I made myself very clear. We forwarded the documents to the Treasury. Personally, I talked to the Accounts Department at the Treasury today and they told me that they are only waiting for the documentation from a Mr. Olweny.

**Mr. Deputy Speaker:** The next Question is by Mr. Mwakulegwa who is away on Committee business. The Question is deferred to Thursday, this week.

*Question No.168*

DESTOCKING OF RANCHES IN KENYA

*(Question deferred)*

Let us move on to the next Question by Mr. Abdirahman!

*Question No.221*

DELAYED PAYMENT OF DUES/ARREARS  
TO ABDI ABDULLAHI GERIOW

**Mr. Abdirahman** asked the Minister for Forestry and Wildlife:-

(a) why Abdi Abdullahi Geriow (P/No.91020556), who was stationed at Wajir District Forest Office, was removed from the payroll in June, 1996;

(b) why it has taken so long to pay him his dues even after an order was made for the release of salary vide PCA number 320/5/97; and,

(c) when his dues and arrears will be paid.

**The Assistant Minister for Forestry and Wildlife** (Mr. Nanok): Mr. Deputy Speaker, Sir, this answer is not ready. We beg to be given two weeks because we have to get the file from Wajir where the case was being handled.

**Mr. Abirahman:** Mr. Deputy Speaker, Sir, I personally have no objection with the two weeks requested but it is an old case. I would like the Assistant Minister to move with speed on this case.

**Mr. Deputy Speaker:** Fair enough! The Chair directs that the Question appears on the Order Paper two weeks from today.

*(Question deferred)*

Let us move on to the next Question! Mr. Wamalwa, could you ask the Question again?

*Question No.172*

SQUATTER PROBLEM IN TRANS-NZOIA DISTRICT

**Mr. Wamalwa** asked the Minister for Lands:-

(a) what the Government is doing to address the squatter problem in Trans-Nzoia District; and,

(b) what progress the Government has made in addressing Agenda 4 on Land Reforms in compliance with the National Land Policy passed by the House in 2009.

**The Minister for Lands** (Mr. Orengo): Mr. Deputy Speaker, Sir, I wish to apologise to the House and to Mr. Wamalwa. I was appearing before the Departmental Committee on Lands and Natural Resources and it rose at 3.00 p.m. So, I literally ran to come and answer this Question. So, I apologise.

I beg to reply.

(a) The Government is aware and appreciates the serious problem of squatters currently occupying private, co-operatives and public institutions' land in Trans-Nzoia District. We are also aware that some private and public institutions' land was invaded during the 1992 tribal clashes. It is estimated that there are over 15,000 squatters in Trans-Nzoia District who have not been settled to date. The Government has in the past settled 12,179 beneficiaries in 43 settlement schemes in Trans-Nzoia District. There are also plans to settle 1,000 landless Kenyans in Chepchoina Phase II. Unfortunately, during

this Financial Year, 2009/2010, my Ministry was not allocated any funds for the purchase of farms to settle the landless poor Kenyans including squatters. If I may add, the same applies to the next financial year and this is unfortunate.

(b)The Government has embarked on land reforms to address the Agenda 4 of the National Accord and Reconciliation Act in tandem with the National Land Policy. This includes:-

(i) Fast-tracking of adjudication programme in order to secure and promote security of tenure

(ii) Installation of settlement fund trustees, billing and accounting system to enhance accurate records, management of land related information and for loan recoveries.

(iii) Re-organization of the implementation of settlement programmes such as planning including satellite eco-village for easier provision of social infrastructure.

(iv) National Land Management Information System has been established to ensure that all land records are digitized. This programme is currently restricted to the central registry in Nairobi.

(v) We are in the process of reviewing and harmonizing the existing land laws to operationalise the national land policy.

(vi) We are also engaged in the formulation of the National Land Use Policy to guide in land management, use and special planning. This is being formulated through stakeholders fora.

(vii) We are also preparing a master-plan to create linkages between land use and environmental conservation, forestry and water resources. A concept paper on this has been finalized.

(viii) We have established a modern banking hall in Ardhi House to create one-stop shop for all services rendered to the public.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, this Government has never been serious about settling squatters. In his answer, the Minister has said that no funds were allocated or set aside in this year's Budget to settle squatters. He even went further and said that next year it is unlikely that any funds will be set aside. The last time funds were set aside was in 2006 when squatters were settled as Solio Ranch. Even the land in Chepchoina that the Minister has mentioned was meant for squatters has been allocated to the Provincial Administration. What has the Minister done to ensure that whatever land is available in Chepchoina actually benefits genuine squatters and not District Commissioners, Provincial Commissioners and other Government big-shots?

**Mr. Orengo:** Mr. Deputy Speaker, Sir, I would like Mr. Wamalwa to provide me with evidence that there are members of the Provincial Administration or any other person who does not qualify to be a beneficiary in the settlement scheme. Let me have the names and I will immediately expunge them from the beneficiaries' list. In order to qualify as a beneficiary, you must be poor and landless. In any settlement scheme, somebody who is not ordinarily a resident in that area is not qualified to be a beneficiary, although there is some latitude to the extent that about 20 per cent of the beneficiaries can be people who are not ordinarily residents because we want to create one country and one nation. However, they must qualify. That is they must be poor and landless. There is an example in Kilifi where after sending a task force, we discovered there were very many Government officers who had been allocated land in a settlement scheme and they were



not qualified. I had their names expunged. In Bura, I expunged a title deed which belonged to a former adjudication officer. He had allocated himself a large piece of land in Bura. That was revoked. So, give me the evidence. I did not let the hon. Member down on the Mt. Elgon Hospital and Kitale Academy cases. Just make my day by giving me the evidence.

**Mr. James Maina Kamau:** The situation of the squatters in this country has been a big problem for many years, not two or three years or even for five years. This has been aggravated by the fact that the Government has refused to implement the famous Ndung'u Report. What is the Minister doing to make sure that this report is fully implemented?

**Mr. Orengo:** We need to create a legal framework. Part of what is going on under Agenda No.4 is to get a legal framework that would make it easy and provide implementing legislation for purposes of Ndung'u Report. But I must say in clear cases where a blatant act of fraud may have been committed, I have not hesitated in revoking title deeds so that the public interest is secured. In some of the cases, even when they are taken up by the Kenya Anti-Corruption Commission (KACC), they stay in the courts for years because the status of land changes while the matter is in court. We decided, as a Ministry, that where public interest is important to protect, that we will not wait until the necessary legislation is in place. But I hope and I know the Member supports the framework set within the National Land Policy. We are working on the necessary legislation to make sure that we can resolve this problem by both word and deed.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, the Minister has been very clear on what he will do with the people who have settled on land unfairly. Could he use this opportunity to make an undertaking that those people who grabbed the old Kakamega Showground which has been given to the university of Masinde Muliro will again be forced to leave the place for development by the university?

**Mr. Orengo:** I tried to look at these things on a case to case basis but where I make a determination that there was a blatant and fraudulent acquisition of public land, I can assure you I will not hesitate. But I am aware of the problem and there are one or two things which I am trying to sort out. There is a bit of conflict between Masinde Muliro University with other public institutions who are claiming the same piece of land. I think in the fullness of time, we will have that matter resolved.

**Mr. Njuguna:** Thank you, Mr. Deputy Speaker, Sir. Could the Minister indicate to this House the specific steps his Ministry is taking to address once and for all the squatters problems in this nation and particularly in Lari District?

**Mr. Orengo:** The specific step is to have this House help me persuade Government, of which I am part of, to have a land bank so that we have land all the time available for the settlement of squatters and not look for land when there is an emergency like when we have had the problem of Internally Displaced Persons (IDPs). But I must say that even as I stand here now, I cannot tell you of any specific steps because if I had a piece of land available to the Government for settlement of squatters, then I would not hesitate to take specific steps. But at the moment, we are lacking budgetary allocations for this very important undertaking. The problem is that, and I think Dr. Otichilo would agree with me, our attitude about land is that land is static, land is not dynamic so that in Government planning, we need a change of attitude that unless we treat land for what it is, that it is the platform on which all development takes place and

that it is an important resource. If we do that, probably in the future, we may be able to resolve the problem that you are talking about. I am struggling and this Parliament last year made its voice very clear about the need to settle squatters. I, as Minister for Lands, have also tried but in the larger sector which includes the agricultural sector, we are given very peripheral support in terms of budgetary allocations.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I think this House has done all that it needs to do to help the Ministry of Lands deal with the issue of squatters. We passed a resolution when I brought a Motion in this House in 2008 for setting up a Squatters Fund and a Directorate of Squatters to deal with this issue. We also passed the land policy which for the first time deals with landlessness in this country. I do not know what more the Minister wants this House to do. What is he doing to implement what we have already passed?

**Mr. Orenge:** I think there is one more thing that Parliament can do for me; to make sure that in the coming years Parliament should be involved in the budgetary process not *ex post facto* but as it happens in its initiation so that the kind of issues that we are addressing do not come at the tail end of the budgetary process. But I appreciate the voice of the House on this matter. Unfortunately for these three years successfully, we have not had any budgetary allocation. You would know that even with the Motion that you moved successfully, in the establishment of a Squatters Fund, there is already a Settlement Trustee Fund (SFT) that can be used for this process. In the previous years, they had undertaken the process of settling the poor and landless. So it is not for lack of a fund, or their institutional mechanism. What is lacking is actually resources to be made available and for that, I apologize but next time around I think with the changes that are anticipated you are going to have a greater hand to make sure that we put our money to good causes like settling of squatters.

**Mr. Deputy Speaker:** Fair enough! Next Order!

## POINTS OF ORDER

### PROGRESS MADE ON PETITION FOR TIMBOROA SQUATTERS ALLIANCE

**Dr. Khalwale:** On a point of Order, Mr. Deputy Speaker, Sir. Last week the Chair directed the Departmental Committee on Lands and Natural Resources to give a report to this House on the progress made on the petition for Timboroa Squatters Alliance.

**Mr. Deputy Speaker:** Fair enough! Hon. Musyimi, you are the Chair of the Committee on Lands?

**Mr. Musyimi:** I am, indeed, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Are you ready with the Statement?

**Mr. Musyimi:** Yes, Mr. Deputy Speaker, Sir. I wanted to request the Chair that the matter of Kiborowa Squatters Alliance that was tabled by Dr. Khalwale, following which the Chair decided that the Committee that I chair looks at this matter and then report as soon as possible, mine is to pray that we be given more time for the simple reason that we are also looking at an urgent matter, that this House is aware of, of South

Ngariama Ranch. We have started working on South Ngariama and we have been on it for the last five weeks. There is still a lot of work to be done. We want to do a fair job.

So, Mr. Deputy Speaker, Sir, I would like to request on behalf of the Committee and myself that if it is possible, you kindly allow us an extension of another two months, so that we can finish with South Ngariama and then have sufficient time to deal with this matter of Kiborowa Squatters. As you know, we are currently going through the Budget and that is also taking quite a lot of the Committee's time. So, that is my request.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, without looking like I want to drive the Chair, if you granted that request, you would be allowing the Committee to break the Standing Orders of this House, because the Chair ruled at that time when I moved the petition that they should respond within 21 days.

**Mr. Deputy Speaker:** Hon. Musyimi, are you versed with the provisions of the Standing Order that regulates this particular issue, the matter of committal of petitions?

**Mr. Musyimi:** I am, indeed, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** And then why do you want to change the rules of the House without its consent?

**Mr. Musyimi:** It is for the Chair to guide me, but I also want to be realistic, Mr. Deputy Speaker, Sir. I do not think it is fair to work with deadlines that are not possible. So, I am being as honest as is practical under the circumstances.

**Mr. Deputy Speaker:** The Chair is guided by the provisions of the Standing Orders, which are a creature of the House itself. The House is the one that created these Standing Orders. Standing Order No. 210(1) says:

“Every petition presented pursuant to this Standing Order shall stand committed to the relevant department of the Government or committee of the House as the case may be.”

And then progressively, you need to go to Section 4, which says:

“The Clerk shall, at the end of every Session, forward the Petitions which have been approved by the Speaker and not been presented to the House, to the relevant department of the Government and such department of the Government shall reply to each Petition forwarded in not more than 21 calendar days.”

Standing Order No.211 says:

“The Clerk shall forward copies of responses received under Standing Order No.210 (Committal of Petitions) to the petitioners.”

How do we deal with the provisions of the Standing Orders? I do appreciate the fact that you have a full load. Can your Committee not split itself into sub-committees?

**Mr. Musyimi:** Indeed, we can, Mr. Deputy Speaker, Sir. But, as you will no doubtly be aware--- I am glad hon. Ojode is here; he is the Assistant Minister who eventually attended the funeral of four people who died in that constituency. It is a matter which he reported with sufficient conviction in this House that we need to be all involved in the issue of South Ngariama. I think to spilt the Committee will be a little unfair to the exercise in South Ngariama. But, Mr. Deputy Speaker, Sir, I stand guided.

**Mr. Deputy Speaker:** Order! Order! I was reading Standing Order 210(4) that is essentially about a department of the Government. Now Standing Order No.210 (3) says:

“Whenever a Petition is committed to the National Assembly, the relevant Committee shall, in not more than 21 calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and

laid on the Table of the House and no debate on or in relation to the report shall be allowed”.

Hon. Members, we are guided by our own rules and until such time that we change our own rules, notwithstanding the fact that this is a law making--- This is the Legislature, and the Legislature makes laws; we cannot expect Kenyans to follow the laws that we make when we cannot also follow our own internal rules. So, under those circumstances, hon. Musyimi, you will proceed with speed and make sure that this report is available here, tabled by you, in not more than 21 days!

**Mr. Musyimi:** I am much obliged, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Fair enough!

**Mr. Wamalwa:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is your point of order? I hope it is not on the same issue!

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, may the rule apply to other pending petitions as well? There is a petition I presented on persons with albinism that is before the Committee on Equal Opportunity; there is a petition I presented on the Mau Mau Freedom Fighters that has been pending before the Justice and Legal Affairs Committee. Will your ruling be directed to all pending petitions before the House?

*(Applause)*

**Mr. Deputy Speaker:** That is fair enough! The Chair directs that all pending petitions before the House conform to our own Standing Orders, and with speed!

*(Applause)*

Next Order!

## **BILL**

### *Second Reading*

#### THE COUNTER-TRAFFICKING IN PERSONS BILL

*(Ms. Odhiambo on 17.6.2010)*

*(Resumption of Debate interrupted on 17.6.2010)*

**Ms. Odhiambo:** Thank you, Mr. Deputy Speaker, Sir. I had already commenced moving The Counter-Trafficking in Persons Bill. I had given several reasons why trafficking in persons has become prevalent, including internal land conflict, especially the one we saw recently; poverty, flawed birth registration system in Kenya that has made a lot of children unaccounted for and undocumented and, therefore, makes them easy targets for trafficking; gender inequality and the low status that is placed in women; the incidence of HIV/AIDS, that has especially affected a lot of children and orphaned several; unemployment and growth in technology; trafficking for labour and the debt

bondage; illegal inter-country adoptions and child sex tourism, especially in the coastal towns of Kenya. A research that I did in 2006 evidenced that a lot of children are got from rural Kenya and taken to the coastal towns of Kenya with the aim of being employed as domestic house helps, but instead end up being used as prostitutes. Many of them have no way or means to go back to their own homes, and many of them are threatened if they go back. This does not only affect Kenyan children; there is also trafficking of children from neighbouring countries, especially countries that have experienced turmoil like Sudan, Rwanda and several other countries.

Mr. Deputy Speaker, Sir, there is also the issue of marriage and mail order brides that affects a lot of our young women, especially in the coastal region of Kenya, who are promised that they will be married off to wealthy men, especially in the middle east. But many of them end up either as prostitutes or domestic helps, and are denied their passports and means of travel, so that they have no means of coming back to Kenya. As a country, we have actually witnessed a lot of cases that have been reported that affect women, especially in those countries.

Mr. Deputy Speaker, Sir, we also have cases of benefit fraud where many people take our children and use them for claiming benefits in other countries. For instance, in some countries like the United Kingdom (UK), if you have a child as a dependant, then you are entitled to extra benefits. So, you find that some communities take children and one child at one point will belong to as many as ten couples. They are moved from one place to another and the child will not be attending school.

Earlier, I had given an incident of a Kenyan child who was taken to the UK and was trafficked illegally because they were not adopted through the Kenyan system. There was a case in the UK which even involved the Attorney-General of Kenya. The child was eventually returned to Kenya.

Mr. Deputy Speaker, Sir, of late, we have seen a lot of occultic practices in the country. Last week, when I started moving this Bill, Prof. Kamar had indicated that she had a personal interest because this is a big problem affecting her constituency. Unfortunately, she is not able to be here today. However, I want to table some documents that she has given me which are evidence of the presence of occultic movements within Eldoret. The documents that I have given single out a church that is called the Calvary Temple run by an American. A lot of attention has been put on that church but nothing has been done to stem the cases of forced marriages of our young girls in that church.

Mr. Deputy Speaker, Sir, this is not an isolated case, especially involving churches that are not very credible. I would want to note that I am part of a youth online group and one of them recently said that in Kenya, we have many people who come and want us to convert in the name of the Lord Jesus Christ, save that we are not very sure which Jesus Christ we are talking about. In Spain and other countries, the name Jesus is very common. So, perhaps what these occultic groups are doing is saving Kenyans in the name of Jesus Christ of Spain and other countries but not the Jesus Christ of the Bible.

Mr. Deputy Speaker, Sir, it is actually a challenge for the Government of Kenya to take very decisive action against these occultic groups that are taking our children and marrying off in the name of religion. We must be very firm and decisive because as a country, we tend to treat anybody who comes in the name of religion with kid gloves, even when they are doing wrong things. When I worked in the children sector, I was personally called to investigate several cases that involved supposed churches where

children have been trafficked and sexually violated, again in the name of Jesus. I do not know which Jesus or whether it is the Jesus of Spain.

Mr. Deputy Speaker, Sir, another reason we have trafficking is the issue of begging and hawking. We have many people who now use children to get money by pretending that the children are poor. I do not want to discount the fact that we have many poor children but many people now use that as a form of business.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, why am I moving this Bill? I am moving this Bill because as a country, we do not have adequate legislative framework that responds to the cases of trafficking in persons. At the international level, a lot has been done, commencing way back to the year 1222 with the Charter of Mali that was formulated by King Sundiata Keita, the ruler of Mali. Initiatives that had to do with counter-trafficking actually emanated in Africa because Africa has been the most vulnerable in the issues of human trafficking which is modern day slavery.

After that, there was another international Charter; the International Agreement for the Suppression of the White Slave Trade that seemed to focus mainly on the white slave trade and did not look at the blacks.

Then in 1910, there was the International Convention for the Suppression of the White Slave Traffic. In 1921, we had the Convention for the Suppression of Traffic in Women and Children. In 1933, we had the International Convention for the Suppression of Traffic in Women of full age and included younger women. Finally, we have 2003 – the Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, otherwise referred to as the PALERMO Protocol. Kenya ratified this convention in the year 2005. So, by bringing this Bill, I am hoping that our country will be able to domesticate that Protocol.

Mr. Temporary Deputy Speaker, Sir, other than the ones I have listed, we have several other conventions that make reference to the issues of protection of women and children, including the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of the Child on the sale of children and child prostitution and child pornography, the Universal Declaration of Human Rights, the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour which is an ILO Convention, the Convention on the Protection of Children and Cooperation in respect of the inter-country adoption otherwise referred to as the Hague Convention and the Rome Statute that includes trafficking as a war crime and a crime against humanity alongside rape and gender based violence.

Mr. Temporary Deputy Speaker, Sir, in regard to Kenya, we have not fared very well in terms of protection. Before I go to Kenya, I want to give a bit of highlight on what the African region has done. In Africa, we have the Draft Ouagadougou Action Plan to

Combat Trafficking in Persons especially Women and Children, of 28<sup>th</sup> November 2002. Then we have the African Charter on Human and People's Rights of 1981 and its protocol on women's Rights of 2002 which Kenya has not ratified because it has a clause on abortion. Then we also have the African Charter on the Rights and Welfare of the Child of 1990. Within Kenya, our legal framework is extremely weak. Under the Penal Code, there are provisions that protect kidnapping and give a punishment of up to seven years.

The Constitution provides protection against torture and degrading punishment. The Immigration Act of 1967 considers an illegal immigrant "As one who is (a prostitute) or a person who is living on or receiving or before entering Kenya lived on or received the proceeds of prostitution". It actually criminalizes persons who are trafficked instead of considering them as victims.

Then we have the Criminal Law (Amendment) Act which also deals with issues of defilement but that was repealed with the Sexual Offences Act which is the only piece of legislation that makes reference to trafficking in persons but only limits it to trafficking in persons in relation to sexual violence and only in relation to children. That is why I am moving this Bill.

I just want to give a few highlights of what the Bill seeks to do. Part I is preliminary and deals with the title and commencement and purpose of the Bill which is basically to domesticate the PALERMO Protocol and also to protect victims of trafficking in persons.

Part II is on trafficking in persons and related offences. It talks of acts that promote child trafficking, what promotion of trafficking in persons is and punishes acquisition of travel documents and misrepresentation of travel documents. Due to our porous borders, many people get improper documents. Then there are enhanced sentences where due to trafficking, there are life threatening circumstances or death, especially to the victim.

Mr. Temporary Deputy Speaker, Sir, under Part 3, there is trial of offenders and remedies for victims of trafficking in persons. One of the most positive things is that it provides for confidentiality in cases of trafficking. For the first time, it provides for victim impact statement so that when a trafficker is being sentenced, the views of the victim must be heard. There is also restitution for victims and there is immunity from prosecution for the victim. Currently, what our laws provide is that if you are found to have been a victim of trafficking, you are punished instead of being protected. It exempts trafficked persons from paying fees in civil suits against the persons who traffic them, especially where the persons have suffered harm. It also provides for confiscation or forfeiture of proceeds of crime by the State and repatriation of trafficked persons to and from Kenya.

Under Part 4, an Advisory Committee is set up that involves the Government, relevant Ministries including the Ministry of State for Immigration and Registration of Persons, Ministry of Gender, Children and Social Development, Ministry of State for Provincial Administration and Internal Security, Office of the Attorney-General, civil society organizations working with children and women, amongst many others. It sets up the functions of the committee which includes rehabilitation and advising the Government on programmes that have to do with trafficking in persons.

Then Part 5 provides for the establishment of a fund for victims of trafficked persons and Part 6, which is miscellaneous, provides for extra-territorial jurisdiction, other penalties and consequential amendments. I want to show the seriousness that we have in stemming cases of sexual and gender-based violence against women and children. The penalties that are provided are very harsh, ranging from a minimum of ten years to life imprisonment for various sentences. I will not go into all of them. Again, I would like to say that the process of writing this Bill had support from the Ministry of Gender, Children and Social Development, Office of the Attorney-General, Ministry of Justice, National Cohesion and Constitutional Affairs and several civil society organizations that I have mentioned earlier including Cradle, Children Foundation, International Organization for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC) and the Federation of Women Lawyers (FIDA, amongst many others.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move and call Mr. Wamalwa to second.

**Mr. Wamalwa:** Thank you very much, Mr. Temporary Deputy Speaker, Sir. I wish to second this Bill that has been so ably moved by my learned friend, Ms. Odhiambo. May I begin by congratulating her for bringing this Bill that was long overdue. I wish to congratulate her for her commitment to the rights of children. Amongst all Kenyans, she has set a record. History will remember that there once lived a lady who fought for the young and helpless children in this country, and who brought that fight to the Floor of the House so that we can have laws that will protect the vulnerable, particularly the children and women of this country, and to do what Jesus said: "Suffer not the little children but let them come to me".

Indeed, in the world, we have had many children being snatched from their parents and taken to foreign lands. It is not just children. We have women too. We have heard very horrible tales of women who have gone to Saudi Arabia, Dubai and other countries who have been abused and few have made their way back. We have heard of a sad story of one who died after being terribly abused by the employers while working as a domestic worker in the United Arab Emirates (UAE). It is not out of choice that we have those Kenyans out there suffering as they do. It is because we have reached an age where there is modern day slavery. In ancient days, we had the slave traders coming here in ships. They would dock in Mombasa and they would venture into the hinterland and they were armed. They would go out and chase the Africans in the villages. They would lock them up in chains, put them on their slave ships and take them away to America to work on the cotton farms and do manual labour in other foreign jurisdictions. But these days, we have modern day slavery; they no longer come with slave ships. They come in different robes. Some come in the name of religion and are armed with Bibles as Ms. Odhiambo has told us today. They have managed to get many ignorant Kenyans out of this country and out there, they have been subjected--- Apart from domestic workers and housemaids who are working out there, we have young girls who have been turned into prostitutes. They have been forced to render those services far away from home. They are mostly lured by some people whom they trust. We heard of a Kenyan madam in the United Kingdom who had so many Kenyan girls in London and she was running a brothel. The tales of the young girls who were found in a terrible state were horrifying. What they had to do for a living was shocking. But because of poor immigration regulations, we have people out there who have no proper papers and who cannot return



to this country. They cannot go to our foreign missions to get help and they have been turned into slaves.

Mr. Temporary Deputy Speaker, Sir, indeed, when we look at this Bill, we know that the time has come now to put in place proper legislation that will prevent trafficking of persons, whether they are children, young men or women. It is just the other day that we heard in this House about the “Jobs Abroad Programme”. We were told that there are young men who have left this country believing they are going abroad to get employment. Where we have found them, the areas they have been taken were not their dream destinations. They thought they would go and get employment, come back and help their families. We were told by the Minister for Sports and Youth Affairs that many of those young people have been taken either to Iraq or Afghanistan. Those are countries that are at war. Those young people have been taken out there and they have been exposed. Indeed, when they were taken, many did not know what was happening. We have heard of young Somali youth who are being recruited and taken out to Somalia when they thought they were joining the Kenya Army here.

So, we are talking of not just trafficking in the traditional sense. We are talking of young people who have been misled about their destinations, what they were going to get out there and in return, they have been subjected to exploitation. When you look at the proposed Bill, under Section 2, they have given examples of the exploitation that covers not just slavery, involuntary servitude but 2(d) talks about forcible or fraudulent use of any human being for removal of organs or body organs. This is going on! We have forcible or fraudulent use of human beings, being taken to take part in armed conflict outside this country. That too is happening and these are forms of exploitation that form part of child labour, sexual exploitation and child marriages. Those children are trafficked out of the country and forced into early marriages. When we pass this Bill, we would have put in place a law that will take care of all the ills that have come to our country. It will protect the affected, particularly the little children and young people who, due to unemployment, have sought greener pastures elsewhere only to find out that it was not green but a nightmare. So, we need to congratulate the hon. Member for bringing this Bill.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to second the Bill with all my heart.

*(Question proposed)*

**The Assistant Minister for Livestock Development** (Mr. Duale): Mr. Temporary Deputy Speaker, Sir, I stand here to support this Bill. I want to thank Ms. Odhiambo for bringing this Bill to this House and to the country.

Kenya as a country needs very urgent legislation to fight human trafficking. Kenya is a transit and destination country for men, women and children trafficked for the purpose of forced labour and sexual exploitation. We are confronted with a lot of emergencies that give the necessary infrastructure for human trafficking to flourish in this country. We are talking about drought, hunger, both civil and political unrest among our neighbours that have resulted in displacement across Kenya and the region. That has created perfect conditions for human trafficking.

Mr. Temporary Deputy Speaker, Sir, I want to talk about human trafficking both locally and internationally. When we look at the local context, Kenyan children are trafficked within this country for domestic work and farm labour. If you look at the agricultural sector in this country, mainly in the crop plantations and flower farms, you will find young children of this country who have been trafficked to these farms. If you go to the pastoral areas you will see young Kenyans who have been trafficked from their areas, to herd cattle and earn a living. You will find Kenyan women, who are trafficked to urban centres, working in massage parlours, bars and also in the sex industry.

Mr. Temporary Deputy Speaker, Sir, we have very vibrant human trafficking going on at the Coast, known as the Coastal Sex Tourism. We need legislation to combat this crime. Kenya has been described by the UN and the IOM as a transit point for traffickers who smuggle people to the Middle East, Asia and the Americas.

Last week, we were dealing with the Bill on money laundering and organized crime. I want to say here that this is another piece of legislation that this country cannot live without, if it has to play its rightful role, both economically and politically among nations of the world.

Mr. Temporary Deputy Speaker, Sir, this Bill has answered a number of reports written about this country as far as human trafficking is concerned. One of them was done by the IOM. Young girls are being lured into urban centers. Six months ago, we had a scenario where we almost had a diplomatic row with the Government of Saudi Arabia over young women of Kenyan origin who were lured to go and work as domestic servants in Jeda, Riydh and many other cities in the Middle East. When these Kenyans went there, they were turned into domestic slaves.

We must have legislation which we will use to curb the rampant migration of our neighbours, because of their instability. These countries are Somalia, Sudan, Ethiopia and the Democratic Republic of Congo which surround our country. These countries use Nairobi as the transit point for human trafficking.

Mr. Temporary Deputy Speaker, Sir, one of the fundamental benefits that this country will get out of this Bill is that it will address the core issue of forced marriages among the pastoral communities and many traditional communities. This Bill will address and be a fundamental law that will provide that in Kenya, you cannot employ a house girl if she is under 18 years. This Bill is very specific on that.

Today, you will see young Kenyans who are lured to the urban centres to do the domestic work. Human trafficking is in different forms. There are people who are trafficked from point A to C for their body parts. You are taken from here to India or to another city so that people can get parts of your body. That is well addressed in this Bill.

This is crucial legislation. If this anti-human trafficking law is enacted, it will provide this country with the additional awareness. This Bill will provide extra training to our law enforcement organs on how to deal with human trafficking. This Bill gives them ways and means of identifying and responding to all types of human trafficking crimes.

Mr. Temporary Deputy Speaker, Sir, in order for us to curb this illegal trade and live among the many nations that have done better than us in terms of legislation--- Ms. Odhiambo's Bill on human trafficking is in accordance with the UN agency on the war on drugs. People might look at human trafficking as a small business. The UN has described this business as the highest paying organized crime, which pulls in between US\$8 billion and US\$31 billion globally. This information is vital. It is from the US

Anti-Drug Enforcement Agency. If you are talking of US\$8 billion to US\$31 billion, I can tell you that is the economy of a number of African countries combined.

The Part V of this Bill lists types of offenders and the remedies the victims of human trafficking will be entitled to.

Mr. Temporary Deputy Speaker, Sir, Part IV gives us a Trust Fund for victims. I can say candidly here that if this Bill was passed last year or five years, today victims of human trafficking of Kenya origin such as the victims we saw from Middle East and others, who were brought back in coffin, this Trust Fund could have catered for them. I think it is the high time we pass legislation of this nature that will put us at par with other countries. We are in an era of economic integration. We know on 1<sup>st</sup> July, 2010, we will be embracing the Common Market Protocol for East African Community. We should not always think of the economic front. We must enact legislation that will put Kenya ahead of its neighbours and global environment in terms of fighting organized crimes, drug abuse, money laundering and human trafficking. Unless we enact the necessary legislation, we cannot fight such vices.

With those few remarks, I beg to support this Bill.

**Dr. Laboso:** Mr. Temporary Deputy Speaker, Sir, I also support this timely and important Bill. I also thank the Mover of the Motion, Ms. Odhiambo.

Definitely, this is a Bill that is long overdue, going by the number of child trafficking cases that we read from the media and other sources. I want to say that this is a heinous crime both at the national and international level. We find reasons given for these crimes are related to poverty. Poverty has contributed immensely to the victims that are vulnerable to child trafficking.

Mr. Temporary Deputy Speaker, Sir, I would also like to say that sexual exploitation is another reason for child trafficking. Another factor that has contributed to these heinous crimes is, of course, HIV/AIDS pandemic. We also have porous border. It is very difficult from one border to the other. As I said, because of poverty, many children and ladies are vulnerable. It is very easy to get them. They even go with strangers because they imagine the good life they will find abroad.

Mr. Temporary Deputy Speaker, Sir, I want to say child sex tourism has become a lucrative business in the Coast Province. We know that in all the secluded areas of the coastal towns, there are a lot of things that are going on there, that are not in the public eyes or that we are not aware of. One of them is definitely that there are very many children who are trafficked through those avenues. Up to this point, we do not have any statute within our system to control this crime. That is why I say this is a Bill that is long overdue and we required it yesterday.

These crimes are going on despite the existence of several international conventions. We, as a country, need to domesticate them. We have the international instruments like the United Nations Convention against Trans National Organized Crime, the Conventions on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination against Women and many others. I would not be able to mention all of them. But we urgently need these conventions properly domesticated in our statutes, so that we can use them.

Mr. Temporary Deputy Speaker, Sir, I must also mention that the existing laws that we have in the country are not punitive enough. They are a bit lenient. For instance, for sexual exploitation, a fine of Kshs50,000 would not deter somebody who wanted to

exploit children or women sexually. We would be calling for much more firmer penalties that will be deterrent.

Mr. Temporary Deputy Speaker, Sir, there are very many foreigners who come to our country calling themselves guardians to children. This is another avenue where children are trafficked. People come in the form of guardians, or they have come to save the children from their poverty, but they end up taking them away, exploiting them sexually or use them as cheap labour. We need to tighten our laws. I believe this is one of the areas that will be addressed by this Bill.

Mr. Temporary Deputy Speaker, Sir, at the moment, we want enough research done in the field of child trafficking, so that we really know the actual statistics about the number of victims of child trafficking. We also want to know the people who are more at risk. More so, we want to know the method of recruitment. Who recruits these children? At the moment, apart from research that needs to be carried out very urgently and comprehensively, I think it will also be very important that we put in place some support mechanism for victims of child trafficking.

I would also want to suggest and I believe this is in this Bill, that victims of child trafficking should be able to get free legal advice when they undergone that ordeal.

As I end, I want to strongly support this Bill and wish to state that for it to really work, we would again need a lot of national and international co-operation. We need to tighten our laws, so that we can detect anybody who is trying to traffic our children.

With those few remarks, I strongly support this Motion.

**Mr. Baiya:** Thank you, Mr. Temporary Deputy Speaker, Sir, for granting me this opportunity to contribute to this very important Bill.

I want to thank hon. Odhiambo for presenting this Bill before the House. This is a very opportune time to bring this Bill to the House. I am quite aware that this House passed the Children Bill. But it nonetheless left a gap in the law with regard to child trafficking. The Children Act does not cover the aspect of human trafficking.

Mr. Temporary Deputy Speaker, Sir, I, personally, have an experience in my constituency of this kind of crime. It happened in 2007 where a primary school girl went missing. She was a 14 year old girl. Subsequent investigations revealed that she has been lured from her school. This was done with the involvement of the school administration and local administration. She was ultimately taken to a school in a far place without the involvement of her parents or family. She stayed there for a couple of months. Some people happened to be known to her and the alarm was raised, forcing a public outcry and she was released.

Further investigations reveal that in the same institution she was being held, other children would be brought in pending trafficking to various places of the world. This is happening in Kenya. The holding institution is here in Kenya, somewhere in Narok. We are not talking about far-fetched things when we talk about human trafficking. It is there. It mainly involves young girls with the motive to engage them in prostitution and sexual exploitation. Trafficking is done by foreigners and cartels that have local people. It extends to countries in Europe. All this has been covered in the Press. As I tried to pursue this matter in my constituency, it came to light that there was no specific criminal offence with regard to human trafficking. That is why I am congratulating the Member of Parliament who has brought this Bill to ensure that we cover this loophole in the law.

I have also participated in meetings especially in the Great Lake region in an organization that covers issues related to gender-based violence. One of the gaps that has been identified particularly relating to women rights is this one about human trafficking. As I said, human trafficking affects not only young girls, but also young boys who are forced to join militias in war situations. These boys do not understand the full implication of war. So, this Bill is important because it is going to cover and protect potential abuse of such young Kenyans.

Mr. Temporary Deputy Speaker, Sir, the other aspect in this Bill is that it criminalizes these offences at a time when socio-economic situation in our country is such that we have many young people who do not have employment and are victims of poverty. In many cases, they are vulnerable to promises of opportunities abroad. Often, they are made to believe that the opportunities will be very beneficial and yet the intention of those making the promises is to abuse and defraud them so that they can facilitate the trafficking. Even though our people are poor, we must make sure that our law safeguards them against exploitation from such would be exploiters of our situations.

I also think that this Bill will fill one of the gaps in terms of human rights and ensure the full protection of women, children and any person who may suffer exploitation through trafficking and so on.

Mr. Temporary Deputy Speaker, Sir, for those reasons, I strongly support this Bill.

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, mine will be very brief. I would like to support this Bill. I would like to talk about the issue of human trafficking via cyber crime such as Face Book, blogging or any of those high technologies which our people have now adopted to. Our people think that life is better abroad or somewhere else than in this country. So, our security personnel and the Ministry in charge of immigration should put in place measures that will ensure that people leaving the country--- If someone is suspected of being trafficked people out of this country, it can be very easy to find out where that person is going and what he is going to do. Our security forces should, without infringing into the privacy of people using cyber cafes, look into things such as cookies. It is very easy to find out if somebody is being trafficked out of the country. We could use special tools such as the cookies in computers.

I believe that my colleagues have said enough. That is my contribution and I will avail myself to be questioned, if need be, in this area so that I can give them additional light on how to prevent such crimes.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to contribute to this very important Bill. First I wish to thank the Mover of this Bill because of the deep preparation she has made to develop it. I would like to talk on a few items in the Bill.

One area that is being addressed by this Bill is the issue of early marriages or forced marriages. Children are forced to marry, thereby being denied a chance to go to school. That is tantamount to ruining the future of these innocent kids. It is also self-denial in terms of self-determination in the way one would like to be in future.

We have the rich in the society who take advantage and exploit the children. They use the children for sexual satisfaction. We have noted that in Coast region, there are tourists who take advantage of these young kids to exploit them sexually. Sometimes they are used to pedal drugs in that region. That is ruining the innocent children. It is like they

are being used as objects and that should not be tolerated in modern Kenya. Our security organs like the NSIS and the CID must be in a position to prevent some of these crimes. There are also times when our children are taken away from schools and used by film makers to shoot pornographic movies. This is very serious.

There are some countries which are not stable where our young boys and children are being taken to these areas to get trained as soldiers. They are exposed to ammunition and weapons. This is very risky to these children. We need to control that menace where our young children are taken across the border to get enlisted in military training.

Mr. Temporary Deputy Speaker, Sir, there are also instances where persons have been taken to Europe and even Asia for exploitation. At times, they are mistreated and beaten. At times, they come back in bags after they have been killed. Once this Bill comes into law, some of these events will not be experienced. Our security forces, again, must be vigilant at our border points and even the port to make sure that these kinds of exercises do not really take place.

Mr. Temporary Deputy Speaker, Sir, you will also realize that there are kidnappings in this nation. Some of them are directed at young girls and middle aged ladies. This is another exploitation by the rich in the society. There are also cases where some people elope with young girls. This should not be allowed at all in this society. In order to punish this kind of crime, it is, therefore, important that we fully support this particular Bill.

Mr. Temporary Deputy Speaker, Sir, without any hesitation, I beg to support this very timely Bill.

**The Temporary Deputy Speaker** (Prof. Kaloki): Yes, “Dr. Murugi”

**The Minister for Gender, Children and Social Development** (Ms. Mathenge): Mr. Temporary Deputy Speaker, Sir, thank you for making me a doctor.

*(Applause)*

Mr. Temporary Deputy Speaker, Sir, I truly want to thank hon. Odhiambo for this Bill. We have worked closely with her in the Ministry and other stakeholders to see its birth. This Bill is long overdue. It will help us to take care of our children, especially the young girls and also Kenyan women. Currently, Kenya has no comprehensive law or policy addressing the issues of human trafficking. So, this Bill is long overdue.

Mr. Temporary Deputy Speaker, Sir, this Bill tries to address the issues which are missing in the legislation on counter-trafficking. It also tries to address issues on the numerous cases which are reported but no action is taken. It will, therefore, help the Judiciary to enforce the laws and also punish the perpetrators of trafficking. Human trafficking is a relatively new name, but a very old human rights violation. Because of the modern form of trafficking, it has been regulated for less than a decade and the concepts are still poorly understood. Indeed, when you tell many Kenyans that they are trafficking when they go to their rural areas and bring to the cities girls and boys who are below 18 years old, they do not believe it. But they are, indeed, trafficking.

Mr. Temporary Deputy Speaker, Sir, this Bill will also try to address and assist the victims of trafficking. That is why in the very last clauses, it creates a fund and also an advisory committee. The advisory committee will have a role of rehabilitating the victims, creating programmes for the victims and also helping the stakeholders in order to

understand what human trafficking is all about. Human trafficking in persons has been defined as the recruitment, transportation, transfer and harbouring or receipt of persons by means of threat or use of force. It can also be by abduction, fraud or deception. Indeed, deception comes in when we tell our young girls that we are going to give them a better life in the cities and then come and make them house girls. So, this Bill is going to address that.

Mr. Temporary Deputy Speaker, Sir, why is trafficking so rampant? We know that it is because of poverty. That is a catastrophe that is affecting the whole country, but that does not mean that we have to traffic our women and children in order to combat poverty.

The other cause is the parents. Parents have become lax in their role. We need to evaluate the role of parenting so that we can secure and be sure that our children are safe even in our homes.

Mr. Temporary Deputy Speaker, Sir, the other cause is corruption. We have a lot of corruption. We have a lot of documents being falsified so that children are actually shipped out of the country. As hon. Odhiambo said, we even had to repatriate one of our children who passed through a children's home and was sold in the United Kingdom. Fortunately, we were able to bring the child back. So, we also need to investigate children's homes and what they are doing. This is because we have realized that many children's homes say that they are helping the poor children of this country, yet it is actually a window for selling our children outside our boundaries.

Mr. Temporary Deputy Speaker, Sir, the other reason there is a lot of trafficking is political instability. This is within our country. We experienced it during the post-election violence where we had a lot of women and children being trafficked for sex, so that they could obtain food and other goods in the camps where they are. That is a form of trafficking.

Mr. Temporary Deputy Speaker, Sir, even as we are opening our borders for trade, we must be very cautious because Kenya is currently called a transit, source and exit. If we are not careful, we can open not just the normal trade, but also trade in human beings. So, these are the things that this Bill is trying to look at and curtail.

Currently, Kenya is classified under what is classified in the United Nations (UN) as Tier II. We have just recently moved from Tier III to Tier II. This is because we have started enacting laws that are protecting our children and women but more needs to be done. We need to do a lot more internally than externally. If you go to the Coast, you will find that there is sexual abuse. I want to tell Kenyans that taking care of the children is not the role of the parents, but it is teamwork. It is the role of every Kenyan to ensure that our children are safe and not sold out.

Mr. Temporary Deputy Speaker, Sir, we have also in the past had a lot of cases where girls have gone to Saudi Arabia and other Arab countries and come back either in coffins or with broken limbs.

We need to look at this and make sure that laws are enacted so that our children are safe. Our country is also a transit point because many Chinese, Indian and Pakistan women transit through Nairobi. That leads to exploitation in the European commercial sex trade centers. So, we need to do a lot of work to ensure that we do not just pass this Bill, but we put all kinds of enforcements in place.

I want to go back and say that when this Bill was being prepared, my Ministry, Ministry of State for Provincial Administration and Internal Security, Police Department, Ministry of State for Immigration and Registration of Persons and Ministry of Labour were all involved. We felt that this was a Bill that required each and every person to be enacted.

However, although I am supporting this Bill, I will, at the opportune time, have some two slight amendments. One is that since the Bill deals with human beings and my ministry also deals with human beings, we will want the secretariat to be housed within the Ministry so that we can work together. On the issue of the Fund, we need to look at it and work out modalities of creating a Fund so that those who are victimized can be rehabilitated. What has been happening is that, once they are saved from the perpetrators, we do not do anything to them. We leave them out in the open. We need to create rehabilitation centers where we can put them and rehabilitate them so that they can fit back into the society.

We also need to ensure that the judges and Kenyans at large understand what human trafficking is all about. The elite in Kenya--- In fact, in December, when you visit the rural areas, you will be amazed by the traffic of young children who will be leaving the rural areas and coming to urban centers to look for greener pastures which, in most cases, are not greener but forms of slavery.

I beg to support and I look forward to working with hon. Ms. Odhiambo on this Bill.

**Mr. Muthama:** Asante sana, Bwana Naibu Spika wa Muda. Nami nasimama kuchangia Mswada huu ambao ni wa maana sana na unahusu watu na watoto wetu. Huu ni Mswada ulioletwa na Mheshimiwa Ms. Odhiambo kuhusu ulanguzi wa binadamu.

Ni dhahiri kwamba jambo hili limekuwa jambo la kuudhi sana, la kusikitisha na la kuumiza sana, hasa katika Bara letu la Afrika. Jambo la kuhuzunisha mno ni kwamba ulanguzi unapotokea, hautokei kwa njia ya utumwa peke yake. Hautokei kwa njia ya kulazimishwa. Ni madhara makubwa sana ambayo yanawahusu watu ambao waliumbwa na Mungu na wanastahili kuishi katika sheria zao.

Mambo yaliyotajwa hapa ni mazito sana. Tumeona katika vyombo vya habari mambo ambayo yanaendelea. Yanahusu watu wetu ambao wameenda nje kufanya kazi. Watu hao huenda huko na kufanywa watumwa. Taifa hili lilipigania Uhuru ili liweze kujitawala. Kujitawala ni kuangalia na kuona kwamba maadili ya maisha ya mtu yanaendelea kulingana na sheria zilizowekwa na Mwenyezi Mungu.

Hapo zamani, Waafrika walitezeka. Waliuzwa na kufungwa na minyororo kama ng'ombe na kutumika. Hadi leo, baada ya kupigania Uhuru, Taifa hili linashuhudia mambo haya. Haiwezekani kutokuwa na sheria ya kulinda haki za kibinadamu.

Tulikuwa tunadhani mambo haya yanatendeka katika nchi za nje. Lakini katika nchi yetu, mambo haya yanaendelea kutendeka. Tumeshuhudia visa vya watoto wa miaka kati ya minane na kumi. Ulanguzi sio lazima upitie katika mipaka. Hata ule wa ndani ni ulanguzi. Tumeona na tumeshuhudia watoto wa kike wakiozwa kwa lazima. Wanachukuliwa kwa lazima, wanatekwa nyara, wanafungiwa kwa nyumba na kutendewa madhambi ambayo hayafai kuonekana. Mambo haya yanafanyika katika nchi huru ambayo ina sheria.

Bwana Naibu Spika wa Muda, hakuna kitu kibaya kama kuona mtoto wa miaka nane ama kumi wa kike akiwa amechukuliwa na mtu mzima na kuolewa - na hata mahari



yamelipwa kwa wazazi wake - na sheria haitumiki. Sheria hii inafaa iwekwe ili iwalinde wale walio na nguvu na wanyonge ili usawa uonekana. Hatutaki kusikia kuna jamii moja inabaguliwa na nyingine inatunzwa. Serikali inafaa kuangalia na kuingilia mambo ya wale ambao wanateseka kwa sababu ya umaskini. Hivi leo, tuna wakimbiziki wa kisiasa wa ndani. Watoto wa watu hao wanalala nje na hawana mahala pa kwenda. Wengi wao hawaendi shule. Wakati umefika wa kuangalia maisha ya Wakenya ili watoto wao wasije wakawa vile vile. Hicho ni kizingizio na wanaweza kuanguka katika ule mtego wa kuenda nje kuuzwa na kutendewa matendo mabaya. Serikali inaweza kujimudu na kuwasaidia watu masikini na watoto ambao nia yao ni kusoma ili waweze kujikimu na kuwa kama Wakenya wengine. Tukiangalia mambo ya nje na pia yale ya ndani, inafaa tuhakikishe waliopo hapa wameshughulikiwa.

Sisi kama wazazi tunateseka na mambo haya. Yanatuudhi! Lakini ukweli ni kwamba akina mama wanaumwa sana kwa sababu wao ndio walio na mzigo mkubwa sana. Kama Waswahili walivyosema: “Uchungu wa mwana aujuaye ni mzazi.” Akina mama wanateseka sana na wao ndio watu ambao wanapatikana katika mambo yanayouudhi na kutatanisha maisha ya binadamu.

Naunga mkono sheria hii. Nasema kwamba ipite kwa dhati na iangalie kabisa na kuona kwamba katika makadirio ya bajeti ya Serikali, kuna kiwango kilichowekwa cha kuwasaidia watoto ambao ni masikini ili wasije wakaingia katika mtego wa kuuzwa nje, kupelekwa nje na kuolewa kwa lazima.

Kwa hayo machache, naunga mkono.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I want to, first, congratulate Ms. Millie Odhiambo and all the hon. Members who have contributed to this Bill, which is a landmark for this country.

The first comment I have is in respect of the Advisory Committee, whose membership is 15. Out of the 15 members, 10 are Permanent Secretaries (PSs), the Attorney-General and the Commissioner of Police. I was wondering whether this composition is not extra weighted towards the PSs. As we all know, the PSs will not be able to attend many of these meetings. In the spirit of joint responsibility, I feel that perhaps, the numbers on this committee need to be re-assessed with a view to involving more people in the Public Sector.

The other issue I have on mind are the duties of this committee, which are broad in a sense. They cover issues of monitoring, evaluation, publication and undertaking public campaigns, *et cetera*. If we are going to do that, we need to add a little more meat to this committee.

The idea of putting together a Trust Fund is good. I hope that the implementation will equally be good. The sources of the funds are limited to three, namely; revenue generated from investments, confiscated and proceeds of crime and any donation that may be made. Due to the importance of this issue of counter-trafficking, it is important that the Ministry of Gender, Children and Social Development carries a certain element of funding this Trust Fund in its budget.

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

*[The Temporary Deputy Speaker]*

*(Mr. Ethuro) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, it does not have to be much money, but there should be a standard figure to show commitment by this Government, and the country at large, that we intend to tackle this issue of human trafficking. A proposal has been made by the Minister that we should be able to get them facilities, retrain them, *et cetera*, but the issue of funding does not seem to be there. My fear is that if there will be no sufficient funding, this thing will fall between two stones.

Mr. Temporary Deputy Speaker, Sir, I am sure that the other issue I wanted to talk about is covered, but I cannot see it. What about those babies who are snatched from maternity homes and given to other people? There was a very interesting documentary on this subject, not a long time ago. I hope that the Bill will cover that aspect.

I am sure that the issue of students abroad is also covered but what do we really need to do, especially about those people who are taken abroad under deception, and who find themselves out there? It is unfortunate that the Ministry of Foreign Affairs and our Missions abroad are unable to do much, because they do not have adequate funding for such issues. That is why I feel that the Trust Fund is very important.

I also feel that the Ministry of Foreign Affairs should be involved, through this Bill, through a provision which says that people being misused in, say, Saudi Arabia, and elsewhere, should be repatriated. Repatriation should be the responsibility of the country. I know that people go out there on their own free will but there are times when we have to protect our citizens, no matter where they are. That is why I feel that a repatriation clause should be there.

Mr. Temporary Deputy Speaker, Sir, we have also faced cases of people who have passed away out of the country. I know that this Bill may not cover such a situation but, when it comes to that, the body is not allowed to be transported back to this country for post-mortem, and is buried very quickly in some countries.

I am also not sure how children who are employed as house servants are going to be covered in this Bill. You know, there is deception on the protocols. Many families are very good to such children, and actually adopt them literally, but many families also actually misuse such children. They torture them physically and mentally. It is not clear in this Bill as to what the distinction will be, and who will make that call as to whether a child has been abducted or brought here against her will, or bonded and kept here against her will. If that be the case, who will be charged? Will it be the mother of the home which brought the child from the village or the parent of the child who thought that this lady would take care of her? That is another question.

Mr. Temporary Deputy Speaker, Sir, as much as we would not want to admit it, in this country, there is what is called “bonded labour”. People are bonded in various forms. I have been to certain tea estates, and I have seen how high the level of poverty is. People working there may not be bonded as it used to be in the past, but they are bonded by economic circumstances. So, we also want to know how we are going to deal with people who in essence are bonded through not being paid enough, or through their wages being deducted unfairly for housing and other costs and, therefore, ending up getting as little as Kshs1,200 per month, which may not be enough money for them to go back home or start a new life.

Finally, within this Bill, there should be the issue of DNA profiling, so that we start keeping a record of cases and be able to follow them through on DNA profiling where there are rampant cases of child abuse and trafficking.

With those remarks, I beg to support.

**The Minister for Foreign Affairs** (Mr. Wetangula): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Bill.

I want to congratulate the hon. Member who has brought the Bill. This is a Bill that has been long overdue, and which will make a difference in our fight against crime. If you look around the world, perhaps Asia leads in the roughages of human trafficking. Africa is about the second.

Mr. Temporary Deputy Speaker, Sir, in this regard, perhaps Asia leads in the ravages of human trafficking. Africa is number two. This continent loses in excess of 10,000 people who drown in the Mediterranean Sea while crossing to Europe. Their boats capsize as they are trafficked to places of imagined heaven. Some even perish while walking across the Sahara. If you go to West Africa, you will be told horrific stories of young boys and girls recruited and lured to walk for thousands of kilometres across the Sahara to get to what are called green pastures in Europe. When we talk about human trafficking, and as Ms. Odhiambo has rightly pointed out the issues that relate to human trafficking like forced marriage and sexual exploitation, nothing is worse than child-trafficking and trafficking for sexual exploitation.

In fact we have an organization in this country called the International Organization on Migration. If you look at their statistics, you will find that Kenya unfortunately, stands out as a key transit point for human trafficking. People from troubled spots like Somalia, the Democratic Republic of Congo (DRC) and many other countries are trafficked through this country to imagined safe heavens outside the country. If you go out there, you will find that even in the Arabian sub-continent, there are very many women recruited from the coastal part of Kenya and taken to Saudi Arabia as workers. When they get there, their passports are confiscated and locked up. They are then used as workers and sex slaves. In Article 2, Ms. Odhiambo fell in the same trap as the Bill we just passed, in the definition of organized crime. I would like that she amends at the Committee Stage the definition of organized criminal group to remove the words “existing for a period of time”. This is because a group can be formed and mutate into something very big within no time and engage in criminality of unparalleled proportions. So, I advise the Mover to do the same as we did in the other Bill and remove the phrase “existing for a period of time” on page 63.

Mr. Temporary Deputy Speaker, Sir, on page 64, the definition of trafficking in persons again needs to be expanded. The Bill says that a person commits the offence of trafficking in persons when the person recruits, transports, transfers, harbours or receives another person. I would like the mover to expand that to include a person who funds or finances such activities, directs or controls such activities or is in any other way associated with a similar offence so that it is all encompassing. This is because if you only limit yourself to recruiting, transporting, transferring, harbouring and receiving, then you are in fact, leaving out the key players in human trafficking. That is the real rich people who sit somewhere with a lot of money and control the trade of trafficking human beings. So, if you expand it to that level, you will be able to capture them as well.

In Article 19, I agree with the immediate former speaker on the Floor that this advisory committee is too heavy for the Government and is unlikely to be productive. In fact, the Mover has put in almost the whole Government. What you need in an advisory committee like this is the Ministry responsible for children, Immigration, Foreign Affairs, Security and the Attorney-General. The rest can be consulted and co-opted when there is need. You can clearly state in the Bill that as and when there is need, line Ministries can be co-opted. When you have an advisory committee with 14 people, you will have problems of quorum, to begin with. You will also have a problem of them agreeing on anything. You need a smaller effective committee that will be able to achieve its objective. Being largely a Government advisory committee, I would advise that--- Page 85 says that it is not true that the enactment of this Bill shall not occasion additional expenditure of public funds. It will. I think that it will be good, before we go to the Committee Stage to consult with the Treasury and see that the running of this advisory committee is not eventually left to the very criminals you are fighting because crime fights back. You will find a trafficker who looks benevolent and offers to contribute money to the fund and then compromise its integrity, undermine its effectiveness and defeat the very purpose for which the Bill was intended.

Mr. Temporary Deputy Speaker, Sir, I would also like to point out to the Mover that in Article 26 (2), we need to recast some of the provisions there. It looks dangerous for the operations of civil servants because it says that any employee or official of a Government agency who issues or approves the issuance of a travel document--- I think it would be good if you said, “who knowingly issues---” At the end of it, you add; “with the intention of assisting in the commission of an offence”. This is because knowledge is important for you to create an attendant offence.

On Article 26(3), and I do not know how to put it, but the Mover can find ways and means of recasting it and enlarging it. One of the most abused processes of trafficking in this country is adoption. There are many American organizations, some that falsely pass themselves off as church groups that are in cahoots with some of our colleagues, lawyers, who come here, go to St. Barnados Children’s Home or whatever children’s home---- There are criminal elements who run what looks like genuine beneficial homes for children, where they collect children from the streets and poor people. They keep them in those homes for purposes of processing adoption. What they do is that they traffick them. They sell these children. So, you must find a way of casting in your net in this Bill, how to regulate children’s homes so that you avoid having them as sources of trafficking of children. You must also net in the groups that are professional adoption agencies who just come into this country--- As the Minister for Foreign Affairs, I have been visited by a very concerned groups from the United States of America (USA) which told me that “people in this country are destroying the institution of adoption.” They further told me that they have been adopting children and taking them to the USA and now people are interfering. Adoption is not an occupation or a hobby where you say somebody spoiled my hobby. People adopt children when there is need. If your duty is to get children adopted on a serial basis, then, certainly, there is something behind it. These children need protection. So, this Bill should address that issue. I know that it is casually mentioned in the Children Act. It is not deep or wide enough. This is an opportunity for you as an agitator for children’s rights to enlarge that provision so that we can be able to protect our children.

Mr. Temporary Deputy Speaker, Sir, on the issue of penalties, I agree with you fully. People who traffic in human beings, whether for labour, sex or for whatever reason, are not any different from Tippu Tip, the Arab and European slave traders of the previous centuries. The only difference is that they come in suits carrying briefcases full of money. When we catch up with them, a very harsh penalty is desirable. In fact, if you go to comparable jurisdictions, like the Philippines, human traffickers are sentenced to death and hanged. If you go to Malaysia, human traffickers are sentenced to death and hanged. The same applies to Singapore. Of course, the pro-life people in this country are very conscious about the application of the death penalty but I also want to advise you that if you go to the USA, you will find that more than 16 States have reinstated the death penalty in the last ten years.

In fact, for the first time in 20 years, there was an execution of a death sentence by a firing squad because it is supposed to be a deterrent measure. I believe that anybody who can go to a village in this country with sweets and money and pick helpless children who cannot even think for themselves and traffic them for sex and labour, that person does not deserve to live. I think that we need a very severe deterrent measure to curb such activities in this country.

Mr. Temporary Deputy Speaker, Sir, once this Bill is passed, then the implementation must come into force immediately. If you go to our coast, you will see the sorry state in which little children are lured into sex. In fact, I have been told, and I believe it is true, that in some European capitals, there are advertisements in the newspapers there that if you want sex with an 8 or 10 year old child, go to Kenya. This is an affront to the dignity of this country. It is an affront to the dignity of the people of this country and we need a law that will not only deal with the end users and petty offenders who pick children and take them to the beaches, but those tycoons who come to the beaches with their money to defile and desecrate our children. They must also be severely punished. So the mover should find a way of getting such fellows also to meet the full weight of the law. That is the only way we can clean up our country and protect our children.

Finally, Mr. Temporary Deputy Speaker, Sir, I want to urge the House to support this very important Bill. I think it is a milestone in our legislative history that for once, we are dealing with something that we have lived with for a very long time. Many of our girls have been lured to go to low level colleges in Europe but when they end up there; they never go to any college. Instead, they end up in prostitution dens and all other houses of sin that we all know.

With those many remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support the Bill.

**Eng. Gumbo:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this important Bill. As I support this Bill, I want to thank hon. Millie Odhiambo for bringing to the Floor of this House this very important Bill. I particularly laud the effort that has gone into looking at the broad issues that concern the counter-trafficking in persons especially the issues concerning confidentiality for victims, the impact assessment of victims and restitution; particularly restitution with regard to medical and psychological treatment. I also thank her for building into the Bill provisions of providing victims immunity from prosecution especially in cases where such a victim may be an illegal immigrant in our country. The provisions for support and protection of

victims in person is also very important as well as the provision to exempt them from paying fees in civil suits.

It is also very laudable to note that this Bill provides for confiscating proceeds from the highly criminal activity of trafficking in persons. The provision for repatriation is also important, as is the setting up of counter trafficking advisory committee. Like has been said by my colleague, hon. Shakeel, I asked the Mover to look at the counter trafficking advisory committee afresh. It is top heavy with Government officials. I think it would be good if you looked at ways to try to bring people from the private sector also into that committee.

Mr. Temporary Deputy Speaker, Sir, setting up of a Trust Fund has been spoken about by speakers before me and I will not go into details other than to say that it is indeed very important because we have seen the plight of many Kenyans who get, for example, stranded in countries abroad and are unable to get themselves back to the country. I think the idea is very good.

Having said that, I think it is important as a country, that we address some of the causes known to us that make it easy for this crime of trafficking in persons to occur. In that respect, I think as a country and we will not tire of saying this, we really must address the yawning poverty gap in the Kenyan society. Kenya still remains one of the most unequal places on earth. I think this is something that as a people and as representatives of our people, we must talk about boldly and at every opportunity that we get. I have been to countries outside Kenya and sometimes it amazes you that when you walk in the streets of Kampala, for example, with Ushs500, you can actually get a proper lunch. This is less than Kshs20. I tried to look around in Nairobi for a place where you can get a decent lunch comprising anything of note for Kshs20. Such a place does not exist. The issue of income disparities in Kenya is definitely a cause that makes this crime easy to perpetrate and we have to look at these issues.

Mr. Temporary Deputy Speaker, Sir, it is also important that we look at the structure of the Provincial Administration. I am one of the people who strongly supported a Bill which was brought into this House to remunerate and pay village elders. My reason for supporting that Bill was because the way I understand it, the village elders are actually supposed to have literally a physical count of everybody in their villages. I want to believe that even with the structures that we have, it should be possible, particularly in the rural areas, for the assistant chiefs, the chiefs and the village elder to know exactly who among their people have disappeared mysteriously. These people are plucked from among us and we cannot say that we do not know them.

The other issue that we have to address - and I am speaking with authority because I am one of them - I think we also must prescribe stiff penalties in Kenya for irresponsible parenting. The way I know it is that the prime duty, the most important duty for anybody in this country who has children, is to look after those children. But we see a lot of irresponsibility. A lot of people in the rural areas send their children who are under-age to come and work in Nairobi. I think in this day and age, that ought to be criminal. Free schooling is provided in Kenya and there is absolutely no excuse why anybody should bring their children to urban areas where basically they are abetting trafficking in the name of running away from their responsibility. Even those of us in the middle class, I think we tend to hide under the excuse of the pressures of life to get away from the

responsibilities of parenting. For me, parenting is the most important duty for anybody in this country. All the other things that we do are secondary.

Having said all that, perhaps the other area that I would like the Mover to look at, and that has been eloquently stated by my colleague, hon. Wetangula, is that penalties that have been prescribed in this Bill are too lenient. I think we have to look at especially the penalty for those Government officials who knowingly abet this crime. I think the Mover has to look at this. We cannot be shy to say these things, while here we are being told to put in place designer Bills. Some will come here and tell us the death penalty is primitive and yet in their own countries, they practice the same. Designer Bills are not going to help us. We are a unique country and we have to bring in punishment and fines that are commensurate with the crime. There are a lot of people who even now in the name of looking for or making illegal money, go to the rural areas or rural schools and bring children here to Nairobi, make them walk barefoot, photograph them, send them abroad and get money. These are criminals. They should be punished heavily.

I am not talking about the death penalty but when people like that get away with five years, then that is too lenient. When they are fined Kshs10 million, that is also very lenient. This is blood money because they are using the plight of helpless children. I urge the Mover to prescribe the death penalty in this Bill. We will not be the first ones to do it.

**The Temporary Deputy Speaker** (Mr. Ethuro); Order, hon. Gumbo! Address the Chair!

**Eng. Gumbo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I am sorry. I request through the Chair that the mover relooks at the issue of the penalties and fines that have been prescribed in this Bill.

Mr. Temporary Deputy Speaker, Sir, we also need to look at the roles of some senior Government officials. We know that some of these crimes are happening in collusion with senior Government officials and I think it is very important to have a look at them. I have cases, for example, in my constituency that were brought to me by CRADLE and it is very surprising that some of the names being mentioned as being responsible for taking away helpless children in the rural areas to European countries are people who have held very senior positions in Government. If we are to deter these crimes, without fear or favour, we must target such individuals and use them as examples. It is wrong to take advantage of helpless children to make illegal and evil money in the name of wanting to enrich ourselves.

With those remarks, I fully support.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill.

First, I would like to acknowledge the efforts of hon. Millie Odhiambo. Going by the record, for the two and a half years she has been in this House, she has made us greatly appreciate worthiness of nominating individuals who can add value to the legislative agenda of this House. I have worked closely with hon. Odhiambo, the Mover of this Motion, and I can attest that she is very diligent and serious. She has the kind of commitment that you find in the organized civil society which sometimes we in Government are very quick to dismiss when we do not like matters emanating from those organizations.

Mr. Temporary Deputy Speaker, Sir, this Bill is in pursuit of programmes that I know the Mover has had opportunity to work for while outside and, therefore, penetrating to the august House. To legislate on this matter is to enhance the capacity out there.

Mr. Temporary Deputy Speaker, Sir, in Part IV of this Bill, there is established an Advisory Committee to carry out the mandate of advising and ensuring its implementation. This is okay, but it is very heavy on the part of Government. I have talked to the Mover and I am hoping that at the sunset of this Motion, she will consider bringing some changes. This is because like it has been said by those who have spoken before, having eight Permanent Secretaries is not right when we are looking forward to a lean Government. Also having almost every department from labour, health and prisons incorporated will make it very unhealthy. Therefore, there is need for this part to be reviewed so as to focus it and ensure that it is actually productive and better.

Mr. Temporary Deputy Speaker, Sir, also on the Fund to be established by this Bill which has a Secretary, a person with financial management skills and one person conversant with issues related to trafficking in persons, I am also hoping that this should be looked into because we need to be generic. We also need to qualify better.

*(Mr. Wetangula consulted with Ms. Odhiambo)*

I hope the hon. Wetangula is not suffocating her listening skills.

The person with experience in financial management should not be just too generic. It should be enhanced to a person with financial management but also with qualifications because this country is learning. It should not be just anybody from a small kiosk with very basic skills in financial management being appointed to this Board of Trustees. Also, a person conversant with issues relating to trafficking in persons. We have not had very many cases that are registered in court on trafficking in persons. This is an international crime that has largely gone unnoticed or unpunished in Kenya. Therefore, a person conversant with issues relating to trafficking in persons needs to also be looked into and that will enable this Board to harvest from available capacity and not necessarily experience. This is because many at times, experience may not be positive. It can also be negative experience. This is so that people who show ability--- We have seen individuals running hospitals in this country who are trained in Hotel Management. We have seen individuals running banks who are actually from other fields. The call should be for ability and capacity after requisite compulsory interview.

Mr. Temporary Deputy Speaker, Sir, I want to agree with my colleagues who have said that the punishment needs to be a little more serious. Traffickers, be they in persons or drugs are actually devils who require maximum punishment. The best that can be done is to deter that person from the ability to do that business again. This is because sometimes we punish these individuals who are doing businesses in illicit liquor, children and drug trafficking and the fines are so meagre that it makes no difference. Given our culture of impunity, these are matters that we need to look at because we can have compromise in many other areas.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by saying that this Bill sort of contemplates what we are also talking of in the proposed Constitution. While that is not the matter, we need to broaden. There is a clause in the proposed Constitution that talks about ensuring that children found in Kenya who are below eight years of age shall



be identified to be Kenyans and, therefore, given the national identity card. In pursuit of ensuring that our thinking is broad, hon. Odhiambo has brought this Bill to deal with specifically a crime and not fears. That is, what is illegal, what needs to be punished and what needs to be corrected, therefore creating instruments to empower those that are weak.

Mr. Temporary Deputy Speaker, Sir, looking towards the Federation of East Africa, one can move freely to Tanzania, Uganda, Kenya, Rwanda and Burundi. We also know the people of South Sudan are looking forward to joining us. This Bill is lifting specific issues or instances that constitute a crime which should be punished and needs to give us a better scenario. As we support this Bill, it is also important to assert that there is need for us to have an attitude that is positive in dealing with this matter.

In our country, a lot of the children are employed by the elite today as house helps. This is not something that requires us to wait until there is legislation. A lot of people who are working in the Government, and in the private sector; people who are professionals have other people's children taking care of their children in their homes. That is an attitude issue that needs to be campaigned against; this is where the relevant Ministry needs to up its campaign, including the civil society and the relevant organ of this House too.

Mr. Temporary Deputy Speaker, Sir, I remember the former Minister for Immigration, between 2003 and 2005, carrying out a very serious campaign in the Westlands part of this City. He invaded homes of wealthy individuals who were exploiting a lot of children. Since that campaign stopped, it does not imply that actually the trafficking, or the children abuse, has stopped. We have also heard of a few instances at the Coast, at those illegal villas where children have been subjected to sexual exploitation. Again, there is a Ministry in charge of that sector in which we need very adequate programmes to ensure that, as a nation, even as we contemplate the passage of a new law and its success, attitudes are changed; we need to lead from the front.

Therefore, Mr. Temporary Deputy Speaker, Sir, there is a very urgent need to audit plantations in this country where families have lived for three or four generations since before Independence. Children have been born, they have grown and cannot proceed with education beyond the primary schools built in these plantations. We have illegal villas which employ families whose children cannot proceed even beyond mid elementary education. All these are issues that we need to address, and I think the spirit of this Bill allows us to open the gates into this practice and fight it.

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

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. John Mbadi!

**Mr. Mbadi:** Thank you, Mr. Temporary Deputy Speaker, Sir---

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, I appreciate that we can call each other by first names. But I think it is honourable just to refer to the an hon. Member as the hon. Member!

*(Laughter)*

Proceed, hon. Mbadi!

**Mr. Mbadi:** Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank you for giving me this opportunity to also support the Bill before us, that is the Counter-Trafficking in Persons Bill, 2010.

Mr. Temporary Deputy Speaker, Sir, allow me also to congratulate Ms. Odhiambo for coming up with this well thought out Bill that I think is timely. I think that, as a House, we need to support the hon. Member who has come up with this wonderful idea.

The majority victims – as others have said before – of this trafficking in persons are actually people who cannot defend themselves, and I think it is our duty, as the leadership of this country, to protect the interests of those who are not in a position to protect themselves.

The definition of the words “trafficking in persons” I think is elaborate and I want to congratulate the hon. Member for coming up with a detailed definition of what amounts to trafficking in persons. I also want to congratulate her for coming up with bodies that will really help in advising and managing the consequences of this unfortunate event, should it happen.

Mr. Temporary Deputy Speaker, Sir, as others have said, I think we need to encourage the hon. Member that even though she has come up with various penalties, I think we are in agreement that certain offences of this nature need more severe penalties than what is prescribed in the Bill, especially those ones that touch on cases where individuals take sexual advantage of children. I believe that if we cannot eliminate these people from the society, then if they are men, they need to be castrated; we cannot continue to have people amidst us who are likely to perpetuate certain acts that can even endanger the lives of someone who has no choice.

There are so many cases in this country that if you read about them in the print media or hear about them, you wonder what kind of society we are degenerating into. So, to deter these particular individuals from carrying out these inhuman activities, then you need to carry out stiffer penalties. That is why I recommend that if, for example, one takes sexual advantage of a child, and such a person cannot be removed from the society, we need to take away the particular power that he misuses, and that is through castration, as I said.

I think my other colleagues have ventilated on this Bill enough, and it would only be fair if I stopped at this point. I conclude by, again, thanking Ms. Odhiambo for bringing this particular Bill before the House, so that we can pass it. My only hope is that the operationalization of this Bill will be fast tracked so that we can start addressing these unfortunate incidents in our society.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister for Tourism** (Ms. Mbarire): Thank you, Mr. Temporary Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. I wish to begin, at the outset, by congratulating the Mover, Ms. Odhiambo, because I think this particular Bill could not have come at a better time. We are at a point in the history of our country when we are trying to come up with a new Constitution, which has really looked into the issues of children and women and their rights.

We know that trafficking in persons is a big issue in this country, which has not been looked at as critically as we are doing right now. I am also aware that, maybe, we probably never had a chance, as a House, to really discuss this critical issue. Therefore, I

want to support and say that it is about time that we had a law that is really aimed at dealing with this issue.

Mr. temporary Deputy Speaker, Sir, I want to focus mainly on sexual exploitation, especially of young boys and girls, knowing the effects it is having on our tourism sector. Sometime last year, we went to London for a big World Tourism Fair, and we had a big challenge of having to explain the issue of child sexual exploitation in the Coast Province of Kenya. We know that we are very clear, as a Ministry, and that we are even a signatory to the UN Convention Against Child Sexual Exploitation, especially in the area of tourism and that the UNWTO--- It was very clear to us that we had a serious problem. In major hotels today, if you go to any reception, you will find that they have put up a very big notice that anybody who comes with a child shall not be admitted to the hotel, especially if it is a young girl or boy. But that exploitation is still happening in many lodges within the Coastal part of this country and even in other major towns. This becomes a major challenge for us because tourists are changing their habits. It is not just about luxury. They want to practice responsible tourism. They want to make sure that when they come to a country, they leave it even better than it was. So there are tourists who want to come and be associated with having played a role in improving the lot of the people they visit. Therefore, I must say that this is a very important Bill and I hope that this Bill will look specifically into tourism and what it does to young children.

Mr. Temporary Deputy Speaker, Sir, I also want to add my voice to those who are saying that these penalties that have been proposed by the mover of this Bill are inadequate. These penalties need to be enhanced because the kind of criminal activities that are meted against young children and women--- We have been reading newspaper reports on what is happening to most of our young unsuspecting girls who are going for “greener pastures” in countries out there, especially, Saudi Arabia. We need to really focus on how to tame such individuals. They need to realize that they are dealing with criminal activities and the penalties are stiff. We should not have our girls going to countries and then they end up living under slavery, being forced into labour without pay and some even being exploited sexually. I hope that the section on penalties will be looked at afresh so that we can impose stiffer penalties on those who commit these crimes.

I also want to focus on the issue of forced marriage of young girls. We know that many communities have moved out of forced marriages but we still have some communities that still stick to it in the name of culture and tradition. As we usher in a new Constitution, hopefully, it is very clear that any cultural practices that abuse the rights of individuals will not be tolerated. This section on forced marriage will be looked into and stiffer penalties granted, so that we can protect the young girls, especially in communities that continue to practise forced marriage.

Mr. Temporary Deputy Speaker, Sir, we look forward to have this law not only passed by this Parliament but to also see real action on the part of the Government to implement it once it becomes an Act of Parliament, so that we can continue to empower the girl child and boy child and ensure that they grow up in an environment that is free from any form of abuse.

With those few remarks, I beg to support.

**Mr. Konchela:** Mr. Temporary Deputy Speaker, Sir, I would like to support the mover of this Bill for bringing this important Bill to the Floor of the House.

Indeed, it is a Bill that should have been here ten years ago but unfortunately, we have waited this long for this wonderful lady to bring it.

Mr. Temporary Deputy Speaker, Sir, the issue of trafficking in human beings is a problem in this country. Today, Kenya is one of the routes for human trafficking from Ethiopia, Somalia and other neighbouring countries. This thing has been going on. There are agents of human trafficking who are stationed in Nairobi and other parts of this country. They bring these people, hold them and slowly start selling them either to Europe or other parts of the world, including the Middle East. This has been a problem because most of these people are young and do not speak their language. They also do not understand where they are going. They believe that they are going for economic gain but they have no idea that they will end up as slaves.

Worse of all, in our country we have a problem of tourists who come and stay for up to three months which is allowed in the visa. Once they come, they move to the coast, get involved with the local population and from there, they cheat them and take their children to Europe. Once they get them to Europe, they dump them in brothels and they are permanently confined until they are useless. They then shoot them or just poison them to die. The suffering of young women who go to Europe is an issue in which the Government must intervene.

Mr. Temporary Deputy Speaker, Sir, I am happy because this Bill addresses this issue of taking people by force through abducting, cheating or marriage and they end up in misery.

One other thing I would like the mover to think about is a special police force to deal with investigation and arrest in an attempt to rescue those people who are confined, by following them to where they have gone in every country. I would also wish that the Ministry of State for Immigration and Registration of Persons would open a special department that will deal with young people going abroad because they have been married or are going to work somewhere. Most of them are cheated to go and work or go to school but end up being slaves in those countries. This is very important and I wish the hon. Member considers it. The police should be able to train a special force. They should be able to train officers and send them all over the world to track Kenyans. With the Government ratio of the IPRA system, I believe we can have a database of all Kenyans leaving the country and we can then be able to trace them where they go. We have embassies in various parts of the world and we can then be able to follow them with the officers stationed in those countries. Allowing your people to be subjected to inhuman treatment and slavery is wrong. This is wrong, particularly, if it is sex slavery.

Mr. Temporary Deputy Speaker, Sir, there is the problem of children being adopted and taken outside Kenya. When they end up there, nobody is able to follow whether they are going to school. Most of these children end up being used as body parts for operations in those major capitals. These are the problems that poor Kenyans go through. It is high time this Bill took care of that problem.

On the issue of penalties, I believe the person who promotes and those who earn a living out of this business should be punished more than anybody else. If they were not promoting these things, then nobody would do it. It is these merchants of death who the Bill should take care of and make sure they do not live to see another day. I would think that life imprisonment would be the best option for such people. If they are jailed for a year or two, they will come out and continue doing the same things.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members since there are no more contributions, I will request the Mover to reply.

**Ms. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, first, I would like to take this opportunity to thank all hon. Members for the support that they have given to this Bill and, by extension, to the children and women of Kenya who are usually the victims of trafficking in persons. I want to especially thank the Seconder, Mr. Wamalwa, who highlighted instances of trafficking and why Kenya is vulnerable as a transit and a source country for trafficking in persons.

Mr. Duale, while contributing, highlighted a very important issue, which is the vulnerability of pastoral children to trafficking. In the research that I had mentioned earlier, we went to northern Kenya and that came up as a big issue. That many children, especially because of the porous nature of our borders in the northern regions of Kenya, are susceptible to trafficking in persons. The issue of early and forced marriages is a big issue in northern Kenya. We met one girl who was a victim of trafficking and had been returned back to her home courtesy of a former Member of Parliament for that area. So, many of the cases that we saw are live. I know that when I was moving this, somebody was telling me that this sounds fantastic. It is like it does not actually happen in Kenya. But I have met and dealt with quite a number of victims of trafficking in persons.

I also thank Dr. Laboso for mentioning the need for further research. That is true and at the point that we were undertaking the research, there was absolutely no prior research on trafficking in persons in Kenya. One of the things that we noted, based on that research, was in terms of awareness on the issue of trafficking, people tended to treat it more as a moral issue and not a legal issue. Due to that, many victims are trafficked in the glare of security forces without knowing something wrong is being done. One of the things that was very clear to us is that many facilitators were persons who were very young; between 31 to 40 years. They were followed by those who were 41 to 50 years. Then, the people who harbour victims who are trafficked are 41 to 50 years followed by the age category 31 to 40 years. Most of the persons who harbour victims of trafficking are Kenyans. We also had persons who are Ethiopians, Ugandans, Americans, Tanzanians and Sudanese. There were also other African nationals. The exploiters were males aged 41 to 50 years; closely followed again in the age category of 31 to 40 years. They used several methods of recruitment in discos and churches amongst many other places; even shopping centres. I wish to present this report that we called “Grand Illusions; Shattered Dreams; Report on the Status of Human Trafficking in Kenya” which I did when I was in the Cradle - the Children Foundation.

*(Ms. Odhiambo laid the document on the Table)*

Mr. Temporary Deputy Speaker, Sir, I also want to thank Mr. Baiya, especially for validating the experiences in Kenya by giving the experience from his own constituency of a child that was trafficked. One of the issues that has been raised by Eng. Rege is with regard to cyber space, especially on issues of Facebook and the concept of the “better life syndrome”. It is a big issue that, at the point we were dealing with the Bill of Trafficking in Persons, we debated whether we could concurrently deal with the issue of cyber crimes in relation to children. We agreed that, that may require another law on

its own. We did a separate research on children in cyberspace and the effect of Facebook on children and the results show that the effects on cyberspace and especially Facebook and other social networking sites on children are much more than we actually know as parents and lawmakers. I, therefore, thank Eng. Rege and I will take him up on his offer that we need to work together on that to further protect the children of this country.

I also acknowledge Mr. Njuguna. Thank you very much for, especially, bringing in the concept of kidnappings. I think for any Kenyan now, when you talk about kidnappings, it is a big issue. It is a shame that in this country, we have two persons who have confessed that they were kidnapping women and children right before our own eyes and we did not even know. Why? That is because as a country, we have become so individualistic that even when wrong things are happening around us, we cannot see or know. There are some things that you see happening in other countries and you think they are horror movies; you do not think they are things happening in the country. But for somebody to have actually kidnapped people and for somebody to have disappeared for over years without even people knowing that they are dead is a shock and to us as a country, it shows to what level our social security networks have collapsed. It is something that we need to go back to as a country, and look at where we went wrong. I would want to encourage and challenge our religious community to take back the country to where it missed its step. We are missing a step somewhere as a country and we need to search God and ask God to give us a new direction as a country.

I want to thank Ms. Mathenge who is the Minister in charge of this Bill. I want to thank her, especially for her suggestions of amendments that she has given. I think one was largely an oversight and we will take into consideration the suggestion she has made, especially the fact that, being the parent Ministry, it should be the secretariat for the advisory committee, and also the suggestion she has made in relation to the fund. I also want to thank her especially on the comments about africanising the Bill through the definition, including issues of armed conflict. I thank Mr. Muthama, especially for reminding us of the problem of internally displaced persons and how vulnerable they are to trafficking in persons. It is a challenge for us as a country and it is a challenge that the Government needs to handle. It is embarrassing that several years after the post-election violence, we still have many Kenyans who are still living away from their homes. We need to address those issues and get our Kenyans, especially women and children who are away from homes, back to their homes again. They are there because of the issue of displacement and conflict.

Mr. Temporary Deputy Speaker, Sir, the other issue which he has raised, and which is commendable, is about the need for a concurrent social security programme. Many people are vulnerable because of poverty. When we undertook the research, we asked persons who had been trafficked and had been brought back to the country if given the same opportunities, whether they would go back again. Many of them said they would go back even though they knew they were going to be exploited because, according to them, even though they were sexually exploited, and even though a lot of other negative things were done to them but, at least, wherever they were, they occasionally got food. Some of them do not have food at home.

Many hon. Members have raised issues on the advisory committee and the need to reduce it so that it is not too "Government heavy" and that it is lean and effective. I want to thank Mr. Shakeel for bringing our attention to that, and the need for funding for that

committee especially through the budgetary allocation from the Ministry. The Minister assured me that they will look into that.

I think the other issue that was also raised is about children in maternity homes, students abroad and the need for repatriation. There is also another hon. Member who raised that. I personally had an experience with children in maternity homes. I had on an occasion dealt with a child who I was called to help. An American lawyer wanted to adopt a child. When I started the process, I discovered that, that child was actually in the process of being wrongfully adopted because it is only the mother who had died and used to be my client. But the child had family who had not authorized for that boy to be adopted. When we started following this matter very keenly, the American couple who were running a very posh children's home in a posh neighbourhood actually sent this information to the USA and it was sent back to us.

There is, therefore, need for the Government not just to establish rules under the Children Act but to effectively deal with this practice; the Ministry of Gender, Children and Social Development should be especially involved. A lot of homes that have been set up to deal with children issues do not follow the rules, and this makes our children vulnerable.

I want to thank Mr. Wetangula for the amendments that he has suggested, especially on the issue of definition of organized crimes. I think it actually adds value and is appreciated. We need to remove the concept that organized groups should have been existing for a period of time. I think it is something that we will take on.

Mr. Temporary Deputy Speaker, Sir, the other suggestion that is given and adds value to the Bill is that we need to expand the definition to include persons who are the actual financiers and who control or are associated with the control of trafficking in persons. He also commented on the size of the advisory committee that I have already commented on; so, I will not go back to it.

I have also noted the comments about the civil servants. Again, I think it is an oversight. It is given in law that you can only be charged for a crime when you had a guilty mind, or what is called in law the *Mens rea*. So, we will include the issue of "knowingly" under Clause 26.

He has also mentioned the issue of adoption and I have spoken about it; so, I will not go into it, but, as a country, we must be very careful to ensure that we protect our children from illegal adoptions. I would want to also say that a lot of us have spoken about the issue of penalties. I was of the view that we had actually provided stiff penalties, but I would be very happy if we could enhance the penalties, save that, because I am pro-life, I will not really initiate a death sentence. However, I would encourage that we put everything as a life sentence---

*(Loud consultations)*

Hon. Temporary Deputy Speaker, Sir, could I please be protected from hon. Members who are consulting loudly?

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members. Ms. Odhiambo must be heard .

Proceed.

**Ms. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, I would like to say that if you look at our current Section 214 of the Penal Code, it defines a person as only one who has exited the body of the mother, and not a person from conception. That is why I am saying I am pro-life. I support any provision that recognizes life from conception.

Our Penal Code actually provides that abortion may be allowed to be performed by any person, including a mad man on the streets. That is why I also support a provision that does not allow any mad man to perform abortion as provided for under the draft constitution.

I would want to, therefore, say that I am very pro-life. I support any venture that is pro-life. I would, therefore, want to say that under this proposed Bill, I support the hon. Members that are encouraging harsher penalties but not the death sentences.

I also thank Eng. Gumbo for dealing with the issue of poverty and inequalities, especially in the country. I thank him for the suggestions that he has given. I thank Mr. Kabando wa Kabando who also mentioned the issue of the advisory committee, and also talked about the issue of the capacity and skills of the persons who need to serve there.

I also thank Mr. Mbadi except that, again, I will not support him when he calls for castration of men, even though I do not support people who harm our children. The reason I do not support him is because under the Convention Against Torture, Cruel and Other Inhuman and Degrading Punishments, castrating men falls is covered. So, yes, I would want strict and harsh penalties but not penalties that are themselves degrading and dehumanizing.

I also thank Ms. Mbarire, and Mr. Konchella. I thank Ms. Mbarire, especially for focusing on the issue of child sex tourism in the Coast, and the need to protect our children at the Coast. I thank Mr. Konchella for speaking to the need for a special police force and a special department for immigration.

Finally, I want to thank all the hon. Members who have supported this Bill, even though they have not had the opportunity to speak. I also want to thank the organizations that worked with me and Government Ministries and departments that worked with me towards this Bill. I thank the Cradle, the Children Foundation, FIDA, AMWIK, Law Reform Commission, UNODC, IOM, the Ministry of Justice National Cohesion and Constitutional Affairs, the Attorney-General's office, the Ministry of Gender, Children and Social Development and KEWOPA, amongst others.

**Mr. Mbadi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Ms. Odhiambo made an allegation which I think is in order for her to clarify. I did not say that we castrate men. I only said we castrate men who misbehave by raping small children.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Mbadi. I am sure even Ms. Odhiambo was making reference to the same context.

Proceed, Ms. Odhiambo.

**Ms. Odhiambo:** Mr. Temporary Deputy Speaker, Sir, I am actually saying I agree with him that we need very harsh penalties that would include keeping those men behind bars for life. When you castrate them and they are still outside they might still drink the blood of our children. That is why castration is not actually helpful.

Finally, I once again wish to thank all the hon. Members.

With those few remarks, I beg to move.



*(Question put and agreed to)*

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

## MOTIONS

### ADOPTION OF REPORT ON RECRUITMENT OF KAA MANAGING DIRECTOR

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on the Recruitment of the Managing Director, Kenya Airports Authority, laid on the Table of the House on Thursday, April 15<sup>th</sup>, 2010.

*(Mr. Were on 16.6.010)*

*(Resumption of debate interrupted on 16.6.010)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Mr. ole Metito had the Floor. Is he around? Then any other hon. Member who is interested in contributing to this particular Motion can do so.

**Mr. Nyambati:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this Motion. As a Member of the Parliamentary Committee on Transport, Public Works and Housing, I want to support this Motion strongly for so many reasons.

One is that the Committee sat for many man hours, deliberated on this issue and came up with recommendations to this House.

One of the reasons the Committee is asking the House to pass this Motion is that we realized that in appointing the Managing Director of Kenya Airports Authority, the due process was not followed. It was irregular and, therefore, it is the responsibility of this House to ensure that the due process is followed. From the onset, we, as a Committee, have no problem with whoever is appointed. Any Kenyan has the right to be appointed to whatever office that he aspires to, if he is qualified and if the due process is followed. So, there was no due process followed. That is the major contention that this Committee had to contend with.

Mr. Temporary Deputy Speaker, Sir, this House must not be seen to protect impunity. It does not matter from which corners it comes from. I think it is the responsibility of this House to ensure that whatever is done, especially in public offices, the due process is followed.

I think this House has a duty of ensuring that we create equal opportunity for all Kenyans of whatever colour, religion and cadre. Equal opportunity must be seen to be exercised. In this case, it is quite evident that Kenyans were not given an equal opportunity to apply for this job. I can support that.

**The Minister for Trade** (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt the hon. Member in his contribution, but is he in order to continue on the line that he is propagating, which is contrary to what is

actually in the report of the Committee in terms of the due process? The report itself says very clearly that there was ample opportunity in the advertisement, including the advert having been put on the Authority's official website---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order Minister! When you rise on a point of order, you need to be specific on the order that has been breached. So, do not use it as an opportunity to put your case.

Proceed along those lines.

**The Minister for Trade** (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, thank you for the guidance. Is the hon. Member in order to insinuate that due process was not followed or Kenyans were not given an opportunity while it is very clear within the report of the Committee that, that opportunity was accorded to all Kenyans through advertisement and through advertisement on the international website of the organization which is accessible to all Kenyan on a global bases?

**The Temporary Deputy Speaker** (Mr. Ethuro): That is the correct order.

**Mr. Nyambati**: Mr. Temporary Deputy Speaker, Sir, I beg to continue.

I think the Minister has a right to say what he wants to say. It is apparent that he has not read the report. It is unfortunate. I want to continue on the same line. It is true that Kenyans were not given equal opportunity.

The advert appeared for five days only, and then they started interviewing people. How can you say that Kenyans were given an opportunity? How could a Kenyan from North Eastern Province, Kisii, Mwingi or Coast Province internalise and apply within five days and attend the interview? Surely, what was the hurry for? Why did the KAA give only five days? Can you really say, in your true senses that five days are enough to advertise and interview people? I find that there was something unique or something which was not proper in the due process. Therefore, I say that this thing was stage managed and it is important for Parliament not to support this kind of things. We want Kenyans from all walks of life to be given equal opportunity to apply and be interviewed for whatever they want. That is what we are saying. We are not saying that we do not want the candidate. All we want is for Kenyans to enjoy their rights.

Mr. Temporary Deputy Speaker, Sir, it is high time Ministers supported Committees when they are on the right path. We do not want to sing to the ideas or the intentions of the Cabinet. We want to ensure that this House protects the rights of Kenyans. When it comes to the issue of employment and especially in top ranks including parastatals, we want all Kenyans to be given equal opportunity. That is what we are driving at as a Committee.

During our many meetings that we had, we even invited the Assistant Minister for Transport who supported the idea that the appointment was hurried and done the wrong way. He said that it should be done in the right manner. I do not know why the Minister is standing here now to say that equal opportunity was given which I do not think was the case. Therefore, the Departmental Committee on Transport, Public Works and Housing is asking this House to support us and other Committees who reveal irregularities in the way things are done in parastatals and Ministries so that we can put these things right.

There are many Ministries which do things right and we applaud them. A good example is the Ministry of Energy. We want other Ministries to follow suit so that they do not support or protect the wrong things. Even as I speak, the Minister concerned must not only support the Committee, but also be seen to be supporting it. We must work

together. The Ministry, the Departmental Committee and Members of Parliament must work together. It is time this country rose to the occasion to ensure that wrong things are put right. Kenyans, whether they come from the Coast, Turkana, or Pokot should be given the right to become whatever they want to become.

In America, when a child is born, he is told that if he works hard and plays by the rules, he can become whatever he wants to become. That is what we want to give the Kenyan child – a chance to become whatever he wants to become if he works hard and plays by the rules or if he is a straightforward Kenyan. However, we do not want to give others a chance simply because we want to protect them. That is not right. If there is nothing to hide, I do not see why the Ministry should not come out and restart the process. That is what we are asking---

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Nyambati! You have ten minutes to contribute on this Motion next time.

Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, 23<sup>rd</sup> June, 2010, at 9.00 a.m.

The House rose at 6.30 p.m.