

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 26<sup>th</sup> September, 2012

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Committee on Delegated Legislation on Draft Elections and Registration of Voters Regulations 2012.

*(By Mr. Imanyara)*

**Mr. Speaker:** Next Order!

### QUESTIONS BY PRIVATE NOTICE

DEATH OF MR. MARTIN K. MIRING’U  
AT MOI TEACHING/REFERRAL HOSPITAL

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

(a) Is the Minister aware that Mr. Martin Kamau Miring’u (ID No.26431478) died while undergoing treatment at the Moi Teaching and Referral Hospital on 4<sup>th</sup> July 2012, after he was hit by a policeman a day before his admission to the hospital?

(b) Could the Minister confirm that Mr. Miring’u died of hypostatic pneumonia as a result of head injury?

(c) Has the Minister investigated the matter with a view of establishing the real cause of death?

Mr. Speaker, Sir, I have not received a copy of the answer.

**Mr. Speaker:** Minister in charge of internal security.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Khang’ati): Mr. Speaker, Sir, we sent the reply. I am surprised that the Member has not received it.

**Mr. Speaker:** When did you send it?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Khang’ati): Mr. Speaker, Sir, I sent it today in the morning.

**Mr. Speaker:** Today in the morning? That is understandable. Do you have an extra copy?

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Khang'ati): Mr. Speaker, Sir, yes, I have an extra copy.

**Mr. Speaker:** If you could avail that to the Clerks-at-the-Table, they will pass it to the hon. Member. Sergeant-at-Arms, please assist.

Member for Kandara, you may obtain your answer from the Clerks-at-the-Table. However, note that this is a Question by Private Notice and so it moves through the process very fast.

Mr. Assistant Minister, proceed.

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

(a) I am aware of the death of Mr. Martin Kamau Miring'u which occurred on 4<sup>th</sup> July 2012 while undergoing treatment at the Moi Teaching and Referral Hospital in Eldoret while under police guard. The circumstances surrounding his death are that on the night of 20<sup>th</sup>/21<sup>st</sup> June, 2012 within Eldoret Town, he was arrested with a Mr. Antony Njoroge for the offence of being drunk and disorderly.

During the arrest, Mr. Miring'u became violent and attempted to flee. Unfortunately, he stumbled and fell on a wooden post. He was re-arrested and, together with Antony Njoroge, they were both escorted to Eldoret Police Station where they were placed in custody at about 3.45 a.m. In the morning of 21<sup>st</sup> June, 2012, he collapsed and was taken to Moi Teaching and Referral Hospital where he passed on as earlier indicated.

I am not aware of any form of torture meted against the deceased by police officers as alleged, either during or after the arrest.

(b) After the postmortem was conducted on 10<sup>th</sup> July, 2012, the cause of death was determined to be hypostatic pneumonia in a comatose patient due to head injury through blunt force trauma and sharp force trauma.

Further, it was noted that there was hemorrhage on the left partial region and subdural and mild sub-node hemorrhage on the same side. This is indicative of previous injuries on the part of the deceased and I wish to table a copy of the postmortem report.

*(Mr. Khang'ati laid the document on the Table)*

(c) After the death of Mr. Miring'u, an inquest file No.3/2012 was opened and forwarded to the Director of Public Prosecutions in Eldoret. The same was returned to the OCPD by the State Counsel on 24<sup>th</sup> September 2012 with advice that the file be placed before a court of competent jurisdiction for public inquest.

Thank you.

**Mr. James Maina Kamau:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for the answer he has given. However, the answer is not complete because the story we know is that the gentleman was on transfer from Kericho to Eldoret that night. On arrival at Eldoret they were stopped by the police at night. The police hit that gentleman on the head. Therefore, the allegation that he fell while running away is not true. The police were armed and if he was running away, he would have been shot. That is the order. So why was he not shot? What the Assistant Minister is telling us here is not true. That gentleman died in police custody as a result of being hit by the police.

Could the Assistant Minister explain why he is not telling us the truth?

**Mr. Khang'ati:** Mr. Speaker, Sir, what I have already stated is basically what he has confirmed. He died as a result of being hit with a blunt object on the head. I have already indicated here that an inquest file has already been opened.. I believe that is what the inquest is going to establish. If the hon. Member could be patient, I am sure the results of the inquest will shed some more light on this matter.

**Ms. Karua:** Mr. Speaker, Sir, I have had the privilege of seeing a copy of the postmortem report. It is clear that, that man was taken to the hospital by the police in comatose. He had injuries on the head among other parts of the body, by both blunt and sharp objects. Could the Assistant Minister tell the House whether the police have bothered to find out how he obtained those injuries; whether it was after or before the arrest, and if that is recorded in the Occurrence Book (OB)?

**Mr. Khang'ati:** Mr. Speaker, Sir, the injuries that the victim suffered are true. I have already stated that the injuries were caused by a blunt object. According to what the police have given us - which will later on be established - those injuries were suffered---

**Ms. Karua:** On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House when it is clear that he died from both blunt force and sharp force? I want to table a copy of the postmortem report that shows very clearly that both blunt and sharp object were used. He is, however, insisting on only blunt object.

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

**Mr. Khang'ati:** Mr. Speaker, Sir, if the Member of Parliament had the patience to listen to me; I was dealing with the blunt object injuries. Then later on, I was going to deal with the injuries suffered from the sharp objects. Therefore, with a bit of patience, you would have understood---

**Mr. Speaker:** Order, Mr. Assistant Minister, please, expedite your answer.

**Mr. Khang'ati:** So, the injuries regarding blunt objects are already there. The injuries that had been suffered from sharp objects--- It is not clear whether they were from the police. They could as well have been from previous injuries sustained. I want to repeat that, that is what the inquest is going to determine.

**Mr. Speaker:** Very well. Mr. Assistant Minister, there is a part that you have not answered. Are those injuries recorded in the OB?

**Mr. Khang'ati:** Mr. Speaker, Sir, yes.

**Mr. James Maina Kamau:** On a point of order Mr. Speaker, Sir. Is the Assistant Minister in order not to answer my question? I have just mentioned here that normally, police on patrol are armed. If they arrest a suspect and he tries to escape, he or she is automatically shot. Why did they not shoot him if he was running away?

**Mr. Khang'ati:** Mr. Speaker, Sir, I do not want to speculate why the police did not shoot the victim. The simple facts are that the victim was, first of all, drunk. He was fleeing and fell on an object. I do not think there was any need for the police to use guns because they use them when there is excess threat to their lives.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has talked about a public inquest. That ordinarily occurs only when the police are not able to establish by evidence what may have caused the death of the patient. Would it not be in

order that the OB in which those entries were entered be brought and tabled so that we can tell for sure that the injuries were pre or post arrest?

**Mr. Speaker:** Mr. Assistant Minister, attempt to deal with that question although I have my own feelings about it. But for the moment, let us hear you.

**Mr. Khang'ati:** Mr. Speaker, Sir, as it is now, a public inquest has already been set up to look into this matter. So, my plea to the hon. Members is that we allow it complete its work. I commit myself to come back and give whatever recommendations they will come up with.

**Mr. Speaker:** Fair enough!

Yes, hon. Member for Ainamoi.

**Mr. Langat:** Thank you very much, Mr. Speaker, Sir. The Assistant Minister is telling this House two things---

**Mr. Speaker:** Order, hon. Member for Ainamoi! I have called you to ask Question No.2 by Private Notice!

*(Laughter)*

Proceed!

**Mr. Langat:** I am sorry, Mr. Speaker, Sir. I thought we were still continuing with Question No.1 by Private Notice.

**Mr. Speaker:** Now you know; carry on and ask your Question!

STATUS OF PROCUREMENT OF BIOMETRIC  
VOTER REGISTRATIONS KITS BY IEBC

**Mr. Langat:** Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

(a) Could the Minister provide a programme of activities, indicating timelines that need to be undertaken by the Independent Electoral and Boundaries Commission (IEBC) before the forth-coming general elections on 4<sup>th</sup> March, 2013?

(b) What is the status of the procurement of the Biometric Voter Registration (BVR) kits and could the Minister indicate who are involved in the procurement process and when the process is expected to end?

(c) How much time is required to install, test and train the staff to use the BVR kits and could the Minister assure the House that the general elections will be held on 4<sup>th</sup> March, 2013?

**The Assistant Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Cheptumo): Mr. Speaker, Sir, the answer that I have is not sufficient to deal with the issues raised in this Question. Yesterday, we had a meeting with the IEBC and other stakeholders. Among the issues we discussed was the timelines.

Mr. Speaker, Sir, I have spoken to my colleague and with the indulgence of the Chair, I am requesting that I be allowed to answer this Question tomorrow afternoon because the issues to be addressed are still being dealt with by the IEBC. We will be able to have them tomorrow morning.

Mr. Speaker, Sir, I request that we be given time up to tomorrow afternoon to answer this Question.

**Mr. Speaker:** Fair enough! Hon. Member for Ainamoi, is it okay if we defer this Question up to tomorrow in the afternoon?

**Mr. Langat:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Fair enough; it is so directed!

*(Question deferred)*

Next Question, hon. Member for Molo.

NON-PAYMENT OF SALARIES TO MOLO  
TOWN COUNCIL EMPLOYEES

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

(a) Is the Minister aware that employees at Molo Town Council have not been paid their salaries for the last 3 months?

(b) Why have they not been paid and yet the Council is collecting levy and other charges daily?

(c) When will they be paid to avoid the difficulties they are going through?

**The Assistant Minister for Local Government** (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that employees of Molo Town Council have not been fully paid their June, July and August, 2012, salaries.

(b) The non-payment of salaries is as a result of the reinstatement of 40 employees in 2008 by a court order citing wrongful dismissal from employment. The implementation of the Collective Bargaining Agreement (CBA) in 2010 also increased salaries by between 40 per cent and 60 per cent, which made the situation even worse. As a result, the council is unable to meet its obligations because the revenue cannot match expenditure.

Besides this, the months of June to December are low seasons of revenue collection for local authorities. Revenues such as single business permits and land rates are paid annually and they are usually collected between the months of January to May. Only market fees and parking fees are evenly distributed.

(c) The council has been paying employees Kshs2,000 on a weekly basis for their upkeep. The balance will be cleared in October, 2012, when the Local Authorities Transfer Fund (LATF) will be released by the Government. The Council also anticipates collecting more revenue from agricultural cess when the potato crop matures during the month of October.

Thank you, Mr. Speaker, Sir.

**Mr. Kiuna:** Mr. Speaker, Sir, I am very much grateful for the answer given by the Assistant Minister. Could he instruct his officers to go to Molo County Council and do a thorough investigation on whether the money they collect from various levies is well utilized?

**Mr. Nguyai:** Mr. Speaker, Sir, the hon. Member is requesting for a thorough audit and investigation. I would like to assure him that we do have an inspectorate

department that does investigations in my Ministry. We also have an audit department that does audit too. We will do as requested by the hon. Member.

**Mr. Langat:** Mr. Speaker, Sir, many of the councils are unable to meet their expenses. The Assistant Minister says he will make sure Molo County Council employees will be paid by the end of October. Could he tell us what long term measures he will put in place to ensure that all councils meet their commitments to Kenyans?

**Mr. Nguyai:** Mr. Speaker, Sir, the hon. Member is correct in the sense that there are many local authorities which do not meet their obligations. But the new Constitution has dealt with that by reducing the number of local authorities into county governments from 175 to 47. As such, duplicated work that was being done by very small local authorities will now be done on economies of scale.

So, I believe, Mr. Speaker, Sir, it is just a matter of time before we find most of county governments having a broader revenue base with abilities to enforce by-laws to enhance collection and, hopefully, to deliver services required by the citizens of Kenya.

**Mr. Mwangi:** Mr. Speaker, Sir, it is surprising for the Assistant Minister to say that the councils will wait for potatoes to be harvested in order to pay Government employees. Could he tell us whether there is a policy on how to utilize LATF money from the Central Government rather than waiting for crops to mature?

**Mr. Nguyai:** Mr. Speaker, Sir, I am sure that Molo Town Council is waiting for the agricultural cess which they will collect from potatoes. But in addition to that, we do have a LATF policy which is very specific on its utilization. For example, part of it, is spent on recurrent expenses, which include paying salaries.

**Mr. Langat:** On a point of order, Speaker, Sir. Is it in order for the Assistant Minister to mislead the House that they are now waiting for LATF funds for the next financial year when we know all the councils do their budgets at the beginning of the year? Where is the money that was meant for this financial year?

**Mr. Nguyai:** Mr. Speaker, Sir, LATF is normally disbursed in two tranches. The first tranche is disbursed in October after the budget. There is also then a date that the local authorities give their budgets. Those budgets are okayed by the Minister for Local Government. Thereafter, there is liaison with the Treasury for the direct transfer of the LATF which normally happens in October and the balance is normally disbursed around April.

**Mr. Njuguna:** Mr. Speaker, Sir, the Assistant Minister says these workers have not been paid for the last three months. They have families to support; they need to clothe their families and cater for the education of their children. What interim measures is he putting in place to make sure that these families are supported financially?

**Mr. Nguyai:** Mr. Speaker, Sir, first and foremost, we have embarked on a very extensive staff rationalization programme where we are justifying and trying to thin out ghosts and non-productive staff. We have already provided minimal upkeep for the time being. As you can see, we are just a few days for them receiving not only their salaries, but also salary arrears. This will assist them to live comfortably and survive on their own.

**Mr. Kiuna:** Mr. Speaker, Sir, these employees have gone three months without salaries. They have suffered a lot. The Kshs2,000 which they receive on a weekly basis is not enough. Is it possible for the Assistant Minister to pay them using LATF money instead of letting them suffer while councilors misappropriate it and embezzle all cess money collected in the council? I am told now they are waiting for LATF money so that

they can wind up the whole operations of Molo Town Council. Could he promise this House that the LATF money they will receive will, first, go to pay these suffering Kenyans?

**Mr. Nguyai:** Mr. Speaker, Sir, the framework within which LATF operates is a direct transfer from Treasury to the various councils. As such, it will be a direct transfer to the Molo Town Council. When the funds are received by Molo Town Council, they are managed by the executive. Unless the hon. Member has very concrete evidence, I think it will be wrong to state that funds are being embezzled by councillors. I would want him to table that evidence or apologize and withdraw.

**Mr. Speaker:** Fair enough! Hon. Member for Molo, are you able to substantiate your claim that councilors are embezzling LATF funds? Mr. Kiuna, go on and substantiate if you are able to now.

**Mr. Kiuna:** Mr. Speaker, Sir, I would request the Assistant Minister if he is doubting me---

**Mr. Speaker:** Order, hon. Member for Molo. Our Standing Orders are clear on this matter, that if you make an allegation, you must be ready to substantiate any part where there may be a challenge because you are responsible for the accuracy of any statements that you make in the House. You have claimed that councillors are embezzling Local Authorities Transfer Fund (LATF) in Molo. Substantiate now.

**Mr. Kiuna:** It is true. It is alleged.

**Mr. Speaker:** Order, hon. Member for Molo. Do you know what an allegation is? You are the one making the allegation now in the House. Can you prove it?

**Mr. Kiuna:** If I am given time, I can table enough evidence.

**Mr. Speaker:** Hon. Member for Molo, the only allowance you have is until the next sitting day which will be tomorrow afternoon. Will you be prepared to substantiate tomorrow at 2.30 p.m.?

**Mr. Kiuna:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Fair enough! I will defer this Question to tomorrow afternoon at 2.30 p.m. for you to substantiate, and note that if you fail to do so, there will be immediate consequences.

## ORAL ANSWERS TO QUESTIONS

### *Question No.1761*

#### ELECTRIFICATION OF SOOK/LOKORI MARKETS

**Ms. Karua** asked the Minister for Energy:-

(a) whether he is aware that Sook Market in Kapenguria Constituency and Lokori Market in East Turkana are not connected to electricity; and,

(b) what plans the Ministry has to ensure that these centres and other town centres in the country are connected.

**The Assistant Minister for Energy** (Eng. M. M. Mahamud): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Sook Market in Kapenguria Constituency and Lokori Market in East Turkana are not connected to electricity.

(b) My Ministry, through the Rural Electrification Authority (REA), is targeting to electrify all major public facilities, that is market centres, health centres and secondary schools by June, 2014. This includes Sook Market. A process of installing a diesel power generator at Lokori Market in East Turkana is ongoing and is expected to be commissioned by December, 2012.

**Ms. Karua:** Mr. Speaker, Sir, I want to thank the Minister for that answer. I do not know whether he is aware that Lokori Market is actually like the capital of the new Turkana East Constituency; in the case of Sook it is also a big market centre in Kapenguria Constituency. Could the Assistant Minister give the time frame within which he will be completing installing electricity in these two markets and other major markets within the country? I am aware that there are some markets in Gichugu without electricity, but I have been given the timelines by REA on when they will install power. Could you give us timelines for these markets?

**Eng. M. M. Mahamud:** Mr. Speaker, Sir, as for Lokori Market, I said that the project is due for completion by December, 2012. For Sook Market, which is about 60 kilometres from the nearest power line at Chepareria, it is estimated that the project will cost about Kshs70 million. We are planning funding for that centre alongside other public facilities in the constituency. To be frank, I will not be able to give a timeline for that.

**Mrs. Noor:** Mr. Speaker, Sir, KenGen, under Rural Electrification Programme (REP), constructed and completed a power station way back in 2009 in Hulugho District but to date it is not connected. When will the Assistant Minister take his work seriously and give the people of Hulugho District the service they need most; electricity?

**Eng. M. M. Mahamud:** Mr. Speaker, Sir, there is a Question No.1791 on the same by the hon. Member; will it be appropriate for me to answer that Question now, or should I wait for it to be called out?

**Mr. Speaker:** There is a Question which you are aware of?

**Eng. M. M. Mahamud:** I even have an answer.

**Mr. Speaker:** In that case, you will answer that Question when it is raised.

**Mr. Letimalo:** Mr. Speaker, Sir, we really appreciate the efforts that have been made by this Ministry to supply electricity, specifically to northern parts of Kenya. This Ministry had the intention of ensuring that they supply electricity to all schools, health institutions and trading centres. Could the Assistant Minister explain why they have not been able to achieve that?

**Eng. M. M. Mahamud:** Mr. Speaker, Sir, it is true that we have programmes in the Arid and Semi-Arid Lands (ASAL) to electrify schools and health centres, especially boarding schools. Some of the programmes are funded by the Government of Kenya and some by development partners. I am particularly aware of the funding programme by the Spanish Government, but it has taken too long to take off. That has affected many areas, including the constituency *Mheshimiwa* is talking about and my own constituency. We expect that programme to be finalized. I think the loan has been properly signed for and the contractor has been appointed. So, we expect the programme to start in the next two months.

**Mr. Warugongo:** Mr. Speaker, Sir, I want to thank the Assistant Minister for the work he is doing for us in the constituencies. In the meantime, I want him to tell us what



criteria he uses to allocate funds to various constituencies within the Republic of Kenya, considering that some of them are in urban and others in the rural areas.

**Eng. M. M. Mahamud:** Mr. Speaker, Sir, the hon. Member is aware that the Rural Electrification Authority (REA) allocates resources very equitably among various constituencies in the country, especially in the rural areas. For the programmes done by the Kenya Power and Lighting Company (KPLC) in terms of distribution, it is based on requirements of the facility. I am aware that constituencies get an equivalent amount of money.

**Mr. Gaichuhie:** Mr. Speaker, Sir, can the Assistant Minister assure us that REA has enough materials because most of the time when we have our projects, they complain that they do not have construction materials such as transformers and transmission cables?

**Eng. M. M. Mahamud:** Mr. Speaker, Sir, it is true that sometimes there are delays in procuring of construction material. Contractors normally get delayed but that has been taken care of and REA is now trying to keep up to speed to have all materials in place for the contractors to get them in time.

**Ms. Karua:** Mr. Speaker, Sir, while congratulating REA for the work that they are doing, it is important that the Assistant Minister assures the House that in very vast areas like Turkana, West Pokot and other places sufficient funds will be allocated to enable the people living there to enjoy rural electrification. In this case, Sook Market is 23 kilometres away from Chepareria and not 6 kilometres as you indicated. Will you confirm that you will allocate sufficient money for them to be connected by the end of this year?

**Eng. M. M. Mahamud:** Mr. Speaker, Sir, I appreciate the sentiments by the hon. Member. It is true that most of the outlying areas in the country require electricity because they are far from the grid. In that regard, we have been able to allocate funds to most off-grid power stations in those areas, especially Turkana and other northern parts of Kenya. We will continue doing that.

Regarding Sook Market, it is true---

**Mr. Speaker:** What is it, hon. Member for Kisumu Town West?

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that in areas that are far away from the main grid lines, they intend to have power generators. Is it in order for the Assistant Minister to do that when he knows that it would be cheaper in the long run to install electricity in those areas?

**Mr. Eng. M.M. Mahamud:** Mr. Speaker, Sir, I think we are in order because it takes longer and it is more expensive to extend a grid than just having a generator somewhere. So, we are doing that as a temporary measure. We are also making hybrids with the grid power in terms of solar and wind so that most stations have hybrid generation systems.

*Question No. 1658*

PROVISION OF SANITARY TOWELS TO PRIMARY SCHOOLS

**Mr. C. Kilonzo** asked the Minister for Education when the Government will start providing sanitary towels to female pupils in primary schools.

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Speaker, Sir, before I tender the reply, may I take this opportunity to apologize for being absent this morning when there was a Question that I was supposed to answer. I was caught up in an urgent matter in the Ministry.

**Mr. Speaker:** Assistant Minister, what is it you are pleading for? Let me hear you again.

**The Assistant Minister for Education** (Mr. Mwatela): Mr. Speaker, Sir, I am apologizing to the Chair and the House for being absent this morning when I was supposed to be here to answer a Question. I missed out because I was caught up in an urgent matter at the Ministry headquarters and my colleague has travelled out of the country.

**Mr. Speaker:** Fair enough. That is a reasonable account. If your colleague was not available without notice to you, then it is really circumstances beyond your control.

Proceed!

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

The Government started providing sanitary towels on 14<sup>th</sup> May, 2012. An amount of Kshs240 million was set aside in the financial year 2011/2012 for the purchase of the sanitary towels in schools across the country. The Ministry of Education identified 443,858 needy girls in 4,114 public primary schools drawn from 82 out of 287 districts in the country as the beneficiaries of the towels.

The districts were identified using criteria which took into account the national poverty index, gender parity index, ASAL/slum characteristics and needy areas identified and based on the reports from the then Provincial Directors of Education.

In the financial year 2012/2013 the Government allocated Kshs300 million for the programme and the Ministry is in the process of ensuring that distribution continues.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I know the Government has done this as more of a gesture than anything else. Eighty-two districts out of 287 districts is a very small percentage considering that the girl child is most affected. The Government has committed itself and made pledges on very many occasions. Last financial year, the Government pledged that come this Financial Year, every needy girl child will have access to sanitary towels. The girl child does not have the same opportunity the teachers had of having to go on strike to get the money. I want to know from the Assistant Minister; are you really committed as a Government to ensure that all the girls who are needy cases get sanitary towels?

**Mr. Mwatela:** Mr. Speaker, Sir, the Government is very committed. In fact, we need an estimated Kshs2.6 billion to ensure that we meet this need. I agree with the hon. Member that this is critical for the education of the girl child. This Parliament is, therefore, requested to ensure that we budget for the same.

**Mr. Koech:** Mr. Speaker, Sir, there were a lot of expectations from the Kenyan children when the Government promised this. Now that the Assistant Minister has confirmed that out of the 82 districts which have been drawn, there are 443,000 very needy children that benefited from this and supplying sanitary towels once per year does

not help, could he confirm to this House that these needy children are actually receiving sanitary towels every month?

**Mr. Mwatela:** Mr. Speaker, Sir, the supply of sanitary towels to the children is not on monthly basis but it is within a package that ensures a constant supply for the year.

**Mrs. Odhiambo-Mabona:** Mr. Speaker, Sir, could the Assistant Minister consider re-working the criteria that they are using because based on the criteria that is provided, you may exclude some needy areas like Mbita because I know most schools in Mbita do not receive sanitary towels yet a lot of girls drop out of school as a consequence of lack of access to sanitary towels.

**Mr. Mwatela:** Definitely, yes. I will consider so that we cover all the needy girls.

**Dr. Nuh:** Mr. Speaker, Sir, now that the Assistant Minister has confirmed that the supply of sanitary towels to the girls is an all year round activity and he seems to be very conversant, how many pieces are in a pack that they give to the girls and how many packs do they give to each girl for us to be able to confirm whether the supply is adequate for the whole year?

**Mr. Mwatela:** Mr. Speaker, Sir, if I am given up to tomorrow, I will be able to do so.

**Mr. Speaker:** Order, Assistant Minister! Some of these things really you ought to be straightforward. Are you supplying these girls with sanitary towels every month so that they have them every time they need them per month?

**Mr. Mwatela:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Maybe you can give the statistics to the Member for Bura in terms of how many towels are in each pack and how many times you supply.

**Ms. Karua:** Mr. Speaker, Sir, knowing that there are pockets of poverty even in seemingly well-to-do constituencies and in order not to marginalize any needy girl, could the Assistant Minister consider giving sanitary towels to every school-going young girl who needs them and; what arrangements has he made with the manufacturers as a bulk buyer to get them at reasonable prices?

**Mr. Mwatela:** Mr. Speaker, Sir, that is an excellent suggestion from the hon. Member. Yes, that is something which we will definitely consider and ensure that we present to this House for your consent. We will arrange with the manufacturers so that we get the most affordable provision.

**Ms. Leshomo:** Bw. Spika, ningependa Waziri aseme ukweli kwa sababu hizi *towels* hazijafika katika Samburu, Turkana na Pokot. Je, hizi *towels* zinapeanwa wapi?

**Mr. Mwatela:** Bw. Spika, ningependa kumjulisha Mbunge mwenzangu kuwa kuna shule 34 katika Samburu North ambazo zilipata usaidizi huo. Ninaweza kumpatia habari hiyo.

**Ms. Leshomo:** Jambo la nidhamu, Bw. Spika. Ni muhimu kusema ukweli katika Bunge hili. Nilitoka Samburu North jana na nilikuwa huko wiki nzima wakati shule zilikuwa zimefungwa. Hatukusikia kuwa hizi *towels* zimefika. Je, hizi *towels* zilepelekwa huko lini ili niende kufuata jambo hilo?

**Mr. Speaker:** Mhe. Leshomo, mhe Waziri Msaidizi amejibu swali hilo tayari. Amesema kwamba ana ratiba ambayo inaonyesha shule ambazo zimepewa hizo *towels* ama vifaa kule Samburu. Kwa hivyo mfuate na kama hutaridhika, utatueleza tena. Kwa wakati huu hatuwezi kusukumana ili kujua ni nani anayesema ukweli na ni nani hasemi

ukweli kati yako na Waziri. Tutaliachia swala hilo hapo na tuchukue swali la mwisho kutoka kwa Mbunge wa Yatta.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, the Government has not been very kind to the women or girls of this country because it has denied them the gender rule even in State Corporations. The Government also plans to deny them this, in the House. When the Assistant Minister comes here and says that he will only provide an additional Kshs60 million in the current financial year, that is a drop in the ocean. Could the Government consider tripling this money instead Kshs300 million to, at least, Kshs1 billion so that whatever my girl-child and the Assistant Minister's girl-child benefits, the poor girl-child benefits? We pay for ours, but who pays for that poor child in the village? Nobody pays!

**Mr. Mwatela:** Mr. Speaker, Sir, the Government is extremely committed to ensuring that the girl-child attends school. The Ministry requested more money than what was provided and it is this House that is supposed to give us the budget.

**Dr. Nuh:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Assistant Minister, are you prepared to take information from the Member for Bura?

**Mr. Mwatela:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Proceed, the Member for Bura!

**Dr. Nuh:** Mr. Speaker, Sir, I have just gotten an SoS from a constituent of mine and he says that only one pack of sanitary towels containing eight pieces is provided to the ladies and because they are not marked "Government of Kenya" or any other markings, they end up being sold in the shops.

**Mr. Speaker:** Order, the Member for Bura! Is it one pack per girl-child per month?

**Dr. Nuh:** Mr. Speaker, Sir, it is one pack of eight pieces per girl-child at any distribution.

**Mr. Speaker:** Per month?

**Dr. Nuh:** Mr. Speaker, Sir, at any given time because they come in---

**Mr. Speaker:** I am just checking my knowledge of biology. If it is one pack per month, does it not cover the relevant period?

**Dr. Nuh:** Mr. Speaker, Sir, it does not because---

*(Loud consultations)*

**Mr. Speaker:** Order! Order! Let us hear the Member for Bura.

**Dr. Nuh:** Mr. Speaker, Sir, from the experts, I get to hear that ladies would use about four pieces in a day if the hygienic standards are supposed to be satisfied.

**Mr. Speaker:** Fair enough! We will let the matter rest there.

*Question No.1646*

NON-PAYMENT OF LIQUIDATION PROCEEDS  
TO MR. B.K. MACHARIA BY COLLAPSED  
KENYA FINANCE BANK

**Mr. Speaker:** Hon. Members, I am informed that the Member for Kirinyaga Central is indisposed. So, this Question is deferred until Thursday, next week at 2.30 p.m.!

*(Question deferred)*

*Question No.1666*

MURDER OF REV. BENSON NANDWA  
OF ACK MUMIAS DIOCESE

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

(a) under what circumstances Rev. Benson Nandwa of the ACK Mumias Diocese was murdered in his home at Shibale in Mumias town on 4<sup>th</sup> February, 2012;

(b) whether any investigations on the incident have been conducted by Police and if so, what was the outcome; and,

(c) whether he is further aware that Rt. Rev Beneah Salalah, the Bishop of the Anglican Church of Kenya, Diocese of Mumias is unable to live in his house due to insecurity and threats to his life.

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

(a) On 14<sup>th</sup> April, 2012, at about 8.30 p.m. an unknown number of thugs, one believed to be armed with a knife raided the house of Rev. Benson Nandwa, located within Shibale ACK Parish Church compound. The gangsters strangled the reverend, stabbed him on the chest and left him unconscious after robbing him off an unknown amount of money and a mobile phone. Neighbours who heard the commotion rushed to the house and took him to St. Mary's Hospital, where he was pronounced dead on arrival.

(b) The police visited the scene and commenced investigations immediately. A postmortem was later conducted and the cause of death was found to be strangulation and internal bleeding, as a result of the stab wound on the chest. Investigations commenced immediately and the police were able to track and arrest the following suspects. James Omondi Jacob, Gadi Okello Nelson, Kelvin Obonyo Murunga, David Oriende Ouma and Meshack Murunga Onyango. The deceased's mobile phone was also recovered. The suspects have all been arraigned before Mumias Court vide Mumias Police Station Case File No.925/145/2012 and Court File No.494/2012 and charged with the offence of robbery with violence contrary to Section 296/2 of the Penal Code.

(c) I am not aware that Rt. Rev. Beneah Salalah, the Bishop of the Anglican Church of Kenya (ACK), Diocese of Mumias is unable to occupy his house due to insecurity and threats to his life. However, the police have enhanced security in the whole of Mumias area and more so, around church premises to ensure that church leaders go about their duties without any fear of attacks.

**Mr. Washiali:** Mr. Speaker, Sir, I would like to take this opportunity to thank the Assistant Minister for the answer and also congratulate him for the new position. However, the answer he has given is meant to give an impression that this is a normal

robbery with violence and yet, Rev. Benson Nandwa had a premonition of this attack. Before the attack, he had told his congregation on Sunday that he would be attacked because he had already talked of some attack elsewhere. The Assistant Minister's officers on the ground know as much that Nandwa had talked about this. Why would the officers charge these suspects with a lesser charge of robbery with violence when it was a clear case of murder and there was a premonition about this attack?

**Mr. Khang'ati:** Mr. Speaker, Sir, I am not in a position to talk about premonitions, especially from religious leaders. However I can say that the police have dealt with this matter in the right way. The charges that have been preferred against the offenders carry the same weight in terms of penalty. So, it does not matter whether they are charged with robbery with violence or murder. This is because the two charges carry the same penalty.

**Mr. Njuguna:** Mr. Speaker, Sir, Rev. Nandwa was butchered in the vicarage and now, Rev. Salalah is under serious threat. What steps has the Government taken to secure this vicarage so that worshippers and their leaders will continue to provide spiritual nourishment?

**Mr. Khang'ati:** Mr. Speaker, Sir, I have already stated that the police have enhanced security especially in the parish. I want to inform the Member of Parliament that Bishop Salalah is someone who is known to me. In fact, he was my classmate. When this matter came to me, I made a phone call to him to determine the extent of the threats to him and his people. The information he gave me was that it was a one-off situation. It is not something that is expected to continue.

**Mr. Washiali:** Mr. Speaker, Sir, while I want to appreciate the arrangement that the Assistant Minister has with his officials on the ground, I want to put it to him that there is a lot of insecurity in the area of Mumias. As we speak now, last weekend we buried Stephen Oteu who was a Deputy Executive Officer of KATEGO in Mumias. Up to now, the officers are still saying what they always say: "We are still investigating!" What guarantee is the Assistant Minister giving us as the people of Mumias that from now on, we shall have proper security? That is because whatever is happening on the ground is not what he is saying?

**Mr. Khang'ati:** Mr. Speaker, Sir, Mumias neighbours my constituency. Therefore, the type of insecurity that affects its people normally spills over into my constituency and I am aware of the situation. But to give him comfort, I want to invite the hon. Member to come to my office so that, together, we can contact the Provincial Police Officer (PPO), Western Province, engage him and agree on specific measures that will ensure that the security in the area remains normal.

**Mr. Speaker:** Member of Parliament for Mumias, please, take up that offer. I think it looks like it will be helpful.

Next Question by hon. Kiilu.

*Question No.1745*

ACUTE SHORTAGE OF WATER IN KILALA MARKET

**Mr. Kiilu** asked the Minister for Water and Irrigation:-

(a) whether she is aware that Kilala borehole which was sunk in 2012 has not been equipped to date; and,

(b) what measures she is taking to equip the borehole to alleviate the acute water shortage in Kilala Market and its environs.

**Mr. Speaker:** Hon. Kiilu, I have communication from the Minister to the effect that she is engaged in circumstances that will not permit her being here this afternoon and so, she has requested that we defer this Question to early next week. I want to direct that it comes on the Order Paper on Wednesday morning next week. Is that okay with you?

**Mr. Kiilu:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** It is so directed.

*(Question deferred)*

**Mr. Speaker:** Next Question by hon. ole Lankas.

*Question No.1765*

STALLING OF DRAINAGE WORKS ON  
OLELUNG'A TRADING CENTRE

**Mr. ole Lankas** asked the Minister for Local Government:-

(a) why drainage works at the Olelung'a Trading Centre have stopped; and,

(b) how much money was allocated for the project by Narok County Council and when the works will resume and be completed.

**The Assistant Minister for Local Government** (Mr. Nguyai): Mr. Speaker, Sir, I beg to reply.

(a) The drainage works for Olelung'a Trading Centre was to be undertaken in two phases. The first phase was to control the running water during the rainy season within the town, which became a nuisance and a health hazard. The public health and the National Environment Management Authority (NEMA) officials requested the county council of Narok to undertake the construction of drainage in order to control the direct flow of water to the Ololung'a River. The phase was fully undertaken and completed by 15<sup>th</sup> November 2011 at a cost of Kshs1.85 million. However, the second phase did not start immediately as it required designing of works by the relevant Government departments. All that caused the delay in undertaking the second phase together with the heavy rains that were pounding the area.

(b) The tender and design survey process for the second phase of the drainage from the end point of the market downstream to Ololung'a River will be completed by 24<sup>th</sup> September 2012. The second phase of the drainage trench running from the market stage downstream to Ololung'a River covering a distance of 1,058 metres will commence on 27<sup>th</sup> September and be completed within 60 working days at a cost of Kshs3.2 million. The expenditure is captured in the council budget for the Financial Year 2012/2013.

**Mr. ole Lankas:** Mr. Speaker, Sir, I want to thank the Assitant Minister for the answer.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. Did you see hon. Waibara cross from one side to the other without bowing to the Chair?

**Mr. Speaker:** Which hon. Member is this? Is he the Member for Gatundu North?

**Mr. Olago:** Yes, Mr. Speaker, Sir.

*(Hon. Waibara bowed to the Chair before crossing the Floor)*

**Mr. Speaker:** Fair enough. Proceed, hon. ole Lankas.

**Mr. ole Lankas:** Thank you, Mr. Speaker, Sir. I want to thank the Assistant Minister for the answer. But arising from the answer that he has given, he has attempted to give a brief history of that project. But he has only dwelt on the phases. He has not told the House when the project was started. That is because it is four years since the project was started and, up to now, very little has been done. Could he inform the House when it was started, instead of telling us when the first phase was started and when the second phase will start?

**Mr. Nguyai:** Mr. Speaker, Sir, the construction of the drainage started on 15<sup>th</sup> July 2011 - which is a year and not three years - after the council contracted a contractor by the name of Sabaki Contractors to undertake the first phase.

**Mr. Letimalo:** Mr. Speaker, Sir, if I got the Assistant Minister correct, he has said that the second phase is going to start on 27 September, which is tomorrow. Could he confirm whether the money is available for the second phase?

**Mr. Nguyai:** Yes, Mr. Speaker, Sir. I signed this Question just a few days ago on 17<sup>th</sup> September and we had ascertained that the funds are available and as such, everything being normal, the contract should have been awarded and work started.

**Mr. ole Lankas:** Mr. Speaker, Sir, one of the reasons why that project has delayed - according to the Assistant Minister - is because of designs from the relevant Government departments. At the same time, he is citing the issue of rains as another reason. Which is which? Could the design of works be the main cause of delay that he is citing?

**Mr. Nguyai:** Mr. Speaker, Sir, they can be concurrent causes and as such, if it pleases the hon. Member and he feels more at ease with one being the primary and the other one being the secondary, that is fine.

**Mr. Speaker:** Next Question by hon. Nyamai.

*Question No.1799*

UPGRADING OF KWA VONZA DISPENSARY

**Mr. Nyamai** asked the Minister for Public Health and Sanitation:-

(a) whether she is aware that Kwa-Vonza area which hosts two universities is only served by Kwa Vonza dispensary; and,

(b) what steps she is taking to upgrade the dispensary to a sub-district hospital.

**The Assistant Minister for Public Health and Sanitation (Dr. Gesami):** Mr. Speaker, Sir, I beg to reply.



(a) Yes, I am aware that the Kwa-Vonza area which hosts two universities is served by only Kwa-Vonza Dispensary.

(b) The District Health Management Team (DHMT), Kitui West District, has inspected and recommended that Kwa Vonza Dispensary be upgraded to a health centre and not a sub-district hospital. My Ministry will consider that request favourably since the facility serves a population of about 9,000 people.

**Mr. Nyamai:** Mr. Speaker, Sir, I am not sure on how to proceed on this, because the Assistant Minister says in part “b” that the District Management Team for Kitui West District has inspected the facility. But this particular facility is in Lower Yatta District. So, I do not understand how Kitui West District comes into this issue.

**Dr. Gesami:** Mr. Speaker, Sir, the report we have for inspection of this facility is from Kitui West District. However, if actually this facility is not in Kitui West then we shall ask the relevant District to do re-inspection of the same facility.

**Mr. Nyamai:** Mr. Speaker, Sir, in view of what the Assistant Minister has said, then I need your guidance, as to whether we can push this Question forward until they get the report from the relevant District Management Committee. The Assistant Minister can then come and answer the Question.

**Mr. Speaker:** For the moment, Member for Kitui West, I am satisfied that this Question has been fully answered. (a) Is the Minister aware? The Minister said, yes. (b) What steps is he taking to upgrade the dispensary to a sub-district hospital? He has answered, yes; they are taking steps to upgrade it to a health centre. So, really, the Question is fully answered, I am afraid. I direct that if you want any further information, then perhaps you want to follow up that with the Assistant Minister. But as framed, the Question is fully answered.

Hon. Members, with respect to Question No.1739, the Member for Mandera East is indisposed and so I will defer this Question until such time that he returns and informs us that he is able to proceed.

*Question No.1739*

REHABILITATION OF KAMOR  
LIBAN-DAMASA ROAD

*(Question deferred)*

**Mr. Speaker:** With respect to Question No.1788, Member for Bura!

*Question No.1788*

NON-UTILIZATION OF GOVERNMENT LAND IN BURA

**Dr. Nuh** asked the Minister for Water and Irrigation:-

(a) whether she is aware that 3000 acres of land in Bura prepared under the Economic Stimulus Programme have degenerated and also wasting away even after the Government spent enormous resources;

(b) whether she is further aware that the residents are in the process of acquiring the land unprocedurally in a bid to save the Government from losing money; and,

(c) why the Ministry has not facilitated the hand-over of the land to the public for optimal utilization even after repeated requests through letters and what the Ministry intends to do to avert the crisis and to save any further loss of taxpayers' money.

**Mr. Speaker:** Member for Bura, I have communication from the Minister and she states that she has not been able to visit the area within the timeline which we agreed that she will, last week. She appeared very enthusiastic and said she has a lot of energy to even visit the following day. But apparently, she has been unable to match action with commitment. So, she has asked that we defer this to next week and I want to do so to Wednesday morning. She says she will be your visitor before then.

**Dr. Nuh:** Mr. Speaker, Sir, the Question that required the Minister's visit is slated for tomorrow and although this is on the same Bura Irrigation Scheme issue, it is on a different aspect of land that was not tilled.

I also wanted to put it on record that one Question from the same Ministry was deferred last week. Yesterday, again, the same Ministry had to defer my Question which was by Private Notice that has been on the Order Paper for the last three weeks just because the Minister alleges she was unable to get a sufficient answer. This happens to be the third time. I only wanted to rule out any sabotage on the part of the Ministry not to answer any Question on the irrigation scheme in Bura.

**Mr. Speaker:** Well for the moment, let us take her communication in good faith and defer this particular Question to Wednesday morning. It is not too far. It is just seven days away and we will then be able to test her credibility.

With regard to the Question that is supposed to come to tomorrow, I believe that the Minister will see how she goes about it. Obviously, we will bear in mind your sentiments even as we manage tomorrow.

*(Question deferred)*

That then brings us to the end of Order No.6.  
Next Order!

## STATEMENTS

**Mr. Speaker:** At Order No.7, since we are well into Prime Minister's Time, we will start with the Statement by the Prime Minister and then we will take the others accordingly. Prime Minister!

## PRIME MINISTER'S TIME

### PROVINCIAL ADMINISTRATION IN THE CONTEXT OF DEVOLUTION

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I rise to make a statement on the system of Provincial Administration in the context of devolution.

Mr. Speaker, Sir, I make this statement on this issue that has been the subject of extensive national debate since the promulgation of our new Constitution in the year 2010. This is the issue of the restructuring of the system of Provincial Administration to accord with and respect the provisions of the new Constitution on devolved Government. The nature of debate on this matter has generated a lot of apprehension and fear on the part of the public servants currently serving within the Provincial Administration about their job security and future roles under a devolved system of Government.

Mr. Speaker, Sir, the history of the system of Provincial Administration both during the colonial period and post-independence era is well known. It is a history that is not very inspiring when related to our national values and principles of governance such as democracy, respect of human rights, devolution, people's participation, social justice, transparency, integrity and accountability. The architecture of the system of Provincial Administration was designed by the colonial Administration from inception to be a coercive and intimidating tool for the control of the people, then called natives. The Provincial Administration collected taxes, maintained law and order, provided social services and pacified the natives. It was mainly a mechanism for centralization of power within a centralized colonial Government. The post colonial experience with the system was not different, particularly during the single party rule. Administrators were used by the ruling single party to oversee the fraudulent elections and perpetuate forms of maladministration such as land grabbing and violation of human rights. The Provincial Administration was not provided for in the old Constitution but operated as a department of the Office of the President.

The Provincial Administration in its present form is incompatible with our constitutional aspirations of devolution and sharing of power within the decentralized framework of governance. Unless restructured, it will conflict with the requirement of self governance at the local level.

Mr. Speaker, Sir, with the promulgation of a new Constitution it has become necessary to restructure the system of Provincial Administration to rightly pass laws associated with it and to re-orient its culture to be more responsive to our national values and principles of governance. The system must fit within the new constitutional order establishing devolved government, a new national security arrangement which does not include the Provincial Administration among the security organs of the State.

Mr. Speaker, Sir, let me address the issue of job security for those officers currently serving under the Provincial Administration, be they the Provincial Commissioners, District Commissioners, Divisional Officers, Chiefs and Assistant Chiefs.

The future of public servants is secured by the new Constitution and they will not be laid off following the restructuring of the Provincial Administration. Our Constitution guarantees fair administrative process for all persons. Article 47 and Article 236 of our Constitution provide that no public officer shall be dismissed, removed from office, demoted in rank, or be affected by administrative action without due process of the law. Talk that Provincial Commissioners, District Commissioners, District Officers, Chiefs, and Assistant Chiefs will be sacked when the Provincial Administration is restructured is, therefore, false propaganda without any basis in law. The Provincial Commissioners, District Commissioners, District Officers, Chiefs, and Assistant Chiefs will either be absorbed in the new units within the devolved Government or will be redeployed to other

departments in the national or county governments. Our Provincial Commissioners, District Commissioners, District Officers, Chiefs and Assistant Chiefs should continue to execute their duties as public officers in full confidence that they have a future and that they will not be removed from the Public Service, arbitrarily.

The Constitution in Section 31(2) of the Sixth Schedule provides that public officers including Provincial Commissioners, District Commissioners, District Officers, Chiefs, and Assistant Chiefs who were in office as at the effective date of the new Constitution shall continue to serve for their unexpired term as if appointed under the new Constitution provided that this is consistent with the new Constitution.

Mr. Speaker, Sir, the new Constitution contemplates the restructuring of the Provincial Administration will be completed by the year 2015. The restructuring will be on the basis of the constitutional principles under Article 189 which regulate the relationship between national and county governments. These principles include respect for the functional and institutional integrity of each level of government, consultation and co-operation, mutual support, co-ordination, administration and settlement of inter-governmental disputes through negotiations, mediation and arbitration.

The Inter-Government Relations Act, 2012 which will come into operation after the next general election establishes the National and County Government Co-ordinating Summit comprising the President and 47 county governors. The Summit will, *inter alia*, facilitate and co-ordinate the transfer of functions, powers and competencies from and to either level of Government. The Summit is, therefore, the best suited State organ to oversee the restructuring of the Provincial Administration. The participation of the county governors in the restructuring of the Provincial Administration is a mandatory constitutional requirement. Any attempt, therefore, to restructure the system without the participation of the county governors will be an exercise outside the law. The restructuring will be undertaken as a consultative process between the national Government and county governments and with public participation.

Mr. Speaker, Sir, the County Governments Act, 2012, which will also come into operation after the next general election, establishes the structures of county governments. There will be the Governor and his Executive at the county level. There will be the sub-county administrators at the constituency level, ward administrators at the ward level, and village administrator at the village level. The functions and powers of these decentralized units are outlined in Part IV of the County Government Act. Consequently, the current roles of the Provincial Commissioners, District Commissioners, District Officers, Chiefs, and Assistant Chiefs will be rebuilt in the light of these new arrangements.

The Constitution requires that functions and powers are handled at the level where they will be most accessible to the people and more effectively performed and most cost effective without duplication. The principle of complementarity will also inform the allocation of powers and functions between the two levels of Government.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** Hon. Members, we will take a maximum of five interventions because of the nature of the business before the House this afternoon. We want to begin with the Member for Imenti Central. Right Honorable Prime Minister, please, keep notes.

**Mr. Imanyara:** Thank you, Mr. Speaker, Sir. It is reassuring to hear the co-ordinator and supervisor of Government operations assure this House that the letter and spirit of the Constitution with regard to the restructuring of the Provincial Administration will be adhered to.

However, even as the Prime Minister gives this reassurance to the House, everywhere you go in this country you see new District Commissioners' offices coming up. You also see the creation of new offices in contradiction to the letter and spirit of the Constitution; specifically, there was appointment of County Commissioners, which is not only unconstitutional, but has been so found by the courts yet this Government, which the Rt hon. Prime Minister supervises and co-ordinates, brazenly disobeys the court order and continues to keep these County Commissioners in office. What assurance can the Prime Minister give us that what he is telling this House will be followed by the Provincial Administration officials on the ground when evidence is that they are not in any way preparing for the restructuring of the Provincial Administration?

**Mr. C. Kilonzo:** Mr. Speaker, Sir, let me thank the Rt. hon. Prime Minister for having appointed my good friend and neighbour, Mr. Mbadi, to the new position, although I have noted that he does not seem to know his work; I did not see him pass a bottle of water to the Prime Minister. Of course, you know, it was an effort by the Government to scatter the Back Bench.

*(Laughter)*

Mr. Speaker, Sir, my clarification is as follows---

**The Assistant Minister for Roads (Dr. Machage):** On a point of order, Mr. Speaker, Sir. You must have heard what the hon. Member on the Floor said. He implied that part of the duties of an Assistant Minister is to pass water to the Prime Minister. Is he in order?

*(Loud consultations)*

**Mr. Speaker:** Proceed, Member for Yatta. What is your response to that legitimate challenge?

**Mr. C. Kilonzo:** Mr. Speaker, Sir, obviously, this hon. Assistant Minister has been suspended for a long time and he does not know that as Members of Parliament, we pass water to each other; it is a sign of kindness. There is nothing wrong with passing water. Mr. Mbadi will learn the game.

**Mr. Ruto:** Passing water?

**Mr. C. Kilonzo:** No; we give each other water here; not passing water of course.

**Mr. Speaker:** What is your point of order, Member for Chepalungu?

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. I know that English is a second language to most Members of Parliament, but surely passing water is not one of the words you can use; if you are assisting someone by giving him a bottle of water, that is not passing water. I am sure Dr. Eseli, or my friend here---

**Mr. Speaker:** Order, Member for Chepalungu! You have made your point except that your prosecution of it is wanting. Much as you accuse the Member for Yatta over use of the English language, you have not used yours well either.

**Mr. C. Kilonzo:** Mr. Speaker, Sir, I want the Prime Minister to be very specific. Will there be a Provincial Administration after 2015 or not? Will there be a restructured Provincial Administration after 2015? What assurance can he give this House that there will be no vacuum left due to the restructuring of the Provincial Administration?

**Mr. Kapondi:** Mr. Speaker, Sir, over the past few years we have been seeing problems arising as a result of no consultations. Could the Prime Minister tell this House whether or not this Statement is a product of consultation with the other side of the Coalition, or it is simply an intellectual discourse that he is bringing to the House?

**Mr. Speaker:** Prime Minister, maybe, you want to take that very seriously, more so as it comes from the Chairman of the Committee in charge of the Provincial Administration.

**Mr. Kombo:** Mr. Speaker, Sir, one of the most important institutions of the Provincial Administration, but one that the Government has had no time for, is that of village elders. Their service is always exploited. Without village elders, security at the village level cannot be a reality. Without them, Government information cannot reach the villages. Even as the Prime Minister was speaking, I did not hear him talk about them. This House passed a Motion that urged the Government to pay a salary to these elders.

Could the Prime Minister ensure that, that resolution by Parliament is implemented immediately? In the devolved system in the future, will the Government also ensure that in the restructured system, this institution is recognized?

**Mrs. Shebesh:** Mr. Speaker, Sir, I know that Statements from the Prime Minister do not have to go through the Cabinet, but I want to agree with the Chairman of the Committee on Defence and Foreign Relations that this is like preaching to the converted. Those who do not understand that principle sit in the Cabinet. Is he willing to repeat this Statement in the next Cabinet meeting? Those who are resisting change of the Provincial Administration as provided for in the Constitution sit in the Cabinet and not in this House.

**Mr. Speaker:** Right Hon. Prime Minister, will you now make your responses?

**The Prime Minister (Mr. Raila):** Mr. Speaker, Sir, the Member for Imenti Central has said that going around the country, one sees new offices coming up or being under construction. He has also talked about the appointments of County Commissioners. He wanted an assurance that the Government would honour the ruling of the court. As we are moving into the devolved system of government, it is necessary to begin to prepare for that system, so that we do not wait until we are there. That is the reason financial provision has been made by the Government and this House for physical structures to accommodate the incoming county governments. So, arrangements are now being made to put those facilities in place. As you know, we will have the county assemblies and the governor must be accommodated. We will also have offices for the county executive. Those are the structures which are currently under construction. Otherwise, preparation is ongoing as we prepare also to hold elections under the new Constitution.

Regarding the court ruling, this is the position of the Government. The court made a ruling that the appointment of the County Commissioners was irregular and unconstitutional. The Attorney-General, who is the Chief Legal Advisor of the Government, advised that the Government will not appeal against that ruling of the court. The Government has not appealed against that court ruling. Any action that has been

taken has not been taken as a result of the Cabinet deliberation on that matter. That I can say without fear of contradiction.

**Mrs. Shebesh:** On a point of order, Mr. Speaker, Sir. The Prime Minister really has to make it clear for us. As far as we know, the Minister of State for Provincial Administration and Internal Security sits in the Cabinet. Is he, therefore, saying that the then Acting Minister of State for Provincial Administration and Internal Security went against the Cabinet and the Executive? In which case, why is he still holding office?

**Mr. Speaker:** Order! That, as prosecuted, I am afraid, does not pass for a point of order in the circumstances. Maybe you want to go nearer the Member for Imenti Central. You have a very good point, but you just have not executed it to qualify as a point of order.

**Mrs. Shebesh:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, hon. Shebesh! If you do not follow my directions, then come to my office. I will educate you on this one. It is easy! Prime Minister, proceed!

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, the Member for Yatta said that the recent appointments were intended to kill the---

**Mr. Imanyara:** On a point of order, Mr. Speaker, Sir. Is it in order for the Prime Minister not to categorically answer the point that I raised? Are these people in office legally? Are they being paid by the Government? He has said that it is not as a result of the Cabinet decision yet the County Commissioners are in office. We see District Commissioners' headquarters being built on a daily basis. The evidence on the ground is that the Provincial Administration is entrenching itself even further. So, is it in order for him to tell us that if that is happening, it is not happening with the knowledge of the Government? Is that in order?

**Mr. Speaker:** Order! Hon. Shebesh, now you can see the finesse with which that point of order is executed.

Proceed, Prime Minister!

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, there are two issues which the Member for Imenti Central has raised. One deals with personnel or the people who were designated as County Commissioners. The other one is the construction work of the physical facilities for the county governments. I have confirmed that preparation is ongoing in terms of construction of physical facilities to accommodate the incoming county governments. This House passed the Budget-making provisions of funding for the work that is ongoing right now. So, the second one is the issue of appointment of County Commissioners or the purported appointment of County Commissioners. I am saying that, yes, appointments were made, but there is a ruling by the court which nullified those appointments. The court found them---

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to mislead the House that development funds were set aside by this House for the construction of those offices under the Provincial Administration Vote? I have a copy of the same, but the money voted for under the Provincial Administration is Recurrent Expenditure, which is Kshs3.3 billion. Is he in order to mislead the House that, indeed, such an allocation has been set aside?

**Mr. Speaker:** Right Hon. Prime Minister, that is a genuine challenge. Respond to it.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I am saying that there are funds in the Provincial Administration for putting up facilities to accommodate the incoming county governments. Otherwise, they will not be putting them up if they did not have money for that purpose.

**Mr. Sirat:** On a point of order, Mr. Speaker, Sir. Is the Prime Minister in order to mislead this House when the Committee on Local Authorities had a meeting with the Minister of State for Public Service, Mr. Otieno, just two weeks ago and asked him whether he has funds to build facilities for county governments and he said no? When we asked him whether he is doing it, he said no. Is he in order to mislead the House?

**Mr. Speaker:** Fair enough! The Right Hon. Prime Minister, maybe you want to address that a little more carefully and perhaps be more thorough. Proceed but note the concerns of hon. Members because I do not think you have so far dealt with them adequately.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I am trying to respond to different issues here. I am dealing with the issue of appointment of County Commissioners which was raised by the hon. Member for Imenti Central. I am also dealing with the issue of physical facilities.

**Mr. Speaker:** The Right Hon. Prime Minister, I understand you but you must be able to multi-task.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, that is what I am doing. I wanted to take one at a time and dispose them of. The hon. Member is concerned with the physical facilities while the other one's question was multifaceted. One is to do with the appointments and I have said that the court's finding was that the appointments were unconstitutional. The Attorney-General advised the Government to respect the court ruling and not appeal. I have said that the Attorney-General has not appealed the ruling.

Mr. Speaker, Sir, on the other point, I have said that preparations are being done by the Provincial Administration to accommodate the incoming county governments with the money that they have and differentiate between the Recurrent Estimates and the Development Estimates.

**Mr. Speaker:** Order, the Right Hon. Prime Minister! Perhaps, that is the bumpy area. Hon. Members are saying to you that there is no money in the budget to provide for physical facilities. So, you need to explain where that money is.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I am saying that it is not available with the Ministry of Public Works. However, the Ministry of State for Provincial Administration and Internal Security has some funds that it is using now for that purpose.

**Mr. Ogindo:** On a point of order, Mr. Speaker, Sir. You will remember that sometime back, the Ministry of Public Works was to undertake infrastructure development to accommodate county governments but that was not to be. The Prime Minister now says that there are funds in the Office of the President which is the Headquarters of the Provincial Administration. So, if there are any funds there, then they are trying to entrench the Provincial Administration. The question is: are there any infrastructural arrangements for county governments as opposed to the entrenchment of the Provincial Administration?



**Mr. Speaker:** Order! You have not done very well! If you say “the question is” you lose your point of order for which you caught my eye. So, I will give this opportunity to somebody else.

**Mr. Kapondi:** On a point of order, Mr. Speaker, Sir. As the Chairman of the Departmental Committee on Administration and National Security, we interrogated the budget on the Provincial Administration. There is no provision for providing facilities for county governments. So, is the Prime Minister in order to mislead the House? Perhaps, I could be generous to inform him - if he is willing ---

**Mr. Speaker:** Order! You do one or the other. You cannot have both. The Right Hon. Prime Minister, take that challenge by the Member for Mount Elgon. Perhaps, take it also in the light of the sentiments by the hon. Member for Rangwe.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, you have seen that I have also been consulting the Minister for Public Works who is in charge of general construction of Government properties. He has informed me that they are right now constructing 30 district headquarters through the Economic Stimulus Programme which is a roll-over. In other words, if these funds are not used in the previous financial year they are rolled over to the current financial year. That is the position.

Hon. C. Kilonzo was of the view that by the latest appointments, the Government was trying to kill the Opposition. However, this House does not have an Opposition. Of course, we have a Coalition Government---

**Dr. Khalwale:** On a point of order, Mr. Speaker, Sir. Clearly, the Prime Minister has struggled to give us the difference between district infrastructure and infrastructure meant to accommodate the county governments. What we have in mind as members of the Back Bench is, for example, the debating Chamber of a County Assembly, the Head Office of the Governor and the residence of the Governor. The Prime Minister is repeatedly talking about district headquarters which are being built in various constituencies. Is he in order to refuse to confirm that the Government is not prepared to put up county headquarters to accommodate incoming devolved governments and for that reason, could you allow the Prime Minister to go back and come to the House when he is prepared to respond to what we are raising?

**Mr. Speaker:** Order! The Right Hon. Prime Minister, although that point of order is poorly prosecuted, we can see the substance of it. Kindly respond.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, the hon. Member for Imenti Central was only concerned about the construction works that are ongoing. I have explained that the construction works are ongoing and these will eventually be part of the infrastructure for the devolved governments when they are formed. This is because there will be no activities of the Central Government at that level. I have already said that this is being done under the Economic Stimulus Programme but they will be transferred. The other responsibilities for the devolved governments will be dealt with in the next financial year and the hon. Member is aware of this. This is because he is a Member of the House and he knows that the House did not make adequate provisions in the Budget for the preparations that he is asking for.

I just wanted hon. C. Kilonzo to know that we have a Back Bench and a Front Bench position and I am sure that had he been appointed, he would not have declined.

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. At no time did I refer to the word “Opposition.” Is the Right Hon. Prime Minister in order to put his own

thoughts into me as if I referred to the Opposition? I know that he was too used to the Opposition that even when he is in the Government, he would like to do things as if he is in the Opposition.

*(Applause)*

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, in fact the hon. Member--- Let me go to the substantive point which he raised. This was whether there will be Provincial Administration post 2015. The Constitution says that the system known as the Provincial Administration shall be restructured to make it compliant with the devolved system of Government. This means that it will not be there. It will be part of the devolved system of Government and that is why it is being absorbed into this system. That is why it is also necessary to give assurance to those who are right now working in the Provincial Administration that they will not be sacked, as has been stated.

Mr. Speaker, Sir, there has been propaganda that they will lose their jobs. The way to save it is not to---

**Mr. Speaker:** Order, Prime Minister! There is a point of order. Member for Bura, what is it?

**Dr. Nuh:** Mr. Speaker, Sir, I was restraining myself from rising on a point of order but a time has come when the statement by the Prime Minister has warranted my doing so. Is he in order to mislead the House by saying that the Provincial Administration will be absorbed into the county governments when the Presidential Memorandum that challenged some of the amendments to the County Government Act stipulated that the Provincial Administration would be serving the National Government at the local level, and that he would not accept it to be part of the county government?

**Mr. Speaker:** Proceed, the Right Hon. Prime Minister.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, there are always differences of opinion on issues of this nature. We saw it when we were at the Bomas of Kenya, for example, that there were the centrists verses the devolutionists. There are those who are so much used to centralised power that they do not want to let go of it. There is the fear of devolution. There is a kind of phobia against devolution.

We are saying that this should not stop the people of this country from implementing the Constitution. I am sure that, as we implement the Constitution, some of these fears will be found to have been unfounded. That circular was there at that time, but people keep on changing their minds. I am sure that we have made progress since then.

Mr. Speaker, Sir, I want to assure this House that the Constitution, as currently framed, does not give room for the Central Government to function parallel to the devolved system of government. If you retain that system of administration at the county level, you will undermine the authority of the county governments. That is why we are saying that county governments should be the representatives of the Central Government at the county level. The Governor should be the representative of the President and not a County Commissioner. That is my understanding of how the devolved system of Government should work. So, that is the position of the Government.

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

**Mr. Speaker:** Order! Order, Member for Mount Elgon! Prime Minister, you are protected for the next three minutes. Proceed and give us information.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, let me go to hon. Kapondi, who wanted to know whether this Statement has been made after consultation within Government. I am issuing this Statement on behalf of the Government. I am issuing it as the Prime Minister of the Republic of Kenya. So, this is an official Government Statement.

Hon. Kombo was concerned about the role of village elders and referred to a Motion that had been passed by the House to the effect that village elders should be paid salaries. I also want to inform him that the role of village elders is also going to be part of the restructuring that we are talking about. Eventually, they will be the responsibility of the county government, and not that of the Central Government. I am sure the Summit, which is provided for in the Devolved Government Act, will see the need to ensure that village elders are remunerated in the same way the Government of Tanzania does to *Wazee wa Vijiji*. I am sure that village elders have got a very crucial role to play in society in bringing peace, mediating conflicts and so on. Therefore, they deserve certain amounts of remuneration.

Mr. Speaker, Sir, hon. Shabesh wanted me to repeat this Statement in the Cabinet. Cabinet deliberations are confidential but the hon. Members of the Cabinet are here. I want to assure her that they all support the Statement I am making here.

Thank you.

**Mr. Speaker:** Hon. Members, I will take just one point of order. Member for Vihiga, you have been persistent. Let me hear you.

**Mr. Chanzu:** Mr. Speaker, Sir, it was not a point of order. I also wanted to raise an issue in the same way other hon. Members have done.

**Mr. Speaker:** Order! Order, hon. Chanzu! I gave clear directions even as we proceeded. So, if it is not a point of order, I am afraid, I will rule it out.

**Mr. Chanzu:** Mr. Speaker, Sir, let me put it this way: Is the Prime Minister in order to avoid answering on an issue to do with the movement of County Commissioners from offices, leaving behind vacancies? Some districts now do not have District Commissioners (DC), because the DCs are taking tour. Is he in order to avoid answering that question?

**Mr. Speaker:** Yes, the Right Hon. Prime Minister.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, the County Commissioners were appointed but those appointments were subsequently nullified by court. Since the appointments were nullified, they should revert back to the positions they were previously occupying. So, in as far as I am concerned, there are no County Commissioners today in Kenya. They are pretenders to the throne.

**Mr. Speaker:** What is it, Member for Yatta?

**Mr. C. Kilonzo:** Mr. Speaker, Sir, the Right Hon. Prime Minister said that his Ministers are here, and there is nobody to challenge his assertion that, that is the position of the Government. But we know that there is another position by the “other” Government, which is represented by none other than the Minister who went to court and appealed against the ruling on the validity of the appointments of the County Commissioners, contrary to the advice of the Attorney-General. Perhaps, he can take the challenge and tell us whether the “other” Government is for the other position.

**Mr. Speaker:** Order! Order! As far as I am concerned, I do not know who that “other Minister” is, and that “other Minister” does not have the Floor, as things stand now.

I will take the last point of order from hon. Duale.

**Mr. Duale:** Mr. Speaker, Sir, you heard the Prime Minister say that the County Commissioners out there are pretenders. This is the same Government which he supervises and co-ordinates, and which went to court to defend the appointment of the County Commissioners. That was a Cabinet position. Can he tell the nation that the Government he co-ordinates and supervises is not reading from the same script? Is he in order to say that the County Commissioners are pretenders when the President and the Minister of State for Provincial Administration and Internal Security are defending their appointments?

**Mr. Speaker:** The Right Hon. Prime Minister, that is a valid point of order.

**The Prime Minister** (Mr. Raila): Mr. Speaker, Sir, I said - and I want to repeat - that, following the ruling by the court, the Attorney-General, who is the Chief Legal Advisor to the Government, advised the Government that he was not going to appeal against the judgement. The Attorney-General has not appealed. Secondly, the question of whether or not the Government should appeal against the court ruling has not been discussed and resolved in the Cabinet. So, whoever has appealed has done so in their private capacities. The Government has not appealed. So, they are pretenders.

**Mr. Speaker:** Hon. Sakuda, you have pressed for a point of order. Let us hear you.

**The Member for Kajiado North** (Mr. Moses ole Sakuda): Mr. Speaker, Sir, I stand under Standing Order No.76 to make a Personal Statement.

**Mr. Speaker:** Order! Order! Normally, we would not interrupt an hon. Member who has recently been sworn-in, but if you want to make your maiden speech, if you approach Mr. Speaker or the Clerks-at-the-Table, we will be able to guide you as at what point you can make your maiden speech. Please, note and we will be able to advise you.

Hon. Members, we will now move on to the next Ministerial Statement, which is by the Attorney-General. It is an urgent Statement. So, we must take it. The Attorney-General has five minutes to do so.

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

**Mr. Speaker:** Order! Order, Member for Chepalungu! We must make progress.

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir---

**Mr. Speaker:** What is it, Member for Chepalungu? Let me hear you.

**Mr. Ruto:** Mr. Speaker, Sir, with due respect, we expected to interrogate the Prime Minister further, but you allowed only five clarifications, yet it is a very serious matter. We have been on the queue for the last thirty minutes.

**Mr. Speaker:** Order, hon. Member for Chepalungu! I will not entertain that way of doing business here. I gave directions at the very beginning on how we would proceed; I did say that it is because of the nature of business as it appears on the Order Paper. I said we would take five interventions strictly so, and the rest we took as supplementaries or points of order. That is how we have proceeded. Hon. Member for Chepalungu, I know you are a man with some decorum and you respect order and procedure. Do you really want me to go beyond here?

That matter is settled then for the moment, hon. Member for Chepalungu. I will leave it there.

## MINISTERIAL STATEMENT

### KILLING OF MAASAI YOUTHS IN KAYOLE

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir, yesterday, Tuesday 25<sup>th</sup> September, 2012, the Temporary Deputy Speaker directed the Attorney-General to issue a Ministerial Statement on the issues raised by Mr. ole Ntimama and Mr. Waititu regarding the killing of three Maasai youths in Kayole, Nairobi County. I am pleased to make the Ministerial Statement.

On or about 23<sup>rd</sup> September, 2012 an incident was reported in which the Assistant Minister for Water and Irrigation, Mr. Ferdinand Waititu, was reported to have made remarks to Kayole residents that incited them to cleanse the area of members of the Maasai community, living and working in the area. This matter has been brought to the attention of the Minister of State for Provincial Administration and Internal Security, the Director of Public Prosecutions, the Commissioner of Police and my office.

Without prejudice to any judicial processes that may follow this event, let me categorically state that the utterances said to have been made by the hon. Member, as well as the context within which they were made, are highly regrettable. The Government of the Republic of Kenya is committed to the enforcement of the constitutional rights of all persons within the territory of Kenya, be they citizens of the Republic of Kenya or other persons lawfully living within the Republic of Kenya. The Government has made great strides to promote and protect national cohesion and integration of the citizens and the residents of this country. We, therefore take great exceptions to the hateful, derogatory, odious, vile and ill-informed utterances that were attributed to the hon. Member. Further to my observations above, I wish to inform the House that on 25<sup>th</sup> September, 2012, in the exercise of his jurisdiction conferred by Article 157 of our Constitution, the Director of Public Prosecutions advised the Commissioner of Police to cause prompt action to ensure that all those found to have been involved in this incident, including Mr. Waititu, are immediately apprehended and brought to justice. I am advised that the police are actively pursuing the arrest and prosecution of the said Mr. Waititu. Further, since I prepared this Statement, it has been brought to my attention that Mr. Waititu presented himself to the High Court of Kenya seeking an order barring this arrest that is proposed by the Director of Public Prosecutions. The High Court declined to give an order in his favour and he has been directed to appear before the Chief Magistrate's Court in Milimani tomorrow morning and the court has issued a warrant for his arrest.

Thank you.

**Mr. Speaker:** Fair enough, hon. Members. We will allow five interventions by way of seeking clarifications on that Statement by the Attorney-General, but please bear in mind the provisions of our Standing Orders with respect to how Members treat each other. With that rider working, I want to take the hon. Member for Kilgoris first.

**Mr. Konchella:** Mr. Speaker, Sir, it is a very sad incident that was witnessed by the nation again. Two weeks ago, there was killing of people in the Tana Delta; at the same time there are clans fighting each other in North Eastern Province. When you start

removing people from where you want to stand as a Member of Parliament or as a Governor, you create acrimony and this will cause more problems to our people. I would like to ask the Attorney-General what steps the Government is going to take to ensure that no politician or leader will do what this hon. Member has done. What is the Government doing to compensate the families to help them bury the dead and to ensure that the children of the dead are taken care of? This is a war that is being created by leaders in this country. That is exactly what happened in the post-election violence of 2008. This is going to be a repeat. How many people are living among other people? If you are going to say that these groups should move, then the other people will also say they do not want them in their areas. So, this is going to move from one thing to another. So, can we protect this country by setting an example and punishing this hon. Member?

**Mr. Kathuri:** Mr. Speaker, Sir, now that the Government sounds very apologetic, can they go ahead and confirm to this House whether they are going to foot all the funeral expenses for the said victims, because this is an emergency and the Government should be seen to be acting consistently?

**Dr. Khalwale:** Mr. Speaker, Sir, the Attorney-General has used very strong words, signifying that the Government is not happy with the utterances of our colleague, Member of Parliament, Mr. Waititu. Could he indicate why the same Government that is so unhappy in such strong terms is taking this long to apply Chapter Six, which provides that a public officer must behave in a manner that will bring honour to their office? What are you waiting for to relieve the Assistant Minister of his duties and send a clear message to members of the public that the Government is committed to the discipline of officers while they are in office?

**Mr. Imanyara:** Mr. Speaker, Sir, the Attorney-General confirms that, indeed, the Director of Public Prosecutions instructed that the hon. Member be arrested and prosecuted. That was widely circulated. At the time it was, the hon. Member was in this House. The circumstances under which the hon. Member left the precincts of Parliament in order to prevent the police from performing the task given to them by the Director of Public Prosecutions clearly shows that there was aiding and abating by either staff, Members of this House or the police itself in order to circumvent the arrest of the hon. Member. Could the Attorney-General tell this House what steps, if any, are being taken to ensure that those responsible for that action are also brought to book?

**Mrs. Shebesh:** Mr. Speaker, Sir, could the Attorney-General inform the House whether there was or there was no intelligence report that showed rising tension between the two communities in Kayole, that is the Maasai community and the Kikuyu community and that these two communities have lived in harmony and if there was tension the Government would have been able to detect it? Could the Attorney-General be very clear that this is an issue of incitement of a leader to his people and not animosity between two particular communities in Kayole?

**Mrs. Noor:** Mr. Speaker, Sir, we can see what is happening with politicians all over. We know in the devolved system we will have governors who will be politicians. Under the devolved system the politicians will have the security docket under them. What measures is the Government putting in place so that we do not witness politicians who are governors who will take the security of our country into their hands and evict people who are not from their clans and tribes from their counties?

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir, in response to the hon. Member for Kilgoris, I want to confirm that the Government takes very seriously, from now until the time of the election, the safety and welfare of the Kenyan people. The Government wants to send a very strong message that nobody no matter how low or high, will escape the full force of the law on this question of hate speech and the incitement of people and communities against others.

We have put in place various measures in the security organs and law enforcement to ensure that beginning now - and this case is a good example - we send a clear warning to any person who may be contemplating inciting members of one community against the other. Every hon. Member in this House knows that the very dark days we faced in 2008 started in that way and we will not allow it to happen again.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. My learned junior brother, the hon. Attorney-General, has set out the facts very clearly and I agree with him totally. But is it in order for him to stress that the Government will show its dislike for this type of conduct without informing the House that the offence of incitement carries a maximum sentence of five years but where death occurs as a result of that incitement then the charge should be murder not incitement?

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir, first, I appreciate my learned friend John Olago Aluoch for drawing my attention to that save that I would like to remind him that under the Advocates Act, the Attorney-General is the senior-most lawyer and, therefore, for this purpose he is my learned junior.

*(Laughter)*

I agree with him entirely but again we made a Constitution in which we vested power in the Director of Public Prosecutions. We gave him security of tenure. We do not want to tell him how to do his job. I have no doubt that should he seek my counsel, I would be of the same view as the hon. Olago.

In response to the question by the Member for Manyatta, I wish I were able to make this pledge that the Government will foot the funeral expenses associated with this unhappy incident, unfortunately it would have to be made by a different office.

In response to Dr. Khalwale, I again would respectfully suggest that we again must grant the suspect at this stage all due process until the court has directed us on what it has decided to do with the case. I think it would be premature for the Executive to take a decision that would suggest that it has condemned the hon. gentleman without a hearing.

In respect to the comment by Mr. Imanyara, he has raised a very fundamental point that lies in the jurisdiction of the Speaker's office whether or not the House or any officer of the House aided or abetted the exit of the hon. Member from the House or in any manner allowed him to avoid arrest.

Hon. Members know that this House enjoys immunity. When an hon. Member is on his way to the House and on his way from the House or inside the House, he enjoys immunity from arrest in any form. We should be careful not to throw out the baby with the bath water. This was an unhappy incident but the immunities of the House must be maintained.

In respect of the question by Mrs. Shebesh, the Government does not have any intelligence report to suggest that there has been any tension of any nature among the communities living in Kayole. I am advised that Kayole is a multi-ethnic part of the city and that all citizens of the Republic of Kenya and other persons they have admitted from other neighbouring countries live peacefully.

Finally, in response to the question by Mrs. Noor, it is a very important question as to whether when we have devolved authority, Kenyans will be safe to live and work in any county of their choice. I want to assure the hon. Member that my own reading of the Constitution is that, that is a fundamental pillar of the Constitution we have enacted. It is on that pillar that we have engaged those forces that hon. Members are aware about where it has been suggested that there can be a cessation or any ethnic exclusion of any nature.

**Mr. Ochieng:** Mr. Speaker, Sir, I would like to request that this matter is very weighty. If you could allow some latitude---

**Mr. Speaker:** Order! We do not reverse directions so casually.

**Mr. Shakeel:** Mr. Speaker, Sir, earlier on the Attorney-General made a very good statement that there are no exceptions and the Government will give no exceptions. Is the Attorney-General not aware they gave a specific exception in respect of another Member of Parliament for whom an arrest of warrant was already issued and he was to go to court? An exception was made that he makes an apology instead. Could the Attorney-General tell us for a fact that in this case no exceptions will be made?

**Mr. Speaker:** Attorney-General, that is a legitimate challenge. An excellent point made but of course canvassed in the best way the hon. Member could. So, let us hear your response.

**The Attorney-General (Prof. Muigai):** Mr. Speaker, Sir, in response to the last comment by Mr. Shakeel, hon. Members in their wisdom set up a body which we gave authority to investigate, prosecute and to promote reconciliation and mediation in appropriate cases. That body exercised that discretion in the specific context of the complaint that was before it.

Without further information from this body, we cannot say that they exercised that discretion wrongly. However, I am re-stating the general position as follows: All the security organs of the Republic of Kenya have received the same instructions. This sort of conduct is to be apprehended at the earliest possible opportunity swiftly followed by a prosecution. One would hope the courts acting in their utmost discretion would give an appropriate punishment.

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. This Attorney-General has got flowery language that he can use to put across his point of view. However, this is a matter that needs much more teeth than the language. Is the Attorney-General in order to give us the assurance that the Government is serious and yet there is something the Government can do without recourse to course? That is announcing at 1.00 p.m. that the Assistant Minister has been relieved of his duties. It is a long time since we heard this. This might send a strong message that the Government, on its own, will take serious disciplinary action against Ministers who make statements that result in the loss of lives. Right now, the Attorney-General is saying: "You see, we still have to wait for the Director of Public Prosecutions and they still have to go to court." This is the case and yet the Assistant Minister has caused the death of two Kenyans---



**Hon. Members:** Three Kenyans!

**Mr. Ruto:** Three Kenyans, Mr. Speaker, Sir! What is the Attorney-General up to? Is he in order!

**Mr. Speaker:** Order, the Member for Chepalungu! I did caution the House that we must be awake to the provisions of the Standing Orders. So, that part where you say “the Assistant Minister has caused the death of two Kenyans”, obviously is not permissible within the ambit of the Standing Orders. So, you must withdraw it!

**Mr. Ruto:** Mr. Speaker, Sir, I want to withdraw and apologize. In fact---

**Mr. Speaker:** Thank you. It is the only decent thing to do.

**Mr. Ruto:** Mr. Speaker, Sir, in fact, the Assistant Minister is my friend, but the point is: What action has the Executive arm of the Government taken which can convince Kenyans that this Government is serious, other than having an Attorney-General who can give advice, which is ignored?

**An hon. Member:** By who?

**Mr. Ruto:** By Haji, for example!

*(Laughter)*

**Mr. Speaker:** Order! Order, hon. Members! Attorney-General, you may want to make a response although, of course, the point of order was once, again, not properly executed. The Member for Chepalungu, if you discussed with the Member for Central Immenti, you obviously, would have done much better than you did. He is your neighbour just where you are.

Proceed, Mr. Attorney-General!

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir, the price we have to pay for living under the law is that the law is not as swift as we would wish, but it is sure. I take the compliment as to the felicity of my diction from hon. Isaac Ruto. I thank him for that.

Mr. Speaker, Sir, steps were taken by the Director of Public Prosecutions, the Commissioner of Police and the court today. Steps will be taken by the court tomorrow morning. How can that---

**Hon. Members:** What about the Executive?

**Mr. Speaker:** Order! Order, hon. Members! Order, the Member for Chepalungu! We must hear the Attorney-General.

The Attorney-General, you have the Floor and you are protected. Proceed!

**The Attorney-General** (Prof. Muigai): Mr. Speaker, Sir, I just want to end by saying that the Executive has been reprimanded in this House many times for what is alleged to be our disregard of the law. The Executive cannot remove from office a person who has not yet been charged and answered to a criminal charge in the circumstances of this case. The law will follow its natural course. Once the Member is arraigned before court, the Executive will take the steps it has taken in other cases that hon. Members are aware of.

Thank you, Mr. Speaker, Sir.

**Hon. Members:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** Order, hon. Members! The Attorney-General is clear and categorical in some areas. I think hon. Members just need to take time and internalize the

import of what he has said. The Attorney-General sometimes says these things in a manner that is so subtle and yet, so real. You must respect that flowery language because it does make sense.

Hon. Members, that deals with Statements. We now want to take requests for Statements.

## POINTS OF ORDER

### INSECURITY IN KISUMU CITY

**Mr. Olago:** Mr. Speaker, Sir, I want to say from the outset, for avoidance of doubt, that in seeking this Statement from the Minister of State for Provincial Administration and Internal Security, I consulted with my brother, hon. Shakeel, because the issue that I am going to ask details about cuts across our two constituencies.

Mr. Speaker, Sir, I rise to seek a Statement from the Minister of State for Provincial Administration and Internal Security regarding the current state of insecurity in the City of Kisumu occasioned by a gang, which has resulted today in the cordoning of Kisumu Bus Park by anti-riot police. In the Statement by the Minister---

*(Mr. ole Metito consulted with  
other Members of the Front Bench)*

Mr. Speaker, Sir, I hope that the Minister is able to multi-task, so that as he talks with his colleagues, he is able to listen to what I am saying because the matter is very serious.

In the Statement, I would like the Minister to address the following issues:-

(i) Outline to the nation the genesis of the violence which also led to the attack of one Mr. Owino at Tuskys Supermarket in Kisumu Town and state the action that the police took subsequent to this attack.

(ii) Clarify whether the attack on Stephen Midhialo also known as Mada in Nairobi during the football match between Gor Mahia and AFC Leopards is associated with the ongoing violence in Kisumu and explain why Mr. Mada was arraigned in court this morning at 5.50 a.m.

(iii) Clarify whether the violence in Kisumu has been fueled by a politician from Nairobi and if so, provide details.

(iv) Explain to the House how the Ministry has employed dialogue and peace building in the City in the wake of escalating violence.

Thank you, Mr. Speaker, Sir.

**Mr. Speaker:** The Member for Kisumu Town East, do you want to supplement that request?

**Mr. Shakeel:** Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Carry on!

**Mr. Shakeel:** Mr. Speaker, Sir, in addition to what my brother has stated, I would like the Minister to tell us why the Provincial Administration is showing partiality towards one group and has selectively arrested members of the second group---

*(Mr. Kioni consulted while walking along the passage way)*

**Mr. Speaker:** Order! The Member for Ndaragwa please handle yourself with some decorum. You do not walk along the passage ways addressing Members as you walk by. If you want to speak to the Member for Chepalungu and hon. Millie Odhiambo, just sit next to them.

**Mr. Kioni:** I am sitting now, Mr. Speaker, Sir.

**Mr. Speaker:** Order, the Member for Ndaragwa! Please, take this House seriously.

Proceed, hon. Shakeel!

**Mr. Shakeel:** Mr. Speaker, Sir, in his response, could the Minister kindly inform the House why the Provincial Administration is exercising partiality by selectively arresting members of one group and not the other? In respect of the group called “China Group”, why is the Provincial Administration taking instructions from one Anyango Oloo who is in Nairobi?

**Mr. Speaker:** The Minister of State for Provincial Administration and Internal Security, when will that Statement come?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Speaker, Sir, I have two statements to issue tomorrow and another one on Tuesday. I request that I issue this one on Wednesday next week.

**Mr. Speaker:** Fair enough. What is it hon. Olago?

**Mr. Olago:** Mr. Speaker, Sir, I appreciate the fact that the Minister may not be familiar with what is going on in Kisumu now but the situation is so volatile as I speak before this House. Unless this matter is handled very quickly and urgently, tomorrow we may see deaths.

**Mr. Speaker:** Very well. That just re-emphasises the urgency of the matter. Mr. Minister, perhaps, you want to rearrange your priorities so that you can deliver this Statement tomorrow afternoon and also give assurances that your Ministry is on top of things as far as the situation in Kisumu is concerned.

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Speaker, Sir, maybe, what I can do is the following: I promise that we will take action to ensure that there is normalcy in Kisumu, but we will issue the statement on Wednesday next week. That is because I want to get correct facts and I was working on the statements for tomorrow and they are two. But that does not mean that---

**Mr. Speaker:** Fair enough. Does the House have your assurance that you will ensure the situation in Kisumu is contained in the meantime?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Yes, Mr. Speaker, Sir.

**Mr. Speaker:** Very well. Hon. Olago and hon. Shakeel, maybe, you want to liaise with the Minister to see what steps he is taking in the meantime. We will take other requests if there are any. Hon. Outa.

#### DEATH OF MR. OGADA IN DUBAI

**Mr. Outa:** On a point of order, Mr. Speaker, Sir. Last week, I sought a Ministerial Statement from the Minister for Foreign Affairs concerning one of my

constituents who died in Dubai by the name of Enos Ogada. I am expecting to hear from the Minister today.

**Mr. Speaker:** Minister for Foreign Affairs, when will that Statement be made? It was due today and I have not seen the Minister in the House? Hon. ole Metito, do you want to hold brief for your colleague and see if he can bring that Statement tomorrow afternoon? It has been pending for some time. I have information now from the Clerk-at-the-Table that the Minister is out of the country accompanying the President on Government business. So, maybe, he cannot be there tomorrow. Hon. ole Metito, do you have any idea when they will return so that we can program this perhaps for next week?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Yes, Mr. Speaker, Sir. They can issue it on Wednesday next week.

**Mr. Speaker:** So, we say on Wednesday morning since we have a little more time that time. Is that fine?

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Yes, Mr. Speaker, Sir.

**Mr. Speaker:** It is so directed. Hon. Outa, please note. Hon. Millie-Odhiambo, you have pressed “intervene”, unless you have done so unconsciously in which case you just apologise and we pass on.

**Mrs. Odhiambo-Mabona:** Sorry, Mr. Speaker, Sir. This must have been during the Attorney-General’s Statement. I am sorry.

**Mr. Speaker:** Okay. That bring us to the end of Order No.7. Next Order!

## **BILLS**

### *First Readings*

#### THE BASIC EDUCATION BILL

#### THE KENYA NATIONAL EXAMINATIONS COUNCIL BILL

*(Orders for First Readings read – Read the First Time and ordered to be referred to the relevant Departmental Committees)*

### *Second Reading*

#### THE PREVENTION OF TERRORISM BILL

*(The Minister for Finance on 19.9.2012)*

*(Resumption of Debate interrupted on 20.9.2012)*

**Mr. Speaker:** Who was on the Floor? The last speaker had actually concluded his contribution. So, anybody can ask for the Floor. Hon. ole Metito, I think this is your maiden address as the Minister in charge of Provincial Administration and Internal Security. Congratulations!

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Thank you, Mr. Speaker, Sir. I stand to support this Bill. I would like to

say that some commentators have asked questions as to why the country should worry about terrorism. But owing to the past incidences and the current threats, it is clear that terrorists target innocent and unarmed citizens. Again, the neighbouring countries have come up with measures to combat terrorism and, as we move towards the integration of East Africa, it is important that we have legal measures to combat terrorism to avoid being a weakling in dealing with terrorism. We appreciate that the chain is as strong as the weakest link and we should not be found wanting.

Mr. Speaker, Sir, terrorism financing is closely associated with money laundering which has since been criminalized by the Proceeds of Crime and Anti-Money Laundering Act of 2009. However, terrorism financing differs from money laundering in that in money laundering, the proceeds to be laundered always emanate from a criminal activity whereas money used to finance terrorism would either be from legitimate or illegitimate source. As has been done by the Mover of this Bill, I would also wish to highlight some aspects of the Bill.

First of all, in the preliminary, the Bill has now changed the title as opposed to the earlier one of 2003 which was contentious and it read “Suppression of Terrorism Bill”. We have an improved version which is largely acceptable by all and it reads: “The Prevention of Terrorism Act”.

Mr. Speaker, Sir, Part II of the Bill has what is called specified entities. This part provides the procedure for designating an entity and the procedure for appealing against/or revoking the designation. The part has administrative and judicial mechanisms to ensure that the powers to designate an entity are not exercised in a capricious manner and are subject to judicial oversight. This was one of the areas which had to be improved since there were fears that the powers that do designate an entity can be abused for political or business interests. It should be appreciated that we currently have an advanced judicial system which will not shy away from addressing legitimate concerns that may be raised regarding designation. Further, the designations will be reviewed administratively every twelve months.

Mr. Speaker, Sir, Part III of the Bill talks about the offences. This part deals with a number of offences related to recruitment, training and preparing for terrorist attacks. It should be noted that under this Bill, we propose to have life imprisonment for persons who carry out terrorist acts that result into deaths of other persons as opposed to the death sentence that is provided for in the Penal Code. The reason for that is that terrorists are often ready to die and imposing a death sentence could unnecessarily grant them the status of a hero. Further, there may be challenges in extraditing suspects to stand trial in Kenya in the event that the suspects are liable to death sentences. Most culprits have a bar to extraditing suspects to countries that met out death penalties.

Mr. Speaker, Sir, the Offences Act requires a person to have positive knowledge on the support or facilitation of offences under the Act as opposed to inferred knowledge. The offences covered include collection of funds, arrangement for retention or control of terrorist property, soliciting and giving support to terrorist groups or for the commission of terrorist acts, harbouring persons committing terrorist acts, provision of weapons to terrorist groups, recruitment of members to terrorist groups, training and directing terrorist groups and persons. To be able to ensure that witnesses are available to testify, the Bill creates offences of obstruction to justice and officers who conduct investigations are also criminalized and also criminalizes retaliation and intimidation of witnesses.

To address aspects where a rival may give false information, the Bill proposes to criminalize giving of false information with a stiff penalty.

Mr. Speaker, Sir, Part IV of the Bill talks about investigation of offences. The Bill proposes to give police powers to arrest suspects and subsequently either release them or take them to court within the constitutional provided period of 24 hours. Any further remand beyond the 24 hours will have to be sanctioned by the courts. Given the complexity of the terror related offences, the court, may if satisfied that there is sufficient jurisdiction, remand a suspect for 30 days, on each application but not more than 90 days.

Mr. Speaker, Sir, in gathering information, the Bill compels those with relevant information to provide the same to the police. So, this information will not be used to incriminate whoever provides the information. This is in line with the Constitution since by the time the investigation is being carried out, whoever is giving information will not be an accused person and that information will not be used against him or her. This clause is intended to provide information which may lead to unveiling the key perpetrators or in preventing an attack.

Mr. Speaker, Sir, the Bill also makes provision for interception of communication and the admissibility of intercepted communication. The powers of interception are subject to administrative oversight, that a police officer seeking to undertake interception is required to seek written consent of the Inspector-General or the Director of Public Prosecutions before making an application before the court for a warrant to intercept communication. The administrative and judicial oversight will definitely prevent abuse of interception by rogue officers.

Further, we propose to include a penalty for failure to follow the process similar to what was provided for in the National Security Intelligence Service (NSIS) Act. The Independent Police Oversight Authority is now in place and will be able to address any grievances that may be raised on any complaint regarding the abuse of police powers.

Mr. Speaker, Sir, I know this Bill has been on the Floor of the House. This is the third day of its Second Reading and I will not want to really take much time but I just want to say that we have done a lot of consultations with the quarters that were having some fears. We have, in principle, really agreed to mitigate those fears. We will propose some amendments at the Committee Stage to ensure that every Kenyan is brought on board to see that this Bill is passed by the House.

Mr. Speaker, Sir, to allow other Members to contribute, I will end there and say that I beg to support.

**Mr. Imanyara:** Mr. Speaker, Sir, thank you for giving me this opportunity to speak.

Let me also take this opportunity to congratulate my good friend for having been elevated to the position that was occupied by our fallen colleague, the former Vice-president and Minister for Home Affairs and later on by the Minister of State for Provincial Administration and Internal Security.

Mr. Speaker, Sir, had this Bill come during the era of the old Constitution, I would have opposed it. But fortunately, we are living under a new dispensation. The new Constitution has extensive provisions for the guarantee and protection of human rights and fundamental freedoms of Kenyans. Had this Bill come during the old Constitution, I would have agreed with our Muslim brothers and sisters that this is a Bill we should have opposed. But given the guarantees that are contained in the new Constitution, given the

institutions that have been created under that Constitution and more importantly given the new Judiciary under Chief Justice, Dr. Willy Mutunga, that has freed itself from Executive control and that is able to protect fundamental human rights, I see absolutely nothing wrong in supporting this Bill. This law is going to apply subject not only to the Constitution but also subject to the rights of any Kenyan to go to the courts and challenge any provisions that are being abused or used arbitrarily.

Mr. Speaker, Sir, the reason we have our forces in Somalia today is because of the terror attacks that have destabilized this nation. It is not many years since the American Embassy was bombed here in Nairobi and the police did not have the tools of not only investigating but charging suspects so that they were being sent out of the country for trials because our laws as existing then did not and had not foreseen a situation such as we see today. We are facing a situation where foreign investors and tourists coming to our country are now cancelling trips because of the security threats not only to their properties but their persons.

Mr. Speaker, Sir, with the passage of this new law, there will be sufficient tools for law enforcement agencies to move in swiftly and take measures not only to protect but apprehend terror suspects.

Mr. Speaker, Sir, looking at the totality of this Bill and all the provisions and having had the occasion to look at the report by the Departmental Committee and suggestions that are made for amendments, I am glad to hear the Minister say after consultations, these amendments will be brought during the third stage. I will not hesitate at all in appealing to all Members of this august House that time has come for us as Kenyans to be proud of our country, to be patriotic as Kenyans and to support all measures that are geared to eradicating this menace of terrorism that is affecting Kenyans on a daily basis. Not a single day passes without some alert of grenade attack either in Garissa or in some parts of the country. Not a day passes without exposure of huge amounts of explosives and other instruments of terror being discovered simply because we did not have the tools for dealing with the situation.

Mr. Speaker, Sir, I am glad that this Bill has come. It has come in the form of prevention of terrorism and not suppression which created an opportunity for excesses by the police force. Given that the two minutes I have spoken, I have outlined why this Bill is necessary, I have absolutely no hesitation in supporting it and also encourage the Minister in the Third Reading to take into account the misgivings that have been founded by our Muslim brothers and sisters. He should now remove all doubts so that we can have a law that the people of Kenya own and identify with to deal with terrorism.

With those few remarks, I beg to support.

**The Member for Kajiado North** (Mr. Moses ole Sakuda): Thank you, Mr. Speaker, Sir, for allowing me to speak. First of all, let me say that I fully support the Bill. I want you to give me just a little time to send some appreciation to the people of Kajiado North for exercising their democratic right and giving me the opportunity to represent them as their Member of Parliament. I stand here in the big shoes of the late Minister, Prof. George Saitoti, whom we respect for the way he so ably represented the people of Kajiado North for the last 28 years, and made sure that peace, harmony and development continued in Kajiado North.

I want to assure the people of Kajiado North that their faith in me and their giving me an opportunity will see them continue to enjoy the peace and stability that has

continued to reign in the constituency. We will seek to move a notch higher, in terms of peace and development, all the projects that were instituted by the late Minister, and that have now got stuck because of lack of funding under the CDF. All these projects will be rolled out from next week, so that we can achieve the goals that he intended to achieve.

*[Mr. Speaker left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. Imanyara) took the Chair]*

Secondly, I want to thank the Attorney-General for coming out clearly today and expressing what the Government is doing because of the public statements that were made by an hon. Member. Indeed, they were misplaced statements and my prayer is that within the shortest time possible that issue will be dispensed with, so that people of Kajiado North and, indeed, Kenyans can continue living in peace. All of you are aware that Kajiado North is a cosmopolitan constituency that has all the 42 tribes there. Therefore, amidst this tension and the uncertainty of a particular tribe, I think it will be very important that by the close of this week we see some swift action by the Chief Justice and the court system in this country.

Finally, let me take this opportunity to support the Bill. A friend of mine once told me that in the world you do not need strong people, but we need strong institutions. Therefore, having read the Bill, I have seen an effort to establish strong institutions that will make sure that justice is done, and that security continues to be enjoyed in this country, for without security there can never be development in this country.

Mr. Temporary Deputy Speaker, Sir, I support this Bill.

**The Temporary Deputy Speaker** (Mr. Imanyara): Just before you speak, hon. Musila, let me assist our friend, hon. Agostino Oyugi, because I see he has sought to speak. The Standing Orders do not permit a Member to speak on the same Bill twice. You made your contribution on this Bill yesterday; so, under the Standing Orders you will not be entitled to speak again. I thought that I should inform you of this, so that you do not sit and wait to be called to speak. Please, familiarize yourself with Standing Order No.74.

**The Assistant Minister, Ministry of State for Defence** (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I stand to support this very important Bill. Before doing so, let me take this opportunity to congratulate hon. ole Metito for his promotion to be Minister of State for Provincial Administration and Internal Security.

I am supporting this Bill because it is a very important one. It is long overdue because the dangers facing this country in matters of terrorism are real. This country has witnessed many acts of terrorism being meted on innocent Kenyans. In my own constituency, I have lost no fewer than 25 innocent constituents, who were victims of terrorism in Wajir and Garissa. Therefore, I want to appeal to hon. Members to support this Bill, simply because it is not targeted at any person other than terrorists.

Only recently we witnessed the discovery by the Kenya Police of an arsenal of weapons that was clearly meant to destabilize this country. These people were definitely planning to cause havoc in this country and, therefore, laws of this nature are very important. We must give the Kenya Police tools to fight terrorism, including appropriate



laws like the one before us; we should not just tell them to fight terrorism and we do not empower them to do so. I think this law will go a long way in providing the necessary tools in order that this grave matter may be addressed.

Mr. Temporary Deputy Speaker, Sir, having said this, I want to commend the Minister and those groups which have been consulting. It is important that a law of this nature, before it is passed adequate consultations must be undertaken, so that we bring on board all communities of Kenya; this is so important. We must ensure that all people are comfortable with all the provisions of the Bill. I, therefore, welcome the consultations that have been going on, and I will be welcoming the proposed amendments at the Committee Stage. That way, we will ensure that everybody is at ease with himself, and no sections of this country should feel they are suppressed by any part of the law.

The law which we are passing must ensure that it is enacted in accordance with the provision of our Constitution. For example, the charging of suspects must be done within 24 hours as is spelt in the Constitution. The interception of communication must, again, be done in consultation and all aspects of implementing this Bill, when it becomes an Act of Parliament, must strictly be in accordance with the Constitution of Kenya, which we all passed.

Mr. Temporary Deputy Speaker, Sir, these are very important provisions; I want to ask Members of Parliament to come together over this matter, so that we ensure that this law is passed. We should ensure that at the Committee Stage we address all issues that have been alluded to by some sections of the Kenyan society.

I beg to support.

**Mr. Abdikadir:** Mr. Temporary Deputy Speaker, Sir, may I join you in congratulating the new Minister for being appointed to that docket. May I also thank him for the initiative he has taken in the last couple of days in trying to bring consensus around this Bill. Because of that, I am comfortable in supporting that we pass this Bill.

This Bill is critical because it deals with a critical issue. It is a very critical Bill because it also deals with quite a number of rights enumerated in our Constitution. I join an hon. Member who said that he is comfortable with passing this Bill, one, because of our new Constitution and, two, because of a new Judiciary. It also gives me great comfort that the rights of our people are protected by the Constitution.

Mr. Temporary Deputy Speaker, Sir, under the supremacy clause, the Constitution is supreme to all the laws. The rights enumerated in the Bill of Rights, the largest chapter in our Constitution, are there for good irrespective of what this House does. This House must pass laws that agree with the Constitution.

The reason quite a number of us were worried about this Bill, even while I support, is that the Bill is limiting quite a number of those rights, for example, the right to privacy, the right to property, the right to fair trial, the right of the accused and even to some extent, the presumption of innocence. The broad issue is that because of the nature of this crime, there is a possibility that we are lowering the requirements we have of our investigative and prosecutorial authorities in order to help them address these ill.

The law enforcement agencies are human beings and often times all over the world, laws of this nature then get used for other offences. For example, in certain countries where politicians and political parties get harassed under laws that were prepared for terrorism or journalists get arrested under laws that were set up for terrorists. For purposes of legislative history, we hope that this Parliament's intent is very clear that

this particular Bill is not meant for and must never be used for other unintended purposes, including harassing journalists or political opponents. The crime of terrorism, often times, is considered special. Therefore, it comes with that aura that it requires special attention. But the bottom line is that it is a crime like any other. There are more horrible crimes known to man, including the crimes addressed under the International Crimes Act.

We have also given these agencies a number of other laws in the last few months, for example, the Anti-Money Laundering law, The International Crimes Act, The Organized Crimes Act, the Bill for the NIS and the police Bills. All these arsenals should be more than enough to address these issues. Our prayer is that those arsenals, all of them giving extreme powers to these institutions; of forfeiture, interception of information and arrest, be used for the good and not for harming our citizens.

Mr. Temporary Deputy Speaker, Sir, there is also a very clear fear that our security agencies should not be misused by foreign agencies. International law is said to be based on enlightened self-interest. We want our security agencies to have their relations based on enlightened self-interest of this country and not on the self-interest of other institutions or other countries, so that they are not agents for other countries. If they give certain accommodation to other institutions, it is done on the basis of reciprocity. If you are going to give a particular institution in a particular country certain access, you we have a similar access to their institutions. We should not have a situation where we have inferiority complex within our institutions where they are the ones that give information and act as agents for other institutions, yet they do not get the same. Like we do in our diplomacy where foreign embassies act with impunity here and our embassy does not act in such impunity elsewhere.

This Bill, as we said, is critical and must be passed. It must be passed and hopefully, it must be reviewed as we continue with our review of laws. We are passing it in such an environment that we all see a clear present danger. Therefore, we might move with the emission of times to pass this Bill, but hopefully, like many other countries have done, we will come and review and the courts will review. As we clearly said, our Judiciary is not bound to accept this Bill just because Parliament has passed it. However, I am pleased with the fact that a number of the proposed amendments have been accepted by the Executive and the Minister, to his credit, and we will move forward as a country.

With those remarks, I support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, ordinarily, we do not take more than three days of debate on one Bill. This is the third day and we intend to conclude debate on this Bill. Looking at the number of people who have expressed interest to speak and given that we have had three days, perhaps, you may want to limit your contribution to about three minutes, so that we can allow everybody an opportunity and end this debate today.

**The Assistant Minister for Energy** (Eng. M.M. Mahamud): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute to this very important Bill. From the outset, I stand here to support it.

This Bill provides a legal framework for the detection, investigation and prevention of terrorist acts. At no time would anybody be seen opposing this Bill. People like us who talked about this last week meant to say that this Bill must be subjected to some consultation and be amended, so that it can be in consistent with our Constitution. That was our point. I would like to congratulate my colleague, the Minister of State for

Provincial Administration and Internal Security, for having taken the initiative to initiate that consultation. For the last two days, we have discussed with the Minister and a few other people and at least, have come up with some consensus in terms of agreeing what needs to be done in this Bill.

This country has been subjected to serious crimes of terrorism in the recent past and, in fact, since 1998. It is, therefore, necessary that we enact a legal framework to deal with these matters. In the same vein, our citizens must also be protected from excesses by our security forces and agents. Our people must have confidence in our Government and whatever law is enacted must be seen to be in the good of the people and not something to be used against them. Our concern was that abuses can be subjected to such a law. We know terrorism is a very serious matter. Therefore, any law that we enact must be consistent with the Constitution, so that there is no abuse. In this regard then, we have to balance between privacy, human rights and the combat of terrorism. This is a very delicate balance. The Bill, in its amended form, can balance that.

You will recall that we, as a nation, decided to enact a new Constitution to part ways with the old ways of doing things and give sovereignty to our people, so that we can respect the rights of the people. That way, the rights of our people should be protected. While we protect our people against terrorism, we must also ensure that we respect their rights, so that they are not violated.

Mr. Temporary Deputy Speaker, Sir, because of the nature of terrorism, this Bill seeks to lower the threshold the State needs to satisfy in terms of the confession of terrorist suspects. That is why it is important that in protecting those rights, we need to be very careful that we do not go overboard. That is the abuse that we are talking about. I am glad that the Minister has discussed with us and I think there will be some amendments coming. With those amendments, we fully support the Bill.

The Bill also comes at a time when we expect the Police Service to be reformed, so that the people who are entrusted with the implementation of the provisions of this Bill are conscious of the provisions of our Constitution and do not do things the old way. As mentioned by the Chairman earlier, maybe that is why this Bill did not go through from 2003. That is why people were rejecting it. But in the environment of the new Constitution, we expect the Bill to go a long way in satisfying the security needs of our people.

Once again, I congratulate the Minister. We have done a lot on this Bill for the last few days. With those consultations and the amendments that will be proposed, we should have a new law to deal with this serious crime which affects our people.

With those remarks, I beg to support.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I also rise to support the Bill before the House and to congratulate my good friend, Katoo ole Metito, for being appointed to a very critical docket. I wish him all the best and we pledge our support. I also want to thank hon. Abdikadir and the team of colleagues from the Muslim Community who built consensus to facilitate consultations between the Muslim Community which had very serious and genuine concerns about this Bill and the Ministry. I am very pleased that we are no longer talking about shelving this Bill but seeing how we can improve on it through amendments. I think that was a very positive development. This is because the old adage says; “prevention is better than cure.”

This country has been a victim of terrorist attacks right from 1980s when we had the Norfolk Hotel attacks. We also had attacks at the American Embassy where my Ministry is housed, we had attacks in Kikambala in Mombasa and there have been several attacks both in Nairobi, Kampala and Dar-es-Salaam. No one is safe from terrorists including super powers such as the United States of America who have the most advanced technology and security systems. We saw the attacks on the Twin Towers in New York on 11<sup>th</sup> September, 2001. This shows that, indeed, terrorists are no respecters of persons or nations including super powers. No one is safe from them and what we need is a concerted effort to ensure that we have a global approach towards terror.

The world has become a global village and as a nation living in this village, we need to be a responsible member of the village by ensuring that we do our bit through legislation to provide the necessary legal framework to combat terrorism. That is what this Bill seeks to do by ensuring that for the first time, we put in place measures to detect and prevent terrorist activities.

We have heard cases in this country where youth are being recruited to join the Al Shabaab and the Al Qaeda and we had no mechanisms of preventing this. However, through this Bill, terrorist activities will now be curtailed through clear provisions. If you look at clauses 5, 6, 7 and 8, you will see that there are clear provisions on persons who will engage in terrorism through concealment of property and provision of support to terrorists. All this will attract very serious penalties. This will help us prevent terrorist activities and hold into account those who will engage in such activities.

We know that there have been concerns, particularly with Part IV of this proposed Bill. Through the consultations that have taken place, I believe that we can address these concerns through the proposed amendments. We just want to assure the Law Society of Kenya (LSK) which had also raised concerns regarding our Muslim brothers that this Bill is for the good of all Kenyans. It targets no particular community and we need to prepare to combat terrorism.

Mr. Temporary Deputy Speaker, Sir, even as our Defence Forces close in on Kismayu, terrorists are planning to attack. We must congratulate our security agencies for what they are doing to detect in time and prevent terrorists from attacking Kenyans. They have attacked us right in the heart of Nairobi; that is Moi Avenue which is not far from the Parliament Buildings. They have capacity to strike anywhere in this country and beyond. Therefore, through this Bill, we believe that we will have the necessary legal framework to combat terrorism.

I do support this Bill.

**Mr. Kapondi:** Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to make my contribution to this very fundamental Bill. It has been a long journey for this country to come up with a Bill that has a by-partisan support from a cross section of society.

Terrorists are very heartless people. These are people without tribe, religion and without any regard for humanity. For us to decisively deal with terrorists, we need a strong law and this is what the Bill has. We have to bear in mind that our neighbours have enacted laws that deal with terrorists and it is only unfortunate for us that we are left behind to be in the league of countries that have not done this worldwide.

Our neighbour Somalia, where we are trying to restore some sanity, has become a breeding ground for Al Shabaab. Some of us, a few weeks ago almost ended up being victims in Mogadishu because of these elements who are very heartless.

Just a few days ago, this country survived a serious terrorist attack and one of the terrorist confessed. In this case, I want to hail the Judiciary for convicting the self-confessed terrorist to 59 years in jail. It is long overdue that we have this law in place. I want to thank my Muslim brothers, after lengthy consultations, for agreeing to support the Bill with some minimal amendments as proposed.

*(Loud consultations)*

The senior Minister, Maj-Gen. Nkaisserry, and a General, should also respect his colleague when he speaks. He should keep quiet.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! The Standing Orders know only Ministers. They do not know senior or junior Ministers. They only know Ministers.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaissery): On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard what the Member said. He has referred me to as the senior most Minister and yet I know that I am the junior most Minister with regard to the Cabinet. However, what did I do for him to mention my name? Is he in order?

**The Temporary Deputy Speaker** (Mr. Imanyara): Nevertheless, I pointed out that the Standing Orders do not know junior, senior or assistant. They only know Ministers.

Continue Mr. Kapondi.

**Mr. Kapondi**: Thank you, for that protection, Mr. Temporary Deputy Speaker, Sir. Terrorists are known to move with colossal amounts of money. They channel money through different institutions and because of that, they are able to perpetrate their acts anywhere. This Bill has mechanisms in place to monitor effectively whatever terrorists are planning to implement. In that case and given the fact that many people want to contribute, I want to give my total support to this Bill.

**The Temporary Deputy Speaker** (Mr. Imanyara): Henceforth, I will time every speaker at three minutes so that we can allow as many of you as possible to speak. The timing is automatic. Therefore, at the end of three minutes, it will go off.

Yes, hon. John Michael Njenga Mututho!

**Mr. Mututho**: Mr. Temporary Deputy Speaker, Sir, the effect of terrorism is causing fear. As the Americans say, they get it wrong all the time. However, that one time when they get it right, they cause immense fear. I wish that the Minister addresses the prohibitive measures in this Bill so that they do not make those attempts in the first instance.

Mr. Temporary Deputy Speaker, Sir, you will recall that most of the people who have been attacked in this country and abroad were not necessarily attacked by people whom you would think were enemies. Isaac Rabin of Israel was not killed by a Muslim fundamentalist. He was killed by one of his own for talking peace with the Muslims. Mahatma Gandhi was not killed by a very angry Sikh, but by one of his own.

Looking at what happened at the World Trade Centre, New York, there were 500 Muslims who died when that place was attacked. I am informed that it is against the Islamic faith to kill a fellow Muslim. So, the World Trade Centre attack could not have been collectively sanctioned by the Muslim society. Therefore, it should be dealt with very firmly as an act of terrorism.

Mr. Temporary Deputy Speaker, Sir, I keep on talking about Nakuru very passionately because its population comprises of a mixture of many different people, but it is a very neat place. The last time a Cabinet Minister was appointed from that area was in 1966 because the successive Presidents of this country believed that the approximately 1.6 million people of Nakuru are either children of a lesser god or they do not fit in the bracket of those who can sit in the Cabinet.

If Jaramogi Oginga Odinga were alive today, he would appoint another person from that area to the Cabinet and then the late Jomo Kenyatta would sack him, were he to be alive also. That is what happened with Ochieng Oneko in 1963 and 1966.

Mr. Temporary Deputy Speaker, Sir, this Bill cannot be used for political reasons at all. We have proved that we can malign a certain group of people, like we did with the youth of Central Kenya when we called them “*Mungiki*” to an extent that they were forced to drink excessively, so that they could look drunk because adherents of the *Mungiki* sect do not drink. This Bill should be implemented with full vision of the law and the new Constitution.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. David Njuguna.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, I rise to fully support this crucial Bill, because supporting it is fighting terrorism in this country.

Let me, again, thank the newly elected hon. Members, namely, hon. Agostino Neto of Ndhiwa, hon. Ngahu of Kangema and hon. Sakuda of Kajiado North and, more importantly, hail the appointment of hon. ole Metito to the crucial docket of the Ministry of State for Provincial Administration and Internal Security.

Mr. Temporary Deputy Speaker, Sir, I fully concur with my colleagues that we need to fully support this Bill because our memories are quite fresh about the Nairobi bomb blast, the Kikambala terrorist attack, the attempt by terrorists to down an Israeli passenger jetliner and, quite recently, the terrorist attack on the African Inland Church (AIC) and the Catholic Church in Garissa, where we lost about 15 worshipers.

If not addressed properly, terrorism can destabilise this country and undermine our economy. Our economic growth has slowed down because of the recent kidnapping of a French lady in the Coast region. Shipping has also been affected in our Indian Ocean waters due to piracy threats. Therefore, this Bill is critical because it calls for stiffer penalties for those involved in terrorism.

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order, hon. Kapondi?

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, considering the overwhelming support that has been given to this Bill---

*(Loud consultations)*

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, protect me from hon. Members.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Order, hon. Members! Hon. Kapondi is on a valid point of order.

What is your point of order, hon. Kapondi?

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, would I be in order to propose that each of the hon. Members queuing to speak be given a minute, so that we can move to the next Order?

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kapondi, that discretion belongs to the Chair's and the Chair has given them three minutes each. Their speeches are being timed at three minutes.

Please, continue, hon. Njuguna.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, in conclusion, I would like to call for the establishment of a better Anti-Terrorism Police Unit, with well trained and equipped officers. We must also establish a terrorist court in this country as a deterrent to those imagining that they can continue to attack this country.

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Njuguna, your time is up.

Yes, hon. Mwadeghu.

**Mr. Mwadeghu:** Bw. Naibu Spika wa Muda, ninashukuru kwa nafasi hii.

Kwanza, ningependa kumpongeza rafiki yangu kwa kuteuliwa Waziri. Natumaini kwamba ng'ombe wake sasa waitakoma kulisha kwangu.

Bw. Naibu Spika wa Muda, Mswada huu umekuja wakati unaofaa. Nchi hii imeathirika mara nyingi kwa sababu ya hao wenzetu ambao huwa hawana imani ama fikira wanapotenda uhaini katika nchi yo yote ile. Mswada huu umekuja wakati tunapoitekeleza Katiba mpya. Ingekuwa hivyo, tungehofia kwamba sheria hii itakapotekelezwa kikamilifu ingeleta madhara kwa watu wengine lakini vipengele fulani vya Katiba vinahakikisha kwamba hakuna mtu yeyote ambaye ataadhirika.

Wakati umewadia kwa nchi hii kuhakikisha kwamba sheria kama hizi za kutuwezesha kupambana na uhaini na uharamia zinatekelezwa kikamilifu ili kulinda maslahi ya nchi hii. Kama walivyosema wenzangu waliotangulia, ninaomba kuchangia kwa undani. Hivi majuzi, Bunge hili lenyewe lilikuwa katika hatari kubwa ya kushambuliwa na magaidi, kama tulivyoielezwa. Ninashukuru kwamba wale wanaohusika na utendaji haki na utekelezaji wa sheria walichukua hatua zinazofaa na kuhakikisha kwamba maharamia hao walipata kifungo walichostahili.

Kwa hayo machache, ninauunga Mswada huu mkono.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Millie Grace Akoth Odhiambo-Mabona.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I rise to support.

In supporting the Bill, I just want to say that all of us know the effect of terrorism, which has been visited upon our land. We have lost a lot of Kenyans. Both within and outside this country, Kenyans have been affected. A lot of Kenyans were affected even by the terrorist acts that have taken place outside this country. Therefore, this Act is timely.

I just want to say very briefly, through, that we can pass very good laws but if the Government is not minded in implementing those laws, they will be merely decorative.

The Government must lead by example, because it has set a very terrible example by disobeying laws. We already have court orders which, even as we speak, are being disobeyed by the Executive. So, we cannot have double standards. We should not expect certain people to obey the law when the Government itself is setting a bad precedence.

However, I want to say that this law is very good. As a person with a human rights background, I am very keen on human rights language and balancing. I have actually seen that, in terms of limitation, there are certain guarantees that are provided even where we are seeking for limitation.

Mr. Temporary Deputy Speaker, Sir, there is one or two areas where I have seen that the language is a little bit too broad that the law may be subjected to abuse. Therefore, I would want to encourage that, in those instances, there should be appropriate amendments. Otherwise, the rights of everyone are guaranteed. I want to give an example in situations where searches and confiscations are ordered, where the enforcing officers must be required to seek court orders. If we leave it open, certain people, and especially the police, may abuse such provisions.

Otherwise, I would want to encourage extra vigilance by our police officers and other security agents.

With those few remarks, I beg to support.

**Mrs. Noor:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this chance to contribute to this Bill.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! I see many points of order, but I really do not know what they are for.

**Mr. Ochieng:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I can see that nearly every hon. Member is supporting this Bill. Would I be in order to move that the Mover be now called upon to reply?

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order, Mr. Yinda?

**Mr. Yinda:** The same thing, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): What is your point of order, Mr. Outa?

**Mr. Outa:** It is on the same thing.

**The Temporary Deputy Speaker** (Mr. Imanyara): Proceed, Mrs. Noor!

**Mrs. Noor:** Do I go on, Mr. Temporary Deputy Speaker, Sir?

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, go on.

**Mrs. Noor:** I want to start by saying that on behalf of the Muslim community, we condemn terrorism and terrorist activities. When we come here or when we raise some issues, we do not do so because Muslims are criminals. They are not criminals. What we raise are the interests of the whole nation and we consider our Constitution. For any Bill that comes to the House, we need to see whether it conforms to the spirit and letter of the Constitution. There are some clauses in this Bill that contradict our Constitution. An example is Clause 19 about disclosure of information. This clause contradicts Article 33 of the Constitution on freedom of expression. These are things that we want to bring on board, so that we can carry everybody on board. We do not want any terrorist activity to be in our country, or elsewhere in the world.

If you look at Clause 25 of the Bill, which talks about arrangements of meetings, it says that if you meet with anybody who is suspected to be a criminal, or who engages



in terrorist activities--- How will you know it? You cannot avoid meeting with anybody in this country. This is a subject of abuse and violation of the rights of Kenyans. These are some of the things that we want to bring amendments to, so that every Kenyan has a right and that right is not violated or abused. We respect the laws of this country and condemn activities like terrorism.

Mr. Temporary Deputy Speaker, Sir, if you look at Clause 32 about the right to be released, an officer can just easily---

**The Temporary Deputy Speaker** (Mr. Imanyara): Your time is up.

Yes, Mr. Haji.

**The Minister of State for Defence** (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, I am not going to say much, but will only add to what those who have spoken in support of this Motion have said. Most of the Muslim Members of Parliament who have spoken have ashamed those who had the perception that Muslims are opposing this Bill *per se*. What the Muslim Members of Parliament were doing, after a lot of consultations among themselves, was to ensure that whatever happens is in conformity with the Constitution of Kenya, and is also in the interests of the majority of Kenyans.

As it is known all over, terrorism cuts across all religions. A few months ago in Denmark one person killed about 65 innocent people. Therefore, the perception that Muslims were opposing the Bill is now dispelled. I want to thank my colleagues for joining the Government to pass this Bill.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaisserry): Mr. Temporary Deputy Speaker, Sir, first of all, I would like to say that I support this very important Bill. Secondly, I want to congratulate the Minister for bringing it at the right time. With my security service background, I can say that this is a very important Bill for this country. We must not forget 7<sup>th</sup> August 1998 when we lost 220 Kenyans. We must not forget what happened in the United States of America (USA) on 11<sup>th</sup> September, 2001. We must not forget what happened in Kikambala. We must not forget what happened in Garrissa the other day. We have to be very careful to protect the rights of our citizens, but we must be effective.

Mr. Temporary Deputy Speaker, Sir, I want to tell you something, you cannot fight terrorism conventionally. This Bill addresses the strategies we will use to fight this terrorism. Therefore, in order to combat terrorism we have to have a Bill like this. When you look at Article 37, I do not think there is a problem there but it should not be used to harass the innocent. I think that law has been addressed appropriately.

Terrorists do not respect human life and, therefore, we have to deal with them. We know there is a lot of money going round. The terrorists can buy anybody. I am very happy that on 1<sup>st</sup> May, OBL was eliminated from the face of the earth. For those who do not know who OBL is, it is Osama bin Laden who was the father of terrorism. So, you remember what happened.

I want you to give me just one extra minute. Do you know what happened in 1998? The terrorists who took part in that bombing came to Kenya in 1994. They married our girls and created a fishing company. They came to Mombasa in 1996 and started importing terrorist hardware. Then they carried out the act in 1998.

So, despite the fact that we want to amend this Bill, we have to be careful so that we take the security of the citizens in this country---

**The Temporary Deputy Speaker** (Mr. Imanyara): Maj.-Gen. Nkaiserry, your time is up.

**Mr. Kiuna:** Mr. Temporary Deputy Speaker, Sir, I also rise to support this Bill. I would like to say from the start that this Bill is coming a little bit too late because had we taken these stern measures earlier, we would not have lost the lives we have lost or incurred the damages that we have incurred in our country.

Having said that, I want it to be noted very clearly that this Bill is not targetting any particular group of community. This Bill is purposely targetting terrorists. A terrorist is a terrorist. He does not have a religion or colour.

I wish---

*(Mr. Kapondi crossed the Floor without bowing to the bar)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! Mr. Kapondi, will you go right back?

**Mr. Kiuna:** Mr. Temporary Deputy Speaker, Sir, I think this Bill will equip our intelligence officers or security personnel. Let every Kenyan know that this is not the right time to play politics. We are under threat and if we do not take this thing seriously, sooner or later, maybe we shall be mourning or our country will be in anarchy.

Mr. Temporary Deputy Speaker, Sir, I support this Bill and request all hon. Members to be principled and patriotic Kenyans.

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, from the outset, I want to go on record, in the HANSARD, that I do not support this Bill in this form. However, I will support this Bill after thorough consultation. I hope that the Minister will bring the consensus-based amendments tomorrow.

Mr. Temporary Deputy Speaker, Sir, I am a victim of terror because 17 members of my constituency were killed by terrorists. This country has a Constitution and robust Bill of Rights. In its current form, this Bill affects property rights and civil liberties. If you look at Clause 3(b), you will see that this Bill affects fundamental freedoms that are enshrined in the Bill of Rights.

Finally, this Bill in its current form gives absolute powers to one institution or person called “Cabinet Secretary” who can wake up one morning and seize your property.

Mr. Temporary Deputy Speaker, Sir, I want to thank the new Minister of State for Provincial Administration and Internal Security. We sat and agreed on the amendments as the way to go. More than ever, this country needs a terrorism prevention law and there is no doubt about it. This Bill never saw the light of day in the previous Parliaments because it was foreign-funded. It was not homegrown. But today, I can say that the Minister accorded some of us the opportunity to sit with him for two or three days to look at this Bill, the Constitution, how we should protect the civil liberties and property of our people and guard this country against terrorism and came to an amicable solution. We want to be part of the global nations that have enacted laws that protect their people.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I hope that the Minister will not renege on the promise he made about this Bill. I will support this Bill only when I see the amendments that we have agreed on. For now, I oppose this Bill in its totality.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**Mr. Nyambati:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Bill.

Mr. Temporary Deputy Speaker, Sir, this Bill may not be the best, but it is a start. It is important that, as a country, we fight terrorism. It hurts me when, in the name of religion sometimes we want to brand people that maybe because they are Christians, *Mungiki*, Muslims or whatever, they are terrorists. This should not be part of our agenda in this country. Our agenda should be to fight terrorism. Terrorism is known to have affected many countries, our country included. It does immense damage in terms of the economy, lives of our people and stability of our country. This concerns the security of a nation and I think it is the responsibility of every Kenyan to ensure that terrorism is fought to the very end. It is important that we all, as a country, strive to eliminate terrorism.

Mr. Temporary Deputy Speaker, Sir, I am happy that this House is united to support this Bill which is long overdue. I want at this juncture, to take this opportunity to congratulate our new Minister for State for Provincial Administration and Internal Security and our three colleagues who were elected into this House to join us and do service for this country. I want to remind the Minister of State for Provincial Administration and Internal Security that he has a job that he has to do. The security of this country is paramount and we cannot leave any stone unturned. We should ensure that we enjoy security in this country. We cannot develop if we do not enjoy security. There are too many guns in the hands of wrong people in this nation. Statistics show that Nakuru County has more guns than even many counties that border neighbouring countries. It is about time that those illegal arms are collected and put where they belong, so that we can now begin to have the kind of security that we need in this country.

Mr. Temporary Deputy Speaker, Sir, I support and every Kenyan must support this Bill so that we have a country which is terrorist free. Thank you for the opportunity.

**The Minister of State for Immigration and Registration of Persons (Mr. Kajwang):** Mr. Temporary Deputy Speaker, Sir, I have a few words. I have noticed that there was no definition of the word “terrorism” because there is really not a definition. It is a matter that is mutual.

**The Temporary Deputy Speaker (Mr. Imanyara):** Hon. Kajwang, do you know where you are speaking from?

**The Minister of State for Immigration and Registration of Persons (Mr. Kajwang):** Mr. Temporary Deputy Speaker, Sir, I am sorry.

**The Temporary Deputy Speaker (Mr. Imanyara):** But I will let you finish.

**The Minister of State for Immigration and Registration of Persons (Mr. Kajwang):** Thank you, Mr. Temporary Deputy Speaker, Sir. However, we have defined what a terrorist act is. What if it was coming from another country? We would say it is an act of war and we would be, of course, responding as if we have been attacked by a foreign country. But because it is done internally, we can treat it as just another offence of violence. However, the biggest violence terrorism does is in our minds. It is the fear, despondency, uncertainty and when it may happen. There is no other terror than that because it hurts the mind.

Mr. Temporary Deputy Speaker, Sir, another thing about terrorist acts is the fact that it is aimed at mass destruction. It hurts individuals. But it can also hurt large

populations and you remember the former President of the United States of America (USA), George Bush, was always talking about weapons of mass destruction. That is what a terrorist aims at. So, really, when we target terrorists, we know that every individual has civil liberties. We also know that there is a Bill of Rights. You can enjoy those liberties and rights in the Bill of Rights so long as you do not plan to hurt anybody; so long as you do not want to destroy this country. Nobody has a problem with your enjoyment of those rights and, of course, if you have your money and property and you have gained it by doing business, nobody bothers you. But if you actually amass money and property out of monies that have been paid for terrorist acts out of this conspiracy to destroy our country, we must seize that property. Somebody must be given the power to seize it. I do not think there is anything wrong with a Minister being given that power, especially if there is proof. Of course, you can defend yourself if it is done wrongly.

What is important to deal with is gathering of information. That is because, really, after it has been done, even if you found the person, first of all, he is ready to die for it. So, there is really no punishment that you can give.

**Mr. Linturi:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and at the same time join my colleague in congratulating the new Minister of State for Provincial Administration and Internal Security and assure him that we will give him support.

Mr. Temporary Deputy Speaker, Sir, terrorism is the worst crime that possibly we can imagine of in this country considering its nature and targets. When you look at the way it is done, it targets the masses. It leads to death of very many people. It targets buildings of very high economic value in a country. When these things happen, the economic loss experienced is immense. I disagree with the people who urge that the Bill of Rights, as provided for in our Constitution is not completely absolute, because the Constitution itself provides for limitations when you are enjoying those rights; you do not offend others. I support this Bill.

When I look at the penalties that are provided by this Bill, in my view, they are very lenient. If the Constitution allows death sentence for offenders, I think that is the direction we should go, but unfortunately, it does not. So, we want to assure Kenyans so that at least there is some semblance of peace. We do not know when these terrorists will attack. This Bill provides a legal framework to detect and prevent acts of terrorism and will not have come at a better time considering that Kenyans live in fear.

With those few remarks, I beg to support.

**The Minister of State for Provincial Administration and Internal Security** (Mr. Ole Metito): Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity, first of all, to again thank my colleagues for the continued goodwill and congratulatory messages to me. I really appreciate and accept them.

Mr. Temporary Deputy Speaker, Sir, let me thank the whole House for the support they have given this Bill. I want to promise the team that we have been consulting since yesterday and that the amendments we have agreed on is what will come at the Committee Stage. I really want to thank that team lead by Members of this House; Mheshimwa Sheikh Dor and others, mostly from the Muslim community and the national leadership of the Muslim community in this country. We brought all of them on board. We have sat for two days and reached consensus. Those are the amendments that will come tomorrow. I also want to thank the staff in my Ministry for the spirit they have

shown. They were with the team that brought consensus. It was a job well done. I want to thank everybody and assure this country that we will have a Bill that will address all terrorist acts.

I know Kenyans have really been waiting for this Bill to become law. I kindly ask this House by the end of the day tomorrow; if possible we go into the Committee of the whole House and pass this Bill. That is my plea to this House and it becomes law so that we can solve all these issues.

With those few remarks, I beg to move.

**The Temporary Deputy Speaker** (Mr. Imanyara): Before I put the Question, whoever was moving the business under Order No.12, because business is substantially complete and with the remaining time we could conclude it, if the Committee Chair or any Member of that Committee is here, we can conclude the business under Order No.12 because it is a resumption of debate that has already started and it can be covered in ten minutes.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, as I have just indicated, I will rearrange the order of business in view of the remaining time and business that can be covered within the time we have; I direct that we move to Order No.12, so that we can conclude the debate that commenced and continued on 19<sup>th</sup> September, 2012.

Call the next Order, please.

## MOTION

### ADOPTION OF REPORT ON APPOINTMENT OF BOARD MEMBERS OF PUBLIC PROCUREMENT OVERSIGHT ADVISORY BOARD

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the vetting of the following nominees for appointment as Board Members to the Public Procurement Oversight Advisory Board, laid on the Table of the House, on Thursday 13<sup>th</sup> September, 2012:-

1. Eng. Reuben Kiplangat Kosgei
2. Ms. Ruth Theddesia Ngobi
3. Mrs. Faith Njeri Kimani
4. Mr. Patrick Mahonga Mtange
5. Ms. Joyce Muthoni Njogu
6. Mr. Humphrey Kimani Njuguna
7. Mrs. Martha Karwitha Mugambi
8. Mr. Fred Abednego Odhiambo

*(Prof. Kaloki on 19.09.2012)*

*(Resumption of Debate interrupted on 19.09.2012)*

**Mr. Okemo:** Mr. Temporary Deputy Speaker, Sir, I just want to appeal to Members to recognize that because of the nature of appointment as stipulated in the Public Procurement and Disposal Act, it is institutions that give names independently, and those names come to the Ministry of Finance who just forward them to us. So, it is not an effort made by one person where you can say that we must have regional or gender balance.

So, I would like to request hon. Members to support this list as it is.

**Prof. Kaloki:** Mr. Temporary Deputy Speaker, Sir, I support that these particular nominees serve in this Public Procurement Oversight Advisory Board, because of their qualifications. We had already moved this Motion and mine is just to support it.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I am also in agreement. I am a Member of the Committee. I know hon. Members were raising issues of regional balance, but it needs to be known that these people came from organizations; so, our hands were tied and this Board needs to be set up.

I support.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, we still do have some little time if the Departmental Committee on Finance, Planning and Trade would like to conclude their business under the next Order.

ADOPTION OF REPORT ON APPOINTMENT OF BOARD  
MEMBERS OF COMPETITION AUTHORITY

**Prof. Kaloki:** Mr. Temporary Deputy Speaker, Sir, I beg to move:

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the vetting of the following nominees for appointment as Board Members to the Competition Authority laid on the Table of the House on Thursday, 6th September, 2012:-

1. Ms. Judith Abrahams Guserwa
2. Ms. Susan Atieno Ayako
3. Mr. Canon Charles Komu Gikunju
4. Mr. Stephen Kipchumba Kiptinness
5. Ms. Eunice Moraa Maranya

Mr. Temporary Deputy Speaker, Sir, these are Kenyans who have been picked by various associations. Their experience and education makes them fit to serve in the Authority. I support the Motion and ask hon. Okemo to second.

**Mr. Okemo:** Mr. Speaker, I would like to second by adding that these people were selected through open competition. They actually applied for the jobs. Their names appeared in the newspapers after short-listing. The whole exercise was done transparently and with public participation.

*(Question proposed)*

**The Temporary Deputy Speaker** (Mr. Imanyara): We will not adjourn until we complete this order.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, very briefly, let me thank the Committee for doing a stunning job. In my view, the members are very competent and they will handle the affairs of the Authority.

With those few remarks, I support.

**The Minister of State for Immigration Registration of Persons** (Mr. Kajwang’): Mr. Temporary Deputy Speaker, Sir, I just want to congratulate these very fine Kenyans who have made it to this list. It was long and tedious and a hard competition. I know some of them personally and they are very learned, experienced and resourceful people. I hope that they will serve this Authority with diligence. This is a new Authority. It is something that we have created afresh in this country to deal with the unfair competition in the market. I trust that these people who have been shortlisted will do a good job.

I support.

**Mr. Ogindo** Mr. Temporary Deputy Speaker, Sir, I rise to support the adoption of the Report. It is time we gave the Board members the opportunity to start doing their work. These are Kenyans and I want to express my trust in the findings of the Committee on their suitability. It is time they were given their job to do.

With those remarks, I support.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I really want to thank the Committee for a job well done. When the names came, we dealt with them and we unlocked the gridlock that had been there. I have really benefitted from the advice and guidance of the Chairman of the Committee on the best way of getting these names. With these names, we can now begin to see fair competition among our industries. We can now begin to see fair returns on investments from the industries.

With those few words, I support.

**Prof. Kaloki:** Thank you, Mr. Temporary Deputy Speaker, Sir, for this opportunity. As the Mover of the Motion, I want to thank hon. Njuguna, hon. Kajwang’, hon. Ogindo and the Minister for Finance, hon. Githae, for supporting the work of the Committee. These, indeed, are qualified Kenyans with excellent credentials and they will be able to serve in this particular department.

I beg to move.

*(Question put and agreed to)*

**Mr. Baiya:** On a point of order, Mr. Temporary Deputy Speaker, Sir. My business on the Order Paper was Order No.11. This was a very short amendment to only one section of the National Cohesion and Integration Act, with a view to extend the mandate of the current National Cohesion and Integration Commission, which has expired and there is a big gap. So, I was requesting if you can allow me to move this amendment.

**The Temporary Deputy Speaker** (Mr. Imanyara): You say it is just one item?

**Mr. Baiya:** Mr. Temporary Deputy Speaker, Sir, it is only one.

**The Temporary Deputy Speaker** (Mr. Imanyara): I want to feel the mood of the House. If it is just an extension of the mandate and consistent with the other two Orders that we have done, if it will not take more than five minutes and it is for the convenience of the House, the Chair does have that discretion and I do grant it to you to move.

## **BILL**

### *Second Reading*

#### THE NATIONAL COHESION & INTEGRATION (AMENDMENT) BILL

**Mr. Baiya:** Mr. Temporary Deputy Speaker, Sir, Sir, this amendment only relates to Section 19 to include the provision which allows the term of the current Commission to be extended by one year.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, you know that you have to start by moving!

**Mr. Baiya:** Mr. Temporary Deputy Speaker, Sir, I beg to move that the National Cohesion and Integration (Amendment) Bill, Bill No.40 of 2012, be now read a second time.

The amendment that we seek to effect relates to Section 19 of the National Cohesion and Integration Act with a view to include a subsection which is contained in the Bill that notwithstanding the provisions of subsection 19(1) says;

“The first commissioner appointed upon the commencement of this Act shall hold office for a term of four years from the date of the initial appointment.”

As it is made clear by the memorandum of objects and reasons, this amendment is necessitated by the fact that the term of the current Commission was supposed to expire on 7<sup>th</sup> September, 2012 and we need more time to ensure that they are reappointed in terms of the provisions of the new Constitution with regard to appointments of commissioners. We run short of time owing to the fact that the Minister attempted to bring an amendment through the Miscellaneous (Amendment) Bill which was objected to on the ground that it did not comply with the current constitutional procedure for appointment of commissioners. So, we are running out of time and it is imperative that for us not to bring the operations of this Commission into dysfunctional status, that all the current commissioners’ terms be extended by one year so that Parliament, after elections, can have the opportunity to ensure that the appointments are done in the process provided for under the Constitution. We have also spoken with the Minister and he is in agreement. This decision has also commonly been agreed between the Committee and the CIOC.

Currently, the Commission is non-operational and the passage of this amendment will pave way for them to become alive again. I will ask my colleague, hon. Okemo, to second.

I beg to move.

**Mr. Okemo:** Mr. Temporary Deputy Speaker, Sir, in seconding this Bill, one needs to realize that we are beginning to move into a very sensitive period. Already, we saw what happened yesterday and we want to make sure that communities in Kenya work together peacefully. In order to do that, we need a commission that can implement the



spirit of the Constitution which is friendly co-existence and non-conflicts between communities.

I, therefore, support this amendment so that we can get this Commission working in the shortest possible period.

*(Question proposed)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, when I requested hon. Baiya to indicate how long this will take, I anticipated that it will be short. However, I have more than 10 requests. Therefore, to be fair, unless there is an overwhelming mood in the House, I want to---

**Ms. Karua:** Just give one minute to each hon. Member!

**The Temporary Deputy Speaker** (Mr. Imanyara): I will give one minute to each Member starting with hon. David Njuguna.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, this Commission has started a very good job. Therefore, it is important that we extend its period, hoping that it will continue reconciling and healing this nation.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Fred Gumo.

**The Minister for Regional Development Authorities** (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, I also rise to support.

As hon. Members are aware, Kenya is considered to be one of the most civilised countries in the world. If we cannot behave as civilised people, I do not think we deserve that kind of credit, which we have been given by other countries. So, all of us, and particularly us, leaders, must make sure that we behave like people who live in a civilised country.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Otieno Kajwang.

**The Minister of State for Immigration and Registration of Persons** (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill, hoping that sooner or later, we will not have such an Act in our laws because, really, we do not need to be reminded by an Act of Parliament to be cohesive and integrated; because that is something expected of a civilised country.

The second thing I want to say is that I have seen that those who have operationalised this Act have not had teeth to bite but, because that aspect is not part of the amendment before the House, I will not talk so much about it. However, such power can only be exercised by a person who can apprehend criminals and prosecute them.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Martha Karua.

**Ms. Karua:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill.

This Commission is necessary. Noting that no institution is perfect, we, as leaders, need “speed governors” when it comes to our utterances. Other Kenyans, too, need “speed governors”. This Commission acts as a “speed governor”, so that all of us can appreciate at all times that there is somebody behind us, noting what we are doing. I do not think we can over-emphasise the importance of good relations amongst all citizens and communities.

For those reasons, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Katoo ole Metito.

**The Minister of State for Provincial Administration and Internal Security** (Mr. ole Metito): Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill.

As my colleagues have said, for the short period that the term of this Commission has expired – between 7<sup>th</sup> September and to-date – we have seen the kinds of statements that many leaders in this country have made. I do not know whether it is because they knew that the Commission's term had expired. It is always good to work with very minimal supervision.

One of the priorities of my Ministry is to foster peace and bring about reconciliation. As we approach the next general election, we do not want to have incidents which can rekindle the memories of 2007/2008 amongst Kenyans. We have assured Kenyans that we want to have free, fair and credible elections. So, this Commission is very important.

Therefore, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Jakoyo Midiwo.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I stand to support the Bill. I know that my friends were worried that I would oppose the Bill, but we reached a consensus to support it.

I supporting this Bill, I have been guided by the incidents of the last couple of days. So, I support the extension of the term of this Commission. However, the Commission is lacking two Members. Therefore, we want the Committee to instruct the Executive to fill the existing vacancies, because it is important to do so.

Lastly, I want to appeal to the Commission, and I have spoken to the Chairperson; that, the Parliamentary Committee needs to work with them, so that the notion that they are working against politicians can change. They should give us guidance. We know that they exist to make sure that they are cohesive, and not anti-parliamentarian. That is a notion we do not want. We want to plead with all of us. Please, we want to stay together as a country.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Mr. Imanyara): Yes, hon. Shakeel.

**Mr. Shakeel:** Mr. Temporary Deputy Speaker, Sir, I am a little bit concerned at the speed at which this is going. However, in the interest of speed or reaction to justice, I will go along with it. The only thing I can say is that this Commission is basically a little puppy, and makes noise and what we needed was a something that can bite. Earlier on this afternoon, the Attorney-General told us that there was a case that was withdrawn by this Commission, but when I talked to them, they said they had withdrawn no such a case. I will be moving amendments to this Bill, that this Commission be given teeth like a Rottweiler and not like a little poodles that run around making a lot of noise and nothing happens.

**Mr. Ogindo:** Mr. Temporary Deputy Speaker, Sir, I want to support this Motion. I want to say that for a long time, this country has disintegrated and it is important that we have a cohesive and integrated society. I want to say that the Commission, now that they have their mandate renewed, need to change tact and stop hiding within crowds with little gadgets to tape what somebody is saying. They should start preaching the values of cohesion and integration. They will do that by inculcating sense into the minds of the

entire population of this Republic rather than by following individuals and ambushing them when their tongues are loose.

I beg to support.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I also rise to support this amendment, even more in view of the very irresponsible statements that occurred in Kayole. We must renew the term of these Commissioners, so that they can be able to tackle those kinds of utterances. In the recent past, we have also seen that they have changed tact. We have been telling them that under the Act, there is a provision on reconciliation and we have now seen that they are also using that tool. To me, the most important thing is actually reconciliation. We should try to reconcile communities or groups that may be enemies to each other. We have seen it happening in Kwale. We are happy that they are now using both, the prosecutorial power and reconciliation.

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion for the extension of the term of these commissioners, especially now that there will be more women vying for various seats this time round. Before, women were afraid because of the derogatory language that was usually used during the campaigns. Therefore, extension of their term will ensure that women campaign peacefully.

I support.

**Mr. Kathuri:** Mr. Temporary Deputy Speaker, Sir, I also stand to support this Bill because we are getting into an election year. When I also look at the elections that are coming and the devolved governments, I see that some areas are prone to a lot of conflicts. An example is Embu. Embu County has the Mbeere side and the Embu side. It is going to be a very serious issue if we do not have this Commission in place.

**The Minister for Finance** (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know whether it is me who did not hear properly but I heard my friend, Mr. Kathuri, talk of “erection” that is coming. I am just wondering what he is talking about.

*(Laughter)*

**Mr. Kathuri:** Mr. Temporary Deputy Speaker, Sir, I think I would just tell him to be wary of the various backgrounds we have come from.

The elections that are scheduled for next year are about to bring in a lot of conflicts. Areas like Embu County are prone---

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): On a point of order, Mr. Temporary Deputy Speaker, Sir. I really feel that the Minister for Finance should apologize. He should not use that language. This is the derogatory language I was talking about. He should apologize.

**The Temporary Deputy Speaker** (Mr. Imanyara): Precisely and the Chair does agree with you.

Mr. Githae, I was actually waiting for that prompting to tell you that you are definitely out of order in the choice of language that you have used.

**The Minister for Finance** (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I apologize and withdraw. It was with a light touch.

**Mr. Kathuri:** Mr. Temporary Deputy Speaker, Sir, it is true it was derogatory but at the same time, some of us were not gifted to have been brought up from a background where we used to communicate in good English and our mother tongue sometimes contaminates our English.

I just wanted to make it clear that this Bill when put in place will really assist us in sorting out some of these very potential problems which are bound to occur. I support it but over and above that, they should become proactive so that they do not have to wait until there is a conflict to go and address it. Let us see them on the ground. Let us hear what they are doing to address that problem before it occurs.

Thank you.

**Mr. Gaichuhie:** Mr. Temporary Deputy Speaker, Sir, I also want to support the extension of term of this Commission. But I wish that the Commission can be active as it has always claimed to be not to just meet in boardrooms. If they want to preach peace and cohesion, they should intergrate and bring everybody on board other than just having boardroom meetings. They should also not wait for people to misbehave. They should come and preach peace and cohesion and be seen on the ground and not in boardrooms. For the last two years that they have been there, I think we can only term them to be boardroom members who have just been working in boardrooms and not doing anything; just waiting for people to talk and then they act.

Otherwise, we wish that once their term is extended, they will be proactive and be able to preach peace, bring people together and act in a proper manner so that Kenya can be one state with cohesion.

Thank you.

**Mr. Keter:** Mr. Temporary Deputy Speaker, Sir, I stand also to support the extension of the Commission term by one year. I say so because in the first one year, they were establishing their offices and maybe they spent about one-and-half years. So, essentially, they have been working for only one year. I think right now they have known what is expected of them. I would like to urge them that as we extend their mandate which I think we should even have extended by three years because virtually, the first one year will end when the new Parliament will be in session, they should work. However, since we have said we extend for one year, I believe they know what is expected of them. They should be transparent and above board especially right now as we near the general election. There are so many people who are maligning Members of Parliament or even Members of Parliament maligning their competitors. Some of them are even saying that CDF has been misused. They are using it politically and I think this Commission is required so that they can instill discipline.

With those few remarks, I beg to support.

**Prof. Kaloki:** Mr. Temporary Deputy Speaker, Sir, I also rise to support this very important Bill for one simple reason; this Commission needs to be strengthened by the Government to make sure it is able to carry out the mandate of cohesion, integration and co-existence among the people and make sure that people live in peace in this country.

I support the extension of the term of this particular Commission for an additional one year but we need a budget to make sure they can be able to carry on their mandate.

I support.

**Mr. Baiya:** Mr. Temporary Deputy Speaker, Sir, I wish to thank all the hon. Members for their contribution and support for the extension of time of this Commission.

I also want to thank them for their appreciation of its significance, especially at this time when elections are approaching.

Mr. Temporary Deputy Speaker, Sir, from the hon. Members' contributions, it has come out quite clearly that the Commission has a big challenge. It should make itself understood in terms of its mission and not to be seen like it is out to restrict the Members' enjoyment of their constitutional right. This is an impression that the Commission will have to do a thorough job.

Mr. Temporary Deputy Speaker, Sir, 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)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, I just want to explain that if you look at your Standing Order No.20(1) – and I am doing this because of those who are asking why we did not adjourn at 6.30 p.m. – you will find that it reads:-

“Unless the Speaker, for the convenience of the House otherwise directs---”

Therefore, the Chair was of the view that for the convenience of the House, the order of business under those three Orders was very similar and it needed to be dealt together. That is why I extended the sitting of House under Standing Order No.20.

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, at this moment now, we adjourn the proceedings of the House to Thursday, 27<sup>th</sup> September, 2012, at 2.30 p.m.

The House rose at 6.57 p.m.