

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 27th September, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PETITIONS

Mr. Speaker: Order, Member for Bura! I do not see a request from you.

(Dr. Nuh moved to the Dispatch Box)

You do not have your card? Then proceed.

Dr. Nuh: Mr. Speaker, Sir, I seek your indulgence. I do not have my card. I am still searching for it.

Mr. Speaker, Sir, there was a petition that was presented by people of Lamu about three months ago. About a month ago, the Committee requested for one more week to conclude the petition. However, the Committee on Lands and Natural Resources is yet to table its report. I think the time that was requested has lapsed. I seek your guidance as to how we can proceed.

Thank you.

Mr. Speaker: Fair enough. Hon. Members, as you are all aware, the Standing Orders provide that where petitions are directed to a Committee or to a Government department by way of a Ministry, then the committee or the Ministry must inquire into the matter and furnish a response within 21 days from the date of reference. So, in this case, 21 days are long gone. Anybody in the Departmental Committee on Lands and Natural Resources who can indicate to the House what the matter could be? Is there any Member from the Committee on Lands and Natural Resources in the House? There must be a Member of that Committee here. Members do not want to volunteer.

Well, in the absence of any Member who serves in the Committee on Lands and Natural Resources, then I direct that, that response be filed in the House within 14 days from today.

Hon. Members, further, in the same vein, my attention has been drawn to a number of petitions that are not yet responded to and yet, some of them go back to sometime last year, when they were referred to different departmental committees and/or Ministries. No action has been forthcoming. For example, I have in mind, in particular, the emotive matter pertaining to Busia land which relates to the growth of sugar-cane. That report has been pending since last year. I am wondering what the Committee is doing. In the meantime, collateral issues have arisen which the Committee will also need to investigate.

Therefore, the Chairman of the Committee on Agriculture, Livestock and Co-operatives, before we give you directions which are, perhaps, restrictive, let us hear what is happening to that matter.

Mr. Mututho: Mr. Speaker, Sir, I seek your indulgence in stating that, although we started in good time and went straight out to do the Busia investigation, we were hit by a court order which was ill-advised as the court ruling ended up stating. Subsequently, a lot of time was wasted during that particular time.

Mr. Speaker, Sir, we are now ready and have done a lot of work, save for two witnesses. One among them is the former Attorney-General and the former Kenya Sugar Board boss who have, somehow, refused to appear before the Committee.

But, with your indulgence, we can do it within the next 14 days, after we get directions on how to deal with those two critical witnesses who are missing in that particular investigation.

Mr. Speaker: Fair enough, Member for Naivasha. I do not see why you should be having difficulties because the Standing Orders provide for how you should proceed. Perhaps, just for purposes of re-emphasis, what the Committee ought to do when it requires any public officer or citizen to appear before it to give evidence--- The first thing that you would do is to invite the concerned witness to appear before the Committee. You invite by a letter. If the person fails to appear before the Committee and, maybe, offers an explanation such as the reasons for their inability, then you again invite them on a date that is mutually convenient to appear before the Committee.

If they fail to appear the second time, then you are at liberty to request for issuance of summons pursuant to the Powers and Privileges Act which is Cap.6 of the Laws of Kenya. If there is then failure, the law is clear on what happens next. That is because that person then will be guilty of a criminal offence liable to be arrested and prosecuted before a court of law. So, those are the steps that you must take.

Mr. Mututho, have you noted that?

Mr. Mututho: Yes, Mr. Speaker, Sir. Indeed, in our meeting this morning, we have issued the same instructions after being fully guided by the secretariat and your office.

Mr. Speaker: Very well. Next order!

QUESTIONS BY PRIVATE NOTICE

CROP FAILURE IN BURA IRRIGATION SCHEME

Dr. Nuh: Mr. Speaker, Sir, I beg to ask the Minister for Water and Irrigation the following Question by Private Notice.

(a) Is the Minister aware that farmers in Bura Irrigation Scheme are at the brink of a major loss following failure by the National Irrigation Board (NIB) to supply water to the farms?

(b) What occasioned the failure and what acreage of crops is affected?

(c) What urgent measures will the Minister take to restore water supply to the farms to avoid crop failure in the scheme?

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that farmers in Bura Irrigation Scheme may have temporarily experienced some challenges when one of the two large pumps that supply water to the irrigation scheme broke down.

(b) The failure of the first pump was caused by stones and debris that found their way into it and causing internal damage, specifically to the impellers. No acreage was, therefore, affected after the pumps were repaired and started working.

(c) Ten days ago, the second pump experienced a minor electrical problem that interrupted supply for two days. The problem was fixed and the supply was resumed.

Thank you.

Dr. Nuh: Mr. Speaker, Sir, this seems to be the same answer that the Minister gave last week. Because she did not have the benefit of visiting Bura Constituency, I want to confirm to the House that even as early as this morning, I spoke to the Chairman of the farmers' association and the problem still persists. In case, there is crop failure because of inadequate supply of water, will the Government compensate the farmers and if so, when?

Mrs. Ngilu: Mr. Speaker, Sir, I want to tell the hon. Member that there has been no failure of any of the crops. I also want to tell him that I have spoken to all the elders of the 11 villages that constitute Bura Scheme. I had actually assured the hon. Member that I was going to visit the place but I have changed my mind. I will not be visiting the place because they have their own local internal politics in the farming scheme. I do not want to bring any politics in the scheme that had collapsed for many years.

Mr. Speaker, Sir, we will continue giving farmers service but we will not involve ourselves in local politics.

Mr. Kutuny: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that she is not going to visit that area because of local politics, while she is supposed to execute her duties that have been bestowed upon her by the Central Government?

Mr. Speaker: Minister, did you say you are not going to visit a given area of Kenya?

Mrs. Ngilu: No, Mr. Speaker, Sir. I am saying that I will not be visiting the place to talk about issues that are not right on the ground. As I said, there are other issues. I was going to visit the place because I wanted to see for myself. However, I got in touch with those 11 village elders. I do not know whether the hon. Members knows them. Do you know a person called Isa Shap? Do you know?

Mr. Speaker: Order, Minister! You do not come to answer questions and, in turn, ask questions. Your duty is to supply information as sought. All you need to do - if you talked to the elders - is to put their names on record. That is as far as you can go. I will not allow an altercation between you and the Questioner.

What is it, Mr. C. Kilonzo?

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that she cannot go to the ground because of politics and only listen to one side of the story when the request by the hon. Member was for her to visit the site? Why convert herself to a "telephone Minister" instead of being the real Minister she is and go to the ground?

Mr. Speaker: Order! Order! Hon. C. Kilonzo, I have not heard the Minister say that she will not visit the area. As a matter of fact, I am also hearing from where I am. I heard her say she will visit the area, except that she will not going there to discuss politics. That is what I heard her say and I am sure even the HANSARD will say so.

Madam Minister, did I hear you wrongly?

Mrs. Ngilu: Mr. Speaker, Sir, you heard me right. I am so happy that you have got sharp ears.

(Laughter)

Mr. Speaker, Sir, there are issues we deal with them in a technical manner. Where a pump breaks down, we have got to repair it and get workers to work. We have also tried to bring cohesiveness within the farmers. Some of them do farming while others do not do farming.

Mr. Speaker, Sir, there was a Question yesterday about 3,000 acres of land that the hon. Member wants divided among farmers. This is a very tricky matter because we need to involve the Provincial Administration. So, I would urge the hon. Member to ask a direct question instead of going round in circles, so that I can answer him accordingly.

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

Mr. Speaker: What is it, hon. Member for Bura?

Dr. Nuh: Mr. Speaker, Sir, I did not want to discuss the substance of a Question which was deferred yesterday because the Minister will have her time to answer it. But is she in order not to answer my question because of the local politics? Whether she wants to visit Bura or not, is not my business. I have asked a question and I think it is only fair for her to answer it. In the event there is crop failure because of inadequate supply of water, will the Government compensate farmers in Bura? It is a straight forward question.

Mr. Speaker: Very well, hon. Member for Bura; you have been heard!

Mrs. Ngilu: Mr. Speaker, Sir, there will be no question of compensation because I will ensure farmers get enough supply of water. That is what we have continued to do. We have been facing a lot of challenges because these farmers have never been farmers before. We are training them to overcome some of these challenges. This is the truth which the hon. Member is not telling us.

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

Mr. Speaker: Order! Order!

Mrs. Ngilu: Mr. Speaker, Sir, I withdraw the words "not telling us the truth." He is not being entirely honest to us.

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

Mr. Speaker: Order! Order! What is it, hon. Member for Bura?

Dr. Nuh: Mr. Speaker, Sir, unless English language is a problem to the Minister---

Mr. Speaker: Order! Order! You cannot say that!

Dr. Nuh: I withdraw and apologize, Mr. Speaker, Sir.

Mr. Speaker: Okay. Proceed!

Dr. Nuh: Mr. Speaker, Sir, I am not talking about crop failure because of farmers' negligence or for any other reason, but inadequate supply of water. I do not have time for altercations with the Minister here. The fact is that there is no enough water supply to the Bura Irrigation Scheme contrary to what she says. But in case it is confirmed that crop failure did happen because of inadequate supply of water, will the Government compensate farmers?

Mrs. Ngilu: Mr. Speaker, Sir, there could be other reasons for crop failure, but, definitely, it will not be because of water.

Mr. Speaker: Order! Order, Minister! Let us use our time properly. The hon. Member for Bura seems to be aware that there may be other causes for crop failure such as poor husbandry, poor seed or whatever else, but he is asking a very simple question. In the event that there is crop failure attributable to lack of water, will the Government compensate the farmers? It is a very specific concern here. So, please, deal with it, Madam Minister.

Mrs. Ngilu: Mr. Speaker, Sir, there is no problem with water availability in the scheme. Therefore, I cannot commit the Government on something that is not on the ground.

Mr. Speaker: Very well.

What is it, hon. Member for Kisumu Town West?

Mr. Olago: Mr. Speaker, Sir, I would like the Minister to be a little bit dispassionate about the way she is answering this Question because it is touching on the lives of many people. Bura Irrigation Scheme is one of the oldest schemes in this country. The Ministry of Water and Irrigation is funded by the Government for purposes of ensuring that these schemes are successfully conducted.

Mr. Speaker: Order, hon. Member for Kisumu Town West! Even before you proceed, we know that Kenyans have been asking public officers, including State officers, such as the Minister, to have passion in everything they do. Why are you asking her to be dispassionate?

Mr. Olago: Mr. Speaker, Sir, maybe I did not make myself very clear. What I meant was she is dispassionate in the way she is answering the Question and tilting answers to the politics in Bura. That is what I meant.

Mr. Speaker: Okay, proceed.

Mr. Olago: Mr. Speaker, Sir, since it is a statutory right for the Minister to ensure that these irrigation schemes are properly run, it is a responsibility that she cannot escape from. If, therefore, the farmers at Bura Irrigation Scheme have crop failure which is directly attributable to either insufficient or inconsistent supply of water, should the Ministry not be responsible?

Mrs. Ngilu: Mr. Speaker, Sir, Bura Irrigation Scheme actually collapsed many years back. We only revived it in 2009 using the Economic Stimulus Programme (ESP). The scheme is on and we are going to increase the acreage. In fact, maybe what the hon. Members do not know is that we have just contracted another contractor who will do some 12,000 more acres to increase the number of acres under the Bura Irrigation Scheme. In fact, the houses were all destroyed. I do not know whether the hon. Member saw it when it was operational. He might have been too young to know what it used to be, but that is what we are reviving. It is now doing very well.

(Laughter)

Mr. Olago: On a point of order, Mr. Speaker, Sir. Was the Minister referring to me as “been too young” at that time? I think I am older than her.

(Laughter)

Mr. Speaker: Order! Order! Hon. Olago, I know you are unhappy about that reference to you as “been too young,” but then you have not prosecuted your point of order in a manner that I can even ask the Minister to respond. So, I am afraid that it will have to pass.

Mr. Olago: I can do it properly.

(Laughter)

Mr. Speaker: No! The Standing Orders do not allow you to make a mistake and then you are given a second opportunity to correct the mistake. Maybe when we are reviewing the Standing Orders, when you want that space to be granted, you can make your contribution.

What is it, hon. Member for Ainamoi?

Mr. Langat: On a point of order, Mr. Speaker, Sir. It is unfortunate that the Minister is running away from answering the questions. Is it in order for her to refuse to answer the

Question by Dr. Nuh; that, in case there is crop failure, she takes responsibility? This was also asked by the hon. Member for Kisumu Town West. She is actually talking about additional acreage when we are talking about sustainability of what has already been done.

Mr. Speaker: Minister, do you want to answer that?

Mrs. Ngilu: Mr. Speaker, Sir, it is true that I have not said what the Government will do because with the first crop that we put in 2009, we actually harvested close to 6,000 bags of maize. The failure by the Exchequer not to allocate money to buy the maize from the farmers resulted in a lot of waste. I was very sorry for the farmers. So, at that time, the problem was not inadequate supply of water. The farmers had done their work. Therefore, it is the responsibility of another Ministry to make sure that farmers are catered for.

Dr. Nuh: Mr. Speaker, Sir, I want to humbly plead with you because the Standing Orders give you powers to compel a Minister to answer a Question, which rightfully the House demands. I want to put this simple question because, as I said, I do not have the time to argue with her. She has made it explicit and the HANSARD will confirm it, that because she has confirmed with some elders that she does not even need to visit Bura and that she already knows the situation on the ground. There is no one who knows the situation in Bura better than I do as the representative of the people of Bura.

(Applause)

Mr. Speaker, Sir, I do not want to compel her on anything else. If there is crop failure because of any other reasons, the Ministry is not liable. But in case it so happens by bad or good luck that crops fail because of inadequate supply of water, let the Government take responsibility. Will she compensate the farmers? This is the simple question I want her to answer.

(Applause)

Mrs. Ngilu: Mr. Speaker, Sir, I promise that shall not happen under my watch. I want to make a commitment here in this august House that shall never happen. What will I be doing as a Minister if that happens?

Mr. Speaker, Sir, I am not saying I will not visit that place. I can visit the place any time, but let us get the facts right. I could bring some pictures for hon. Member to see what we are doing there because all of us cannot go there. I know what the situation is on the ground.

Mr. Speaker: Fair enough, Minister! Let the matter rest there.

Hon. Member for Bura, that commitment by Madam Minister in the House is good enough. There will be no crop failure attributable to shortage of water or lack of it all together and you should just take her on her word. Take that commitment to people of Bura. If there is crop failure attributable to shortage of or lack of water, then, hon. Member for Bura, you know what to do. The law of this country allows you to take action against the Government, including the Ministry of Water and Irrigation. That is the position in law. So, there is no lacuna.

(Applause)

Next Question by the hon. Member for Baringo Central.

ASSAULT ON MRS. KAREN N. KANDIE BY MR. ALLASANE BA

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

(a) Under what circumstances was Mrs. Karen Njeri Kandie, the Finance Director at Shelter Afrique, assaulted by her boss, one Mr. Allassane Ba and why has he not been arrested despite orders of his arrest issued by the Director of Public Prosecutions?

(b) Could the Minister confirm that the police were denied entry at Shelter Afrique offices when they went to arrest him on 6th July, 2012?

(c) What is the Minister doing to ensure that the officer is not victimized in her place of work?

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

(a) On 28th June, 2012, at about 11.00 a.m., Mrs. Karen Njeri Kandie, a Kenyan employee and the Finance Director at Shelter Afrique organization reported at Capitol Hill Police Station that she had been assaulted by her boss, one Mr. Allassane Ba, the Managing Director of Shelter Afrique, while in a meeting with him to discuss the manner in which she had been appraised after she told him that her appraisal report was not rational. She sustained bruises on her left hand.

Police launched investigations into the incident and when Mr. Allassane Ba realized that the police were looking for him to effect arrest, he moved to court and obtained restraining orders barring the Commissioner of Police, the Director of Public Prosecutions and the Attorney-General or their agents, officers or employees from arresting him. I wish to table a copy of the restraining order.

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

In the brief he made, he noted that the Kenyan Government had an agreement about diplomatic immunity and privileges signed on 19th October, 1983 between the Government of Kenya and Shelter Afrique.

(b) It is true that on 6th July, 2012, the police faced resistance when they visited the Shelter Afrique offices on investigations. However, they later accessed the offices and conducted their investigations.

(c) As earlier noted, the issue is before a court of law and, therefore, the complainant is advised to seek redress or protection from the courts if she feels she is being victimized at her place of work. However, it is understood that at this point in time, Mrs. Karen Kandie has been sent on compulsory leave.

Mr. Mwaita: Mr. Speaker, Sir, this is a sad case. The Assistant Minister has actually accepted that this lady was brutalized and assaulted at her work place. This is a clear case of gender violence at the work place. In part "c" of the Question, I had asked the Minister whether the Government will do anything to protect her from being victimized. He has now accepted that she has been sent on compulsory leave. I would like the Assistant Minister to tell the House what the purpose of sending her on compulsory leave was and yet they have not arrested the assailant.

Mr. Khang'ati: Mr. Speaker, Sir, I would like the Member of Parliament to note that there are two issues here. There is the first issue of assault which we are dealing with as a crime

against the victim. When the constitutional court has made its ruling - hopefully tomorrow because this matter will be in court tomorrow - we shall take appropriate action.

Regarding the second issue of being sent on compulsory leave or even attempts to terminate her services at Shelter Afrique, this is an issue between an employee and the employer. This is a labour issue. It is not an issue that we can help. If, for example, she feels that there is unfairness in the way she has been sent on compulsory leave or her services brought to a halt, then there are other relevant organs of the Government that she can present her case to.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, first of all, I want to say that this woman is personally known to me. She was the chairperson of the Christian Union when I was in the university. This is a case whereby a foreigner has propagated a lot of negative statements about this woman after assaulting her. All that the Assistant Minister can say is that she can go to another Government authority. What I would like the Assistant Minister to clarify is: Do we have a Government? This woman is Kenyan and the person who assaulted her is a foreigner. A foreigner is dictating what happens in this country. Do we have a Government?

Hon. Members: Shame!

Mr. Khang'ati: Mr. Speaker, Sir, I would like Mrs. Odhiambo-Mabona to identify the issues the way I have identified them. I said there are two issues here. There is the issue of brutalizing the victim which the police, Attorney-General and the Director of Public Prosecutions are dealing with. We are committed that justice should be done. Whether the person enjoys immunity or otherwise, we are committed on that issue. That is why the Director of Public Prosecutions, the Attorney-General and the police are directly involved in this matter. They already appeared in court on 20th and they are appearing tomorrow to ensure that the victim gets justice.

The second issue of being sent on compulsory leave is a matter between an employee and the employer---

Mr. Chanzu: On a point of order, Mr. Speaker, Sir. I think the Assistant Minister is evading the Question that has been addressed to his office and the police fall under his Ministry. Is the Assistant Minister in order to evade handling the matter which falls under his Ministry? He should at least get the police involved in this matter and sort it out.

Mr. Speaker: Order! Member for Vihiga you are not adequately specific for the Assistant Minister to respond.

Mr. Mwaita: Mr. Speaker, Sir, the Assistant Minister has said that the assailant has gone to court claiming immunity---

Mr. C. Kilonzo: On a point of information, Mr. Speaker, Sir.

Mr. Mwaita: With your permission---

Mr. Speaker: Mr. Mwaita, you have the Floor. Please proceed.

Mr. Mwaita: There is some information from Mr. C. Kilonzo. I beg for your indulgence.

Mr. C. Kilonzo: Mr. Speaker, Sir, I wish to inform the hon. Member that it is indeed true that we could have issues of not having an effective Government. There was an Egyptian Sports Minister who in September during the Paralympic Games in London touched the breasts of a 21 year old lady. He tried to claim diplomatic immunity, but he was arrested and locked up for two days. Talk about an effective government! Our case took place in June and nothing has ever been done about it purely because we do not have a Government here but in the United Kingdom, we have a government which can protect its own people. That is why you get Members of Parliament applying for visas and these missions label them as terrorists and our Government

cannot even protect Members of Parliament from being labelled terrorists by foreign missions here.

Hon. Members: Shame!

Mr. Speaker: Mr. Mwaita before you proceed, Member for Yatta, yes, you have made a valid point but I am afraid you were a bit extravagant in your information. You are saying that we do not have a Government. The Government of Kenya as constituted, as far as I am aware, as a matter of fact and law, includes three arms; the Judiciary, the Legislature and the Executive. As far as I know, particularly speaking for the Legislature, I know that we are functional. So, that cannot be true. It is extravagant.

Proceed, Mr. Mwaita.

Mr. Mwaita: Mr. Speaker, Sir, the Assistant Minister has mentioned about the host protocol which was signed by the Kenya Government and Shelter Afrique on 19th October, 1983. With your indulgence, I wish to quote Section 72(a) of that agreement. It says:-

“Shelter Afrique shall co-operate at all times with the appropriate Kenyan authorities to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse of the privileges, immunities and facilities mentioned in the agreement.”

Mr. Speaker, Sir, this is a clear case that the Managing Director of Shelter Afrique, Mr. Alassane Ba, has abused and breached that section. Could the Assistant Minister consider him *persona non grata* in this country?

(Applause)

Mr. Khangati: Mr. Speaker, Sir, first and foremost, I want this House to understand that the Government is not in any way siding or protecting Mr. Alassane Ba. I want it to be understood that when the police went to arrest him, he went to court and sought protection. The court issued an order and you know very well that we cannot go against a court order. So, the problem is that this matter is now before court. The court will continue to hear the matter, and I have indicated to you that the court will hear the matter tomorrow. The court will make a ruling which we will abide by.

Mr. Speaker: Order, hon. Members! That part is clear.
Yes, the 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 three 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?

Mr. Speaker Sir, I asked this Question yesterday and there were some information that I was supposed to provide but unfortunately, I have not got it. So, I retract the first allegation and

apologize to the House. However, I kindly request the Minister, as I had said yesterday, to make sure that these employees are paid.

Mr. Speaker: Order, the Member for Molo! From what transpired yesterday, you were obligated to substantiate your allegation that councillors have embezzled the Local Authorities Transfer Fund (LATF) in Molo Town. Now, you are saying that you are unable to substantiate and, therefore, you withdraw those allegations and apologize. Is that the position?

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

Mr. Speaker: In that case then, it must rest there. You cannot go beyond there!

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

Mr. Speaker: Yes, the Member for Migori! The Member for Ainamoi I know that you are queuing, but the Minister who is answering Question No.1751 has an urgent assignment. So, we will take the Member for Migori first.

ORAL ANSWERS TO QUESTIONS

Question No.1751

DISPARITIES BETWEEN GIRL-CHILD AND BOY-CHILD IN MIGORI

Mr. Pesa asked the Minister for Education:-

- (a) what the comparative statistics of girl-child education and that of the boy-child at the end of fourth form in Migori County is;
- (b) what the reasons for the disparity are; and,
- (c) when he will improve the infrastructure at God Ngoche Girls Boarding School to cater for those girls who were scared after the 2008 skirmishes along the Migori/Trans Mara border?

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

(a) The comparative statistics of girl-child education and that of the boy-child at the KCSE in Migori County is as tabulated below per district in the years 2011 and 2012. I do appreciate the fact that this maybe a little lengthy, but I think it is important for this House to note.

In 2011, there were 692 boys against 489 girls in Kuria West; Uriri, 677 boys against 182 girls; Rongo, 1,342 boys against 460 girls; Nyatike, 759 boys against 320 girls; Migori, 884 boys against 719 girls; Awendo, 748 boys against 713 girls and Kuria East, 306 boys against 155 girls. The pattern in 2012 is more or less the same.

(b) The reasons for gender disparity are retrogressive cultural practices like female genital mutilation, early marriages and child labour, among others; inadequate support from parents, leaders and other stakeholders for the girl-child education in the region and inaccessibility of female role models to the girl-child at the grassroots level.

(c) The Ministry has received the request for infrastructure for God Ngoche Girls Boarding School. I have taken it upon myself and directed the officers concerned to visit the school and get proper assessment within the coming two weeks so that this school can be given money for infrastructure so that the girls can benefit. I also undertake, personally, to take time and visit the area to try and understand more the issues that appertain to the girl-child being disadvantaged in education.

Mr. Pesa: Mr. Speaker, Sir, I want to appreciate the answer given by the Assistant Minister and his commitment to visit Migori, and in particular God Ngoche Girls Secondary School. One of the factors that the Assistant Minister has mentioned, which is bringing this disparity in all the eight constituencies in Migori County is early marriage. This could be sorted out if we had schools for girls. Could the Assistant Minister consider putting up more girls' boarding schools in Migori apart from God Ngoche and two others which exist, especially in my constituency?

Mr. Mwatela: Mr. Speaker, Sir, that is a very valid request. After my visit, we will see how we can recommend for the starting up of more girls' schools to cater for the girls.

Mrs. Noor: Mr. Speaker, Sir, while the Assistant Minister was answering the Question, he said that the reasons for the disparity are early marriage, female genital mutilation and lack of role models. Is he aware that we have passed an anti-female genital mutilation law in this House? What has he done to encourage and educate the communities so that female genital mutilation is not practiced all over the country?

Mr. Mwatela: Mr. Speaker, Sir, indeed, we have a law that has banned female genital mutilation. I will liaise with the relevant Ministry which enforces such laws, that is, the Ministry of State for Provincial Administration and Internal Security, so that we make sure that, that practice is stopped.

Mr. Oyugi: Mr. Speaker, Sir, I would like to ask the Assistant Minister what the Ministry is doing on the retrogressive cultures that he mentioned as an impediment to girl-child education. What are they doing about early girl-child pregnancies in various parts of the country and Migori in particular?

Mr. Mwatela: Mr. Speaker, Sir, one of the measures that we will definitely take is to try and put the proposition that has been made by the Questioner; that is to start more girls' schools so that these girls can remain in school rather than get exposed. We take this proposition by the Questioner very seriously. We will also ensure that we co-operate with the leaders, like the newly elected hon. Member, to make sure that education is passed on to the girls and the general population.

Mr. Pesa: Mr. Speaker, Sir, having been given that good answer, I just want to inform the Assistant Minister that when he goes to Migori, he will find that, that school has one classroom. It is being shared as a staffroom, laboratory and another thing that I saw when I went there. So, when you go there, please, could you consider in putting up a laboratory in that school? That way, those girls can actually learn sciences because science is the future of Kenya. I want to welcome you to Migori and when you go, please, let me know so that we can go together?

Mr. Speaker: Order, hon. Pesa! You know I have let a lot of things pass. But when it is Question Time and you catch the Speaker's eye to ask a question, please, do ask a question. Do not begin by saying: "I want to inform the Assistant Minister."

Mr. Mwatela: Thank you for the invitation.

Mr. Speaker: You see the reaction you receive for giving information – starting on a wrong premise. Next Question by Private Notice by hon. Langat!

QUESTIONS BY PRIVATE NOTICE

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 program of activities, indicating timelines that need to be undertaken by the Independent Electoral and Boundaries Commission (IEBC) before the forthcoming general elections on 4th 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 is the process 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 4th March, 2013?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, yesterday, I undertook to answer this Question this afternoon. But today in the morning, I was able to receive the necessary information to deal with this Question. Unfortunately, the information I got from IEBC is not sufficient to enable me to give a comprehensive answer to this Question. I have shared that with my colleague and I would like to seek your indulgence to answer this Question on Thursday next week. That is because the issues are so serious and need---

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. You have given a ruling in the past that the hon. Assistant Minister cannot speak from where he is sitting. I do not know whether that has since changed.

Mr. Speaker: My attention was actually diverted by hon. Chanzu. That obviously is still the position. Mr. Assistant Minister, you must speak from the Front Row. Hon. Langat, the Assistant Minister has - although in the wrong place - asked for indulgence. Are you prepared to extend it to him until Thursday next week?

Mr. Langat: Mr. Speaker, Sir, yesterday, we indulged the Assistant Minister to bring the answer today. This is a very serious national matter. Kenyans outside there are talking about elections being postponed. The way the Assistant Minister is delaying answering the Question is suspect. Today, I am not ready to indulge him. He should give us the answer that he has and then, subsequently, he can go back for the other answers.

Mr. Speaker: Order, hon. Members! Mr. Assistant Minister, do you have any reaction to that because earlier on, when you approached the Chair, you told me that you had consulted with hon. Langat and he was willing to co-operate but he seems to stating the converse?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, it is true that, that was the indication he gave me; that he would be willing to give me more time. But he also has the right to change his mind given the nature of this Question. The hon. Member has said that this is a very important Question and I agree with him. The issues raised here are so fundamental and serious that when we address the House and the nation, we need to give very comprehensive and definite answers that are not going to change later. That will involve meeting with stakeholders like IEBC so that we can get the details, especially on the details of BVR, the time lines and other issues. It will be in the interest of the nation if we are given time so that we can give an answer that will satisfy this House and the nation at large once and for all.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, hon. Khalwale! I have heard the Assistant Minister and he has gone to great pains to explain why he needs more time. Given the urgency of the matter and

doing the best I can, balancing the interests against each other, I direct that this Question be deferred until Wednesday morning. That is just four days away and the Assistant Minister will come with the answer. I will then recognize hon. Dr. Khalwale, hon. Dr. Nuh and hon. K. Kilonzo. I commit myself to recognise them on Wednesday morning.

(Laughter)

The Question is deferred with the directions accordingly.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.1652

ENVIRONMENTAL DEGRADATION IN WAJIR SOUTH CONSTITUENCY

Mr. Sirat asked the Minister for Environment and Mineral Resources:-

(a) whether he is aware of the irregular fetching of firewood and tree branches (sticks) for making make-shift homes and fences in Dagahley and Ifo in Wajir South Constituency by refugees which is causing massive degradation in contravention of Section 9 of the Environmental Management Act No. 8 of 1999;

(b) what measures he will take to ensure that the irregular exercise is stopped so that the environment is conserved; and,

(c) what measures the United Nations High Commissioner for Refugees (UNHCR) who are in charge of the refugee camps will take to compensate the host community in Wajir South constituency for the environmental degradation caused by the refugees.

The Minister for Environment and Mineral Resources (Mr. Mwakwere): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that irregular fetching of firewood and tree branches for making makeshift homes and fences in Dagahley and Ifo in Wajir South Constituency by refugees is causing massive degradation in contravention of Section 9 of the Environmental Management and Co-ordination Act No.8 of 1999.

(b) Measures that will be undertaken by my Ministry to ensure that the irregular exercise is stopped include:-

Continuation of consultative inter-agency meetings between National Environmental Management Agency (NEMA), Kenya Forest Service (KFS), UNHCR and the implementing agencies. The last meeting was held in Dadaab on 24th July, 2012 and deliberated on measures to be taken in order to reduce the negative environmental impact. Specific identified measures include intensification of environmental education and awareness targeting refugees and the host community, promoting alternative sources of energy and procurement of energy saving devices.

(c) The UNHCR is compensating the refugee host community for environmental degradation caused by the refugees by undertaking the following initiatives:-

(i) Rehabilitation of degraded environment through tree planting activities within the camp and also environmental conservation programmes for host communities especially in the villages where firewood harvesting is being undertaken.

(ii) Training on reforestation for refugees and host communities providing firewood harvesting areas.

(iii) Provision of energy saving stoves and solar cookers to the refugees and the host communities.

(iv) Funding implementation of environmental, sanitation and water projects within the Dadaab refugee camp complex, which will be extended to the host communities through its implementing agencies at the local level such as the Relief, Reconstruction and Development Organisation (RRDO) in Dadaab and Lagdera districts and the Fafi Integrated Development Agency (FAIDA) in Fafi District.

Other efforts by UNHCR include contracting firewood harvesting to the local community and agencies, including persons to supply firewood to the refugees and contracting local Non-Governmental Organisations (NGOs) to drill boreholes, construct access roads, desilt dams and pans to provide adequate water for the local communities.

Mr. Sirat: Mr. Speaker, Sir, we have not seen any compensation or any indication of afforestation or tree planting. We have not been a party to the meeting on 24th July, 2012. You will note that FAIDA is in Fafi District and the Relief, Reconstruction and Development Organisation (RRDO) is in Lagdera and Daadab districts. I am talking about Wajir South District. So, we are not party to any of these UN and Government negotiations and meetings. Is the Minister in order to be talking about other districts instead of Wajir South District?

Mr. Mwakwere: Mr. Speaker, Sir, these locations which I have identified border each other. The answer I have given relates to Fafi and Lagdera because it is within the same locality. In fact, the biggest number of refugees is in Daadab District and not in Fafi and yet the degradation of the environment is also experienced in Fafi. Hence this question cannot be answered without linking the two districts.

Mr. Njuguna: Mr. Speaker, Sir, with the admission by the Minister that felling of trees for fences and makeshift homes has taken place, what active steps is he taking to re-afforest those affected areas thus improving ecosystems in that part of the country?

Mr. Mwakwere: Mr. Speaker, Sir, I tried to summarize the actions that the Ministry is taking re-afforest affected areas. However, re-afforestation and improvement of the environment is not an activity whose results can be seen overnight. We have taken action. Trees are growing, but they will take time. I am satisfied that what my Ministry and other related agencies are doing will bear fruit which will be visible in the short run.

Mr. Farah: Mr. Speaker, Sir, as a matter of fact, we have an environmental catastrophe in part of the country. Indeed, the UNHCR, in its own wisdom, had accepted to build what is called reinforced blocks as housing for refugees. The Government then stopped that. Could the Minister tell us why the Government stopped the initiative by the UN to build this kind of housing that was not going to need any trees to be felled in Lagdera, Wajir South or Fafi constituencies? The degradation is of a magnitude that is indescribable. Why did they not allow the UNHCR to proceed and do that?

(Mr. Mwakwere failed to log in)

Mr. Mwakwere: Mr. Speaker, Sir, I am sure in due course, we will improve this technology.

Mr. Speaker: Indeed!

Mr. Mwakwere: Mr. Speaker, Sir, I am not aware that the Government objected to the construction of houses that would improve the environment by the UNHCR. Having said that, I will take immediate action to make a follow up of what has been revealed to me by the hon. Member.

Mr. Sirat: Mr. Speaker, Sir, it is very unfortunate that the Minister is answering for Fafi and Lagdera and he ignored Wajir South District. There are over 600,000 refugees in Daadab Complex. Of these 600,000 refugees, all of them are housed by makeshift homes and they get those sticks from Lagdera, Fafi and Wajir South constituencies. They did not come with those sticks from Somalia. Could he confirm that there is massive environmental degradation as a result of only that makeshift housing? Those 600,000 refugees are using firewood for their breakfast, dinner and lunch, if they have one at all. All that firewood is from Wajir South and Lagdera constituencies. So, could he confirm that there is heavy environmental degradation in the area?

Mr. Mwakwere: Mr. Speaker, Sir, the hon. Member has a copy of my answer. I addressed the Question he posed and put more emphasis on Wajir South Constituency. But I said we cannot discuss the refugee problem in our part of the country without incorporating concerns of the adjoining districts. It cannot be taken in isolation. I fully agree with the hon. Member that we are facing a massive environmental catastrophe, but this is occasioned by the number of refugees which keeps on coming to the area. Unless the influx of refugees is halted or the numbers reduced, then we have a big problem in our hands. Nonetheless, the Government, through my Ministry and sister Ministries, is doing its very best to ensure that negative effects of the presence of this large number of refugees is addressed to the satisfaction of the area and the country as a whole.

Mr. Affey: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that what Mr. Sirat is raising is the effect of the disaster of environmental degradation in Daadab Camp in Lagdera Constituency? This is a serious problem. It has far reaching effects to the neighbouring constituency of Fafi and the host community. The disaster is also happening in the neighbouring constituency of Wajir South. Is he in order, therefore, to avoid the possibility of Wajir South District not becoming a host community which is equally affected? I just want to ask the Minister that when he is speaking to the UNHCR to consider Wajir South Constituency because it is affected by the problem of degradation of environment just like the neighbouring districts.

Mr. Mwakwere: Mr. Speaker, Sir, if that is not done to the satisfaction of the hon. Members, then more resources will be channelled accordingly. However, under section "c" of the Question, I gave details of the interventions that the Government has made through the UNHCR to the host community and the details, generally, cover what the Government is doing and intends to do.

Mr. Farah: On a point of order, Mr. Speaker, Sir, whereas, I appreciate the answer given by the Minister, could he give an undertaking to this House that, indeed, the UN which is ready to put up to 150,000 houses out of mud blocks which are degradable and which in its absence will entail the refugees going out there and cutting trees to put their shelter, in addition to using it for firewood, that he is going to take immediate action to make sure that the UN is allowed to proceed on with that project which has already started but right now is unable to continue

because of restrictions from the Government side and report back to this House as soon as possible?

Mr. Speaker: Minister, you may respond to that point of order. The Member for Lagdera is the Deputy Speaker. So, he enjoys certain privileges.

Mr. Mwakwere: Mr. Speaker, Sir, as requested by the hon. Member, I undertake to ensure that the 150,000 houses are constructed so long as they do not add further to environmental degradation and danger to the people around.

Question No. 1644

ENVIRONMENTAL EFFECTS OF BUILDING
MULTIPURPOSE DAM IN NANDI FOREST BY LBDA

Dr. Otichilo asked the Minister for Forestry and Wildlife:-

(a) whether he is aware that the Lake Basin Development Authority (LBDA) is planning to build a multipurpose dam in Nandi forest, the source of many rivers including Yala River;

(b) whether he is further aware that the construction of the dam will destroy 1,186 hectares of indigenous forest and also alter carbon budget of the area and negatively affect Yala River and Yala swamps, among others, and;

(c) whether he could consider stopping the plan to construct the dam.

The Minister for Forestry and Wildlife (Dr. Wekesa): Mr. Speaker, Sir, I beg reply.

(a) Yes, I am aware that the Lake Basin Development Authority has plans to build a multipurpose dam in Nandi Forest Reserve.

(b) Yes, I am aware that the construction of the dam will destroy 1,186 hectares of indigenous forest and alter the carbon budget of the area thus negatively affecting Yala River and Yala Swamp, among others.

(c) My Ministry has, indeed, objected to the construction of the proposed dam and has communicated to the Ministry of Regional Development Authorities. This decision is informed by the resolution of the Board of Management of Kenya Forest Service, a parastatal in the Ministry which is mandated to protect and conserve Kenya's forest. Our proposal was that the dam should be built outside the forest.

Thank you.

Dr. Otichilo: Mr. Speaker, Sir, allow me to thank the Minister for a very good answer on this Question. However, I want to know from the Minister whether an environmental impact assessment of the proposed construction of the dam has been undertaken and what has been the result or what has the Environmental Impact Assessment (EIA) indicated on the proposed dam.

Dr. Wekesa: Mr. Speaker, Sir, I am not sure whether that has been done. That lies within the Ministry of Environment and Mineral Resources. Perhaps, my colleague will have an answer to that. We were not interested and, therefore, we did not want to consider anything else.

Dr. Khalwale: Mr. Speaker, Sir, you will notice that the Minister is very casual including using the words that his Ministry is not interested whether the environmental impact assessment was done or not. However, I want to thank him for saying that he has written to the relevant Ministry. Could the Minister table his letter of protest and also tell the House what he is going to do beyond just mere protest? We want this stopped.

Dr. Wekesa: Mr. Speaker, Sir, I am prepared to bring the minutes of the resolution by the Kenya Forest Board next week for the House to see that we actually are not prepared to give our forest to this project.

Mr. Speaker: Minister, is it your simple position that the Ministry will not permit the dam to be built in the forested area?

Dr. Wekesa: Mr. Speaker, Sir, yes, this is a matter that we discussed at length and we pointed all the negative effects that will result from construction of this dam.

Mr. Speaker: Member for Emuhaya, that, really, should rest the matter but let us hear if you have any Question; the final one.

Dr. Otichilo: Mr. Speaker, Sir, while I appreciate the good answer that has been given by the Minister and his commitment to ensure that this forest is preserved, I wish to know from him whether his Ministry has gone ahead to undertake the survey of the forest and ensure that they have been issued with a title deed to ensure that this forest is not tampered with in any way.

Dr. Wekesa: Mr. Speaker, Sir, yes, that has been done and again, if the Member is still interested, I can bring the details to that effect.

Question No.1791

ELECTRIFICATION OF HULUGHO DISTRICT

Mrs. Noor asked the Minister for Energy:-

(a) whether he is aware that KenGen under Rural Electrification Programme constructed and completed a power station at Hulugho District in 2009 but the project is not operational, and;

(b) when Hulugho District will be connected with electricity.

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

(a) Yes, I am aware that Rural Electrification Authority (REA) and not KenGen is financing the construction of a power station at Hulugho District, which commenced in 2008/2009 financial year and that the project is not operational yet.

(b) Hulugho District headquarters will be connected with electricity by December, 2012.

Mrs. Noor: Mr. Speaker, Sir, I wish to thank the Assistant Minister for the answer that finally the people of Hulugho will be connected with electricity that is badly needed after the completion for three years. However, what measures will the Ministry put in place to ensure that in future projects do not take that long to be operational?

Eng. M. M. Mahamud: Mr. Speaker, Sir, I agree with the Member that this project actually delayed a lot and quite a number of others. But the reasons for delay have actually been now mitigated. I assure her that in future, we will not take this long to complete projects.

Mr. Sirat: Mr. Speaker, Sir, I want to find out from the Assistant Minister how many months it takes to construct a line for 52 kilometers because there was a line which was constructed from Habaswein to Abakore nearly a year now and it has not been completed.

Eng. M.M. Mahamud: Mr. Speaker, Sir, I have to update myself with the line from Habaswein to Abakore as *mheshimiwa* said. But ordinarily, it should not take a long time. But I get his concern and will check and see the cause of delay of that project.

Mr. M.H. Ali: Mr. Speaker, Sir, while appreciating the answer to hon. Noor by the Assistant Minister, I will also want to ask him what became of the line which was supposed to be

constructed from Elwak to Lafey and which commenced in 2009? It is now more than three years and this power connection has not been completed. When will this be done?

Eng. M.M. Mahamud: Mr. Speaker, Sir, yes, the line between El Wak and Laffey, which was designed and set for construction from 2009/2010, has not yet been completed. This is because it was given to three different contractors. I think one has done his part, but delays have been caused. The REA is now dealing with the matter to see how fast they can finalize the project. I, however, appreciate that delay has been caused in that project.

Mrs. Noor: Mr. Speaker, Sir, I appreciate the Assistant Minister's answers, but I would like to know when his Ministry will connect Garissa County to the national grid.

Eng. M.M. Mahamud: Mr. Speaker, Sir, in fact, the line is now planned from Kindaruma to Mwingi and Garissa. We are at an advanced stage and we should be starting construction any time now. We have secured funding from the World Bank and that project is on course. In fact, from now onwards, we need to think of doing a line from Garissa to Wajir. So, we really have an ambitious plan for the area.

Question No.1656

LIST OF ACCIDENT VICTIMS ON KAPENGURIA-LODWAR
-LOKICHOGGIO/LODWAR-KALOKOL ROADS

Mr. Ethuro asked the Minister for Transport:-

(a) if he could provide a list of road accidents that have occurred on the Kapenguria-Lodwar- Lokichoggio and Lodwar -Kalokol roads in the last two years, indicating the number of people killed, injured and dates of the accidents;

(b) if he could confirm that these accidents were due to the poor state of the roads, overloading and failure to enforce traffic rules; and,

(c) how many road blocks have been erected on the said roads and why the police have failed to enforce traffic rules on the roads, including overloading.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I beg to reply.

(a) I table a list showing the road accidents that have occurred on the Kapenguria-Lodwar-Lokichoggio and Lodwar-Kalokol roads in the last two years. This list indicates that there have been 83 accidents on these roads within the last two years; the number of people who have died, unfortunately, is 78 and another 457 have been injured.

(b) I cannot confirm that these accidents are due to the poor state of roads, overloading and failure to enforce traffic rules. However, the Traffic Department, through the traffic police records, indicates that the accidents were mainly caused by road defects and human error.

(c) There is only one roadblock at Marich manned by officers from the Marich Police Station. The police are working round the clock to enforce traffic rules in all parts of the country including this area.

Mr. Ethuro: Mr. Speaker, Sir, the Minister is yet to give me the list, but I am willing to proceed.

Mr. Speaker: Yes, indeed, you may proceed. The Minister can table that list. Have you tabled the list, Minister? Proceed, Mr. Ethuro. Maybe by the time you are asking the last supplementary question, the list will be with you.

Mr. Ethuro: Thank you, Mr. Speaker, Sir, and, of course, if I need to ask more questions you will understand.

Mr. Speaker, Sir, 78 lives have been lost on these roads. Really, it is because of the state of the road. There are no road signs and the vehicles are overloaded. The Minister says that the traffic police officers are working round the clock. His own Ministry lost a brand new Land Rover because of the nature of the roads. What specific measures is he taking to ensure that the areas prone to accidents like Lodwar-Nasiger Road and Kalokol-Lodwar Road have bumps erected on them and road blocks set up, so that, at least, the vehicles can slow down as they approach those sections?

Mr. Kimunya: Indeed, the solution may not lie in roadblocks and bumps. I know the area pretty well. Working together with the Ministry of Roads, the issue will be to sort out the road condition, so that the roads become far much motorable. If you look at the accidents that have taken place, it is lorries and pick-ups that were involved. This is because the people in those areas have been reduced to being ferried using lorries because of the immotorability of the roads. Once the roads have been sorted out, the normal passenger vehicles will be attracted to them.

Everyone is campaigning for elimination of roadblocks because of other issues, but in terms of the road strips and the bumps, those will be considered within the design of the roads and I will liaise with the Minister for Roads in that respect.

On a wider issue, on Tuesday, this House passed two critical Bills. There was the Traffic (Amendment) Bill which deals with fines and the National Transport Safety (Authority) Bill which will look at the wider comprehensive issues of road safety in this country. I believe that within that framework, the roads will be safer across the entire country.

Mr. Njuguna: Mr. Speaker, Sir, the Minister has admitted that about 400 people were critically injured and others crippled. What interim measures is he going to take to reduce the number of fatalities on that road?

Mr. Kimunya: Mr. Speaker, Sir, the statistics that we have indicate that of the total number of accidents that take place on our roads, 84 per cent are caused by human factor or human behavior, as we call it. Hence if we can influence that human behavior, we will control or save 84 per cent of the lives that we lose. Another 11 per cent is due to the condition of vehicles and 5 per cent is due to the condition of the roads.

The Government has invested heavily in road infrastructure improvement. We have also invested heavily in inspection of vehicles. So, the remaining bit, for which I would like to ask all hon. Members to accept as part of a behavioural change campaign in our constituencies; actually we need to get the people to change the way they drive vehicles. For example, you see motorcyclists carrying three or four people when they are supposed to carry only one passenger. People are also packed in small Proboxes beyond the capacity of the vehicle to respond to the braking system. This is something we can work on together, just as we worked on the control of HIV/AIDS and the control of smoking in our cities. It is a behavioural issue. We can work on that. I said that the National Transport and Safety Authority that we created here through legislation on Tuesday will be in the forefront in spearheading this campaign. I would like to call upon each and every Member of this House to join us in that campaign for safety on our roads.

Mr. Imanyara: Mr. Speaker, Sir, the habit of one Minister when answering questions saying that it is another Ministry that is responsible, and that when roads are sorted out, a problem will be resolved is a convenient way of Ministers not really answering questions from Members. Could the Minister tell us when these roads in Turkana Central, where I have been recently, will be sorted out rather than telling us that that is a matter for the Ministry of Roads?

Mr. Kimunya: Mr. Speaker, Sir, I do not recall apportioning blame to my colleague. Indeed, I gave credit that they have done a lot in terms of the refurbishment of the roads, that is why the contribution to accidents as a result of the condition of the roads is only 5 per cent while 84 per cent is as a result of human behavior.

I will be liaising with my colleagues within the wider Government to see the roads in their plan. I am aware that there are plans to do roads within those areas, especially those connecting the road from Kitale to the very north. Obviously, some of the roads money that we have allocated to the constituencies could go into improvement of roads in those areas.

Mr. Ethuro: Mr. Speaker, Sir, you have heard the Minister telling us he will only improve these things on the condition that the roads are done. This means that between now and the time those roads will be done, what time he does not know and he is only aware of the plans, more deaths will be caused by the poor state of the infrastructure.

In view of the fact that the bad condition of the roads is causing these fatalities, what will he do to expedite the tarmacking of the Kapenguria-Lodwar-Lokichogio-Juba Road, that is not only serving the various counties within Kenya, but will also improve the economy of this nation by accessing the South Sudan Market?

Mr. Kimunya: Mr. Speaker, Sir, I may not be in a position to give a definite date as to when that road will start, but I am aware it is in the plans of the Government. Firstly, in terms of the connectivity with South Sudan and opening up the entire north and with the strategic importance of that entire region and its connectivity to the rest of the northern corridor. That is already in the plans and it is a matter of when it comes on board. As I said, road conditions are only a small contributor to the fatalities or the accidents on these roads. We need to encourage the users to be a little bit more careful until the roads are improved. Although I am not sure whether we need bumps on the road itself, they slow down the vehicles. We will continue with the patrols, enforcements and influencing the behaviour of the drivers, the passengers and the pedestrians who are also being knocked down on that road to reduce the number of fatalities.

Question No.1563

NON-ISSUANCE OF TITLE DEEDS TO
MEMBERS OF BIRIBIRIET FARM

Mr. Kutuny asked the Minister for Lands:-

(a) under what circumstances the members of Biribiriet Farm (LR No.5736) were asked to pay Kshs1,407,500 for the transfer of the farm from leasehold to freehold land tenure system;

(b) whether he is aware that the Survey Department had sub-divided the farm and approved the release of Registry Index Map (R.I.M) to the Commissioner of Lands for issuance of the title deeds; and,

(c) what urgent measures he is taking to ensure that the members receive their title deeds.

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

(a) Members of Biribiriet Farm ((L.R No. 5736) were asked to pay Kshs1,407,500 as the purchase price of freehold interest from the Government when they applied for a conversion of tenure from leasehold to freehold tenure.

(b) I am aware that the farm was sub-divided at the request of the members and the registry index map released to the Commissioner of Lands in anticipation of issuing titles under Cap.300. Conversion to Cap.300 has been implemented and the Registry Index Map and area list were forwarded to the District Lands Register on 23rd September, 2011 to issue titles. Titles can now be picked from the Land Registry upon the payment of the requisite fees.

Mr. Kutuny: Mr. Speaker, Sir, these are poor farmers and each occupy approximately three acres. Their survival is hand to mouth. The lease was signed in 1920 and it is supposed to expire in 2021. About 909 years are remaining. What factors did the Government consider when coming up with these figures, considering that there are many years before the lease expires? These are poor farmers.

Mr. Rai: Mr. Speaker, Sir, I do not know what is required of the Ministry at this particular moment because the titles are already lying with the Lands Registry in Trans Nziwa. Every individual is required to go to the Registry to pick his title deed upon the payment of the requisite fees. This is not much money because any title deed is based on the acreage. So, there is not much to be done. The members requested us to convert the system from leasehold to freehold. This is a more superior title deed than the other.

Mr. Mwangi: Mr. Speaker, Sir, could the Assistant Minister confirm whether it is the individual farmers who are being requested to pay the requisite fee or the entire Kshs1,407,500 which is required?

Mr. Speaker: Order! I think that has already been answered, Member for Wundanyi. He confirmed that the land has been subdivided and he has further in his answer said that the title deeds are ready for each individual farmer to collect upon payment. So, you are asking something which has already been answered, indeed.

Mr. Assistant Minister, is that not the position? I heard you clearly.

Mr. Rai: Mr. Speaker, Sir, that is the correct position.

Mr. Kutuny: Mr. Speaker, Sir, while I appreciate the answer from the Assistant Minister, could he undertake that if the individuals pay the amount of money that is required, they will not be disturbed by the Provincial Administration? Information from the ground indicates that the Provincial Administration has been asking for some money from the farmers.

Mr. Rai: Mr. Speaker, Sir, once the money is paid at the Registry, those individuals should be holding title deeds. So, I do not see how an administrator can demand money from a person who has a certificate of title.

Question No.1587

COMPUTERIZATION OF SERVICES AT KENYAN AIRPORTS

Mr. K. Kilonzo asked the Minister of State for Immigration and Registration of Persons:-

(a) why travelers in Kenyan airports have to fill a declaration form before departure and upon arrival;

(b) whether he is aware that the information given in these forms is all contained in the passport and other travel documents; and,

(c) what measures he will take to ensure that all the operations are computerized.

Mr. Speaker: Waziri wa Uhamiaji na Usajili wa Watu haonekani hapa Bungeni. Kiongozi wa Shughuli za Serikali, Waziri yuko wapi?

The Minister for Transport (Mr. Kimunya): Bw. Spika, ninaomba apatiwe muda ili ajibu Swali hili Jumanne, wiki ijayo.

Mr. Speaker: Mhe. K. Kilonzo, unakubaliana na ombi hilo?

Mr. K. Kilonzo: Ndio, Bw. Spika. Waziri alikuwa hapa na akaniarifu kuwa jibu lake kutoka Wizara yake halikuwa kamilifu. Na kwa hiyo akaniambia angehitaji muda zaidi kujibu Swali hili. Jumanne wiki ijayo ni sawa kwangu. .

Mr. Speaker: Sawa! Swali hili litajibiwa Jumanne wiki ijayo. Kiongozi wa Shughuli za Serikali, hakikisha Waziri atakuwa hapa kulijibu Swali hili.

The Minister for Transport (Mr. Kimunya): Bw. Spika, nitahakikisha atakuweko.

Mr. Speaker: Asante. Tumefika mwisho wa Maswali.
Tuingie Hoja inayofuata.

MINISTERIAL STATEMENTS

Mr. Speaker: Statements due for delivery, Front Bench, beginning with the Deputy Leader of Government Business, hon. Kimunya.

BUSINESS FOR THE WEEK COMMENCING 2ND TO 4TH OCTOBER, 2012

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I wish to take this opportunity to make the following Statement with regard to business for next week. Next week, the House expects the Second Reading of The Kenya National Examination Council Bill, Bill No.50 of 2012. In order to fast track this Bill, we have scheduled a Procedural Motion to reduce the referral period of the Bill to the relevant Departmental Committee. Without anticipating debate on this, it is very important that we have this Bill in place before examinations begin.

The House will also consider The Consumer Protection Bill, Bill No.50 of 2011; The Finance Bill, Bill No.26 of 2012; and The National Cohesion and Integration (Amendment) Bill, Bill No.40 of 2012. The House will also deliberate on the Motion to adopt the Draft Election Regulations of 2012. We shall also give priority to business that will not be covered in today's Order Paper.

Finally, the House Business Committee will be meeting on Tuesday, 2nd October, at the rise of the House to consider business for the rest of the week.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Fair enough! Is there any other Statement that is due today?

INSECURITY THREATS TO HON. MEMBERS BY DEMONSTRATORS AT PARLIAMENT GATES

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Thank you, Mr. Speaker, Sir. On Tuesday, 25th September, 2012, I promised this House to issue a Ministerial Statement on the recent increase in demonstrations ending up in Parliament buildings.

It was noted that, at times, the demonstrators block the gates and make it difficult for Members to access Parliament and some even hurl abuses at hon. Members. This portends a

great danger, especially when the country is facing threats of terrorism. I wish to state the following.

Since the promulgation of the Constitution of Kenya, 2010, which gave people the right to demonstrate, picket and present petitions to authorities under Article 37, more and more groups of people have been organizing and participating in demonstrations for various reasons.

Within Nairobi City, it has become the practice of demonstrators to use Harambee Avenue where key Government buildings like the Office of the President, the Prime Minister's Office, the Office of the Vice-President and Ministry of Home Affairs, the Ministry of Finance, the Ministry of Foreign Affairs, Parliament, the High Court and the Police Headquarters, among others, are located as they know this is the nerve centre of the Government and they want to be listened to by the authorities. The demonstrators have invariably ended up at the Parliament Buildings gates. Most of these groups have been peaceful. However, and in view of the current situation of threats within and without Nairobi, the demonstrations have occasioned a peculiar security concern to Parliament, the Police and other key stakeholders.

Similarly, it has been noted that though it is a requirement of the Public Order Act for any person(s) planning such demonstrations to notify the local police station for security reasons, some organizers do not comply with this requirement. With due consideration to the current security concerns in Kenya and the world over, we propose that this august House considers the following recommendations in order to make Parliament, expected County Assembly premises or Governor's Offices and other Government installations secure while at the same time safeguarding the citizens' rights as stipulated by Article 37 of the Constitution.

(1) The Public Order Act be amended as a matter of priority to give effect to Article 24 of the Constitution and without infringing on the Bill of Rights, to make it mandatory for organizers of such demonstrations to notify the police of such intentions and agree on the venue to converge and the route to be used to enable the police prepare and provide appropriate security.

(2) The organizers of such demonstrations be required by law, in addition to notifying the police, to inform the Government Office they intend to petition, at least, 72 hours prior to the planned demonstration to enable such Government Office appoint an officer to address the demonstrators and/or meet their representatives.

(3) That Parliament passes a law to empower the Cabinet Secretary in charge of Internal Security to make regulations on conduct of public demonstrations and how to present their petitions not only to Parliament but to all Government offices. For example, for purposes of demonstrations in Nairobi County, Uhuru Park to be designated as the main demonstration area but for the purposes of presenting petitions, the organizers be allowed to identify not more than 40 delegates to march to the concerned Government Office, and that not more than five representatives to be allowed access to the Government Offices.

(4) The persons identified by organizers to present petitions be made known to the police in advance and be obliged by law to undergo necessary security procedures.

(5) The Public Order Act be amended to provide for the Cabinet Secretary in charge of Internal Security to designate specific areas as out of bounds for demonstrators, and areas where demonstrators and petitioners may use for picketing and demonstrations. For the National Assembly, the Senate and the Nairobi County Assembly, Uhuru Park be designated for demonstrations and also the COMESA Grounds for petitions. For the rest of the 46 counties, the Cabinet Secretary, in consultation with the Inspector-General and the respective Governors, designate specific areas for demonstrations, processions, petitions and picketing within the county jurisdiction.

(6) The Public Order Act may be amended to give an Officer Commanding Police Station limited leeway to designate specific areas as out of bounds to demonstrators. These are security areas like Embassies, Parliament, Treasury and State House which may be prejudiced. Similarly, commercial areas, roads or private premises where the rights of individuals or corporate citizens may be violated by such demonstrations - this is by looting of merchandise or obstruction of freedom of movement.

In such a case, provision should be made for workers within their work premises. In the meantime, I have instructed the Commissioner of Police to ensure that these demonstrators do not block access to and disrupt Parliament and other Government premises.

Mr. Speaker: Hon. Members, I can see that there are no requests for interventions on that statement.

Hon. Members: We want to seek clarifications!

Mr. Speaker: Order! If I take it that requests to have the Floor are requests for intervention on that matter, then I would like to restrict it to five beginning with hon. Noor.

Mr. Minister, please take notes.

Ms. Noor: Mr. Speaker, Sir, mine is about some information I gave you before.

Mr. Speaker: Order, hon. Sophia Abdi! I have just said that I have not seen requests for interventions or clarifications on the Statement issued by the Minister of State for Provincial Administration and Internal Security. You were pending as a request which I thought was not relevant to that and Members said the contrary. You see, I am appearing to be proved right. So, you may rest for the moment.

Yes, the Member for Ikolomani!

Dr. Khalwale: Thank you, Mr. Speaker, Sir. We must congratulate the hon. Member because he has given a very thoughtful answer. But unfortunately, his answer is mainly futuristic. I was shocked, soon after the book by Miguna Miguna was released, to hear that a group of university students marched on Harambee Avenue, were allowed to go outside the Office of the Prime Minister and the police allowed them to offload a whole bag of maize into the Prime Minister's compound. You can imagine that the police had not inspected that bag to confirm whether it was maize or something else but they allowed it. What has the Minister done as an immediate intervention so that as we wait for that ideal situation that he has described, we can still allow Kenyans who have a right to appeal to us, their leaders without threatening our lives?

Mr. Nyambati: Thank you, Mr. Speaker, Sir. I also want to congratulate the Minister for this kind of information that he has given this House. I think it is important that we have our nation organized as opposed to having chaos in this country. However, I wanted to seek a clarification from the Minister. Has he thought of giving security to the people who are in the designated areas? I think it is important that security is offered in these areas when Kenyans demonstrate peacefully in the designated areas. It is important that some of these public areas like Parliament and others are not obstructed by people who just come from nowhere when people are doing their work. I want to know whether security will be offered in the designated areas.

Mr. Speaker: Order, Member for Kitutu Masaba. On the last bit, you are in breach.

Yes, Member for Dujis.

Mr. Duale: Mr. Speaker, Sir, I want to thank the Minister for giving the long-term solution to the problem. When Kenyans voted for the Constitution in 2010, their biggest gain was the very robust Bill of Rights but he is now asking Parliament to re-look at The Public Order

Act and Article 19 of the Constitution, which provide for limitations, and align them with Article 24.

Everywhere, in the developed democracies, people demonstrate where the Legislature and the Executive Arms of the Government are. In Washington DC, demonstrators would go to the White House and the Congress. Can he confirm whether he is saying that we should negate on the Bill of Rights that we gave to Kenyans? Is there something else he can do to secure the security of Government installations? As Members of Parliament, we also enjoy the rights provided in the Bill of Rights.

Mr. Speaker: Yes, hon. Millie Odhiambo.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I want to thank the Minister for that response, and for being alive to the fact that we have Article 37 of the Constitution. If he wants to use Article 24, he must read it together with Article 37, which provides for the right to assembly, demonstration, picketing and petition.

The Minister has tried to give us conditions which they will be using in the law he intends to introduce under Article 24, which would allow people to use the circumstances that hon. Khalwale referred to; that demonstrating members of the public can throw maize into the compound of the Prime Minister, or people demonstrating against acquisition of land for public cemetery can carry coffins. So, those ones are allowed.

What I want him to clarify is on Article 24(2) (c), which provides that you shall not limit the right of fundamental freedoms so far as to derogate from its core or essential content. What I heard him say is to derogate from the core content. Members of the public have a right to demonstrate. As Members of Parliament, we also have our rights but we cannot take away those rights from members of the public. So, how can he assure us that before he brings that law, members of the public shall continue to picket and demonstrate, having protected that right by law?

Mr. Speaker: Millie, even before the Minister does that, I just want to get something clear from you. Did I hear you say or imply that members of the public can demonstrate, including carrying equipment such as bags of maize, whose content may not be clearly ascertainable by merely looking at them, or carrying coffins for that matter? Did I hear you say that that is permissible?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, if you look at the way it is worded in the Constitution, unless we limit it by law, members of the public can carry empty coffins. The only thing they cannot carry is bodies of human beings in the coffins, but they can carry coffins.

Mr. Speaker: How would you know that those coffins are empty?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, that is why we are telling the Minister to bring to us a draft law that allows limitation, but which will ensure that when people come from a cemetery carrying empty coffins, the police will look at them to confirm that there are no bodies in them.

Mr. Speaker: Fair enough. If you say so, then we would be on the same page.

The last one, Member for Turkana Central!

Mr. Ethuro: Mr. Speaker, Sir, I also wish to congratulate the Minister. So far, so good, Minister. We will support you. However, I want him not to get excited about his new position. What is provided under Article 37 is a constitutional right. When he talks about regulations, in addition to what hon. Millie said, that Article also says that you can only do limitation by law, and not by your regulations. Therefore, what he wants to do should be done by law, and not by his regulations. So, in accordance with Article 35(3), how is he going to ensure that the state

itself provides and publishes the information, as required? Some of the demonstrators seek information because there is no information coming from state organs or authorities.

Finally, I want him to consider the fact that 72 hours is a bit too long. Even in the case of hon. Waititu, where members of the Maasai community were allegedly asked to quit Kayole, if people rose up with arms in such a situation, you would have given them another 72 hours to continue killing. Can you reduce that period to 24 hours?

Mr. Speaker: Hon. Members, that was the last request for clarification, except that I am faced with a situation which I find a little curious. I will give the Floor to the Assistant Minister of State for Defence, hon. Musila, because I am informed that he is the one who made the request. I find it a bit curious but let me hear him.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Thank you, Mr. Speaker, Sir.

Mr. Speaker, Sir, I actually directed this issue to you because of situations which have been occurring. Hon. Members have not been able to access Parliament Buildings freely because demonstrators have been blocking the entrance. The Speaker who was on the Chair then asked the Minister of State for Provincial Administration and Internal Security to address the issue by coming up with a Ministerial Statement. Therefore, I want to thank him for the Ministerial Statement that he has issued.

The genesis of the request is that last Wednesday, demonstrators blocked the entrance to Parliament Buildings. Some hon. Members were even made to go round the Main Gate to enter Parliament Buildings. Other hon. Members were made to get out of their cars. Abuses were hurled at us by the demonstrators.

Mr. Speaker, Sir, as Members of Parliament, we also have rights. While appreciating the rights of people to picket and demonstrate, we also have a right to access Parliament Buildings freely. Therefore, I thought it was incumbent upon you, as the custodian of our rights and privileges, to ensure that the entrance to Parliament Buildings is free, and that no demonstrators block it.

I made it very clear that I had no problem with people demonstrating. In fact, I appreciate the fact that our Constitution guarantees Kenyans the right to picket, demonstrate, *et cetera*. However, those rights must be enjoyed while considering the rights of others, namely, us and other people.

Mr. Speaker, Sir, the Minister has given us a long-term solution, involving the making and amending of some laws, *et cetera*. However, what is happening today cannot wait until those laws are made. In other countries, where people exercise more rights than we do in Kenya, the police designate certain areas for picketing and demonstrating, so that the rights of other people are not infringed.

I remember that as I was raising this matter on the Floor of the House on Tuesday, hon. Keter was forced by demonstrators to get out of his car and walk into Parliament Buildings. It was very nasty. We must get an immediate solution, so that a line is drawn where demonstrators can picket or demonstrate without blocking the entrance to Parliament Buildings, so that we can access these premises to work without any hindrance.

Mr. Speaker, Sir, that was the gist of my point of order. Although the matter was addressed to you, the Speaker on the Chair then asked the Minister to address it. I appreciate what he has done but the ball is still in your court, because even the police can guide demonstrators on where to demonstrate.

It looks like this country is a free for all. You can even go and demonstrate at someone's house or gate. This is taking this privilege a bit too far, and I want you, as our Speaker, to rule that our gates will not be blocked at any time either by demonstrators or by any other person.

Mr. Speaker: Fair enough! I now understand the circumstances and I will say my piece after the Minister.

Minister, proceed!

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

Mr. Speaker: Order, hon. Member for Chepalungu.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Speaker, Sir, I want to appreciate what my colleague, Mr. Musila has said. That was the genesis of this. That is why I had to craft the statement in a way that I did not say that on such and such a day, Mr. Musila requested a Ministerial Statement. I said that I promised this House that I would issue a statement.

Mr. Speaker, Sir, almost all the interventions or clarifications hon. Members are seeking are almost converging at the same point. Everybody wants to know how we are going to allow demonstrators to demonstrate within their rights, and without interfering with others' core rights, as Mrs. Odhiambo-Mabona has said. I want to also reiterate the fact that people have to exercise their rights without infringing on the rights of others. I have explained a situation that is long-term, which will involve amendment of the Public Order Act. The amendment of the Public Order Act is not by regulation. That will be a Bill and this House in its own wisdom will give a lot of input.

Mr. Nyambati asked about the security in the designated areas for the people who will be there. That is why I said that if the demonstrators will be informing the police in time, they will be able to prepare the route and provide adequate security. There will be adequate security for both demonstrators and people in those areas of convergence.

Mr. Duale asked about the designated areas and how we are going to make sure that the rights of these people are protected as enshrined in the Constitution. I just want to say that during demonstrations, and we have told the police this, the demonstrators should keep a distance. Even if they are coming to demonstrate around Parliament Buildings, they should not be allowed to come up to the gate. Sometimes when we come to Parliament, it is them who open the gate. They surround the police and you have to talk to them to allow you access to Parliament. The immediate steps that I am proposing are for the police to draw a line, so that the demonstrators cannot go beyond it, and so that Members of Parliament or members of the public can access the facility without any disruption. So, we are waiting for the long-term plans in which this honourable House will decide which way to go.

Mr. Ethuro said that, at times, these demonstrators seek information. I said in my statement that most of the demonstrators are peaceful and organized. In order for them to get the information they seek or get the officer to present the petition to, they should be giving notice and also the reason for demonstration, so that the concerned officers will prepare in advance, although one may not be able to present information to over 100 demonstrators. That is why I am proposing that they should send five representatives or a delegation of not more than 40 people to receive the information that they seek.

I just want to say in a nutshell that I am seeking the support of this House that we let the police allow the demonstrators to exercise their rights, but keep a distance from offices. Even if they go to the Prime Minister's Office, they should not be allowed to a point where they can through stuff inside the compound. They should remain at a distance, and then an officer from

that office can come, address them and give them the information they are looking for, or accept the petition they have. That should be applicable to Parliament Buildings and other public facilities.

Mr. Speaker: Hon. Members, I wish, on my part, to associate myself with the Ministerial Statement issued by the Minister in charge of Provincial Administration and Internal Security and add the following.

Hon. Members, one of the primary values that is incorporated in the Constitution as promulgated in 2010 is that as a nation, and as the citizens of this country, we will uphold the rule of law. Further, pursuant to the provisions of the Constitution and in particular, the Sixth Schedule, and I am referring to page 195 of the Constitution, Section 7 of the Sixth Schedule, sub-section (1) provides as follows:-

“All law in force immediately before the effective date continues in force and shall be construed with the alterations, adoptions, qualifications and exceptions necessary to bring it into conformity with this Constitution.”

What this says is that the law that was existing, prior to the 27th August, 2010 is in full force, including those provisions in the Constitution that provide for certain offenses. So, the sections that provide for trespass, for example, are still valid. As far as I am concerned, hon. Members and Minister, you are under duty to enforce the law as is in place. The law pertaining to traffic, including obstruction of traffic, and traffic includes pedestrians in motor vehicles, is in force and must be upheld. The law relating to assault is in force and must be upheld. If an hon. Member of Parliament, for example, is subjected to ill-treatment by known members of the public, those members of the public commit offenses and must be liable to arrest if evidence is found against them; for example those who are captured on camera maltreating their fellow citizens, who may be Members of Parliament, actually commit offenses. Those responsible for upholding the full force of the law must actually take the requisite action.

So, Minister, I urge you to, without fear, enforce the law. Let the courts decide who is innocent, but enforce the law, you must. The passage ways leading to Parliament must be open to traffic that is allowed to access Parliament at all times. We will respect citizens’ right to demonstrate but, obviously, not to infringe on the rights of other citizens who equally are entitled to enjoy their full rights. That is my position and, please, comply with those directions.

POINTS OF ORDER

THE ROLE OF THE UONGOZI 2012 CAMPAIGN CARAVAN

Mr. Kabogo: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs on the role of the *Uongozi* 2012 Campaign Caravan in the forthcoming general elections, which was flagged off by the Chief Executive Officer of the Nation Media Group and *Inuka* Trust in Nairobi on 22nd September, 2012.

In his Statement the Minister should:-

(a) State the role of the *Uongozi* 2012 Campaign Caravan and indicate who are funding this initiative.

(b) State the steps that he is taking to ensure that the electoral process is free from any foreign interference as indicated in the application form to be filled in by people seeking to be contestants in the initiative.

(c) Indicate the measures that the Government will take to ensure that the Independent Electoral and Boundaries Commission desists from being part of and sponsor of the programme that seeks to influence the electoral process by sponsoring candidates in the forthcoming general elections as indicated in the *Uongozi* website: www.uongozi.co.ke.

Mr. Speaker: I can see that the Minister for Justice, National Cohesion and Constitutional Affairs is not in. Deputy Leader of Government Business, when will that Statement come?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I will communicate to the Minister and we can have a Statement by Wednesday next week.

Mr. Speaker: Member for Juja, address the second one.

DISAPPEARANCE OF MATATU OPERATOR IN GATUNDU

Mr. Kabogo: Mr. Speaker, Sir, the second one is about a Statement I asked from the Minister of State for Provincial Administration and Internal on Wednesday 6th. Last week the then Chair, the Deputy Speaker, asked the Minister to bring that Statement yesterday and it did not come. So, I was just wondering if you may direct that the Minister may bring it either today or probably Tuesday if it is not ready.

Mr. Speaker: Mr. ole Metito, is that Statement ready?

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): First of all, I had another Statement sought by Dr. Khalwale which I was to issue today but I wanted to seek the indulgence of the Chair. I have discussed with the hon. Member that I issue it on Wednesday next week.

On the Statement asked by Mr. Kabogo, I also wish to ask for the indulgence of the Chair to check with my office. I was not aware when I was coming but I promise that I will bring it on Thursday next week.

Mr. Speaker: Fair enough. Let us get the Member for Ikolomani first. Are you prepared to accommodate the Minister to give the Statement on Wednesday morning next week?

Dr. Khalwale: Mr. Speaker, Sir, I thank you for allowing me to request for a Ministerial Statement from the Ministry of Justice, National Cohesion---

Mr. Speaker: Order. What I am asking you to do is confirm if you are according the Minister indulgence to issue the Statement which you sought earlier on Wednesday morning next week.

Dr. Khalwale: Mr. Speaker, Sir, indeed, he had approached me and we have agreed. I see no problem because he wants to make the answer---

Mr. Speaker: Fine. It is accordingly directed.

Member for Juja, is Thursday afternoon okay with you?

Mr. Kabogo: Mr. Speaker, Sir, I do not think I have a choice. But it is important to note that this Ministerial Statement was about the disappearance of a *matatu* operator in Gatundu. I asked for this Statement on 30th August. The first time it came, Mr. Kimunya the Minister sitting here today did undertake to communicate to Minister Haji. The following time it came, Minister Beth Mugo did the same thing. So, I hope this time the Minister will be able to come and tell the House the whereabouts of this young man and whether security will be enhanced in Gatundu.

Mr. Speaker: Member for Juja, you now have a very vibrant Minister in charge of internal security. So, it will certainly come. I am sure it will come on Thursday afternoon. We want then to take the next request. Member for Ikolomani!

ALTERCATIONS BETWEEN LSK/CIVIL SOCIETY/JUDICIARY
OVER VETTING OF JUDGES/MAGISTRATES

Dr. Khalwale: Mr. Speaker, Sir, I rise to seek for a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs regarding the recent altercations between the Law Society of Kenya and sections of the civil society on the one hand and the Judiciary on the other.

I would like the Minister to clarify the following issues:-

He should assure Kenyans and the House of the independence of the Judiciary as enshrined in our Constitution.

Two, he should address and clarify claims by the Law Society of Kenya that the Chief Justice has allegedly been interfering with the vetting of Judges and magistrates.

Further, I would like him to clarify whether the Vetting Board has complained at all to him of any interference with their work by the Chief Justice. I would also like the Minister to clarify further whether he still has confidence in the Vetting Board in view of the Board's recent decision to reinstate Judges it had initially found unfit to serve on the Bench.

I would like him to clarify whether the Chief Justice is under attack by forces keen on reversing the very positive gains made so far since Justice Willy Mutunga assumed office. Finally, I would like the Minister to clarify what he is doing to protect the Chief Justice from such forces that want to kill and reverse the reform process.

Mr. Speaker: I see the Minister for Justice, National Cohesion and Constitutional Affairs is not in the House.

Deputy Leader of Government Business, when will that come?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I think the safe time will be Wednesday next week depending on the workload. We already have so many Statements lined up. So, probably Thursday might be better.

Mr. Speaker: It can be brought on Wednesday morning.

The Minister for Transport (Mr. Kimunya): Yes, Mr. Speaker, Sir.

Mr. Speaker: It is so directed.

MEASURES TO ENSURE PROPER CONDUCT
OF 2013 GENERAL ELECTIONS

Mr. Sirat: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs regarding the next general election.

In the Statement, the Minister should indicate:-

(a) The number of polling stations which will be set up in the country during the next general elections and how many will be in Wajir South Constituency. He should also indicate the number of polling clerks to be hired for Wajir South Constituency.

(b) How long it will take an illiterate voter to cast his or her vote for the six elective positions in the next general elections.

(c) State the plans that the Government has in place to ensure all the people who have attained 18 years and above with no ID cards are registered and issued with the ID cards before the start of the voter registration in view of the fact that an ID card is one of the requirements for registration as a voter.

(d) State the plans the Ministry has in place to ensure that all potential voters are registered in less than two months and state the plans the Ministry has in place to ensure that all potential voters cast their vote in time considering that Wajir South is the second largest constituency in the country with over 70,000 potential voters and that 90 per cent of my constituents are not literate.

Mr. Speaker, Sir, the Minister has undertaken to answer a similar Question on Wednesday. So, I would request that this Statement is also brought on Wednesday.

Mr. Speaker: Order, Member for Wajir South! Do I hear you say that you asked a Question which you have information was going to be answered next Wednesday and you still have gone on to request for a Statement to supply the same or similar information? Do I hear you to be saying that?

Mr. Sirat: Mr. Speaker, Sir, a Question was asked earlier today on matters related to the general elections, which you deferred to Wednesday. The Question was asked by hon. Langat.

Mr. Speaker: Fair enough! In that case we will have to collapse the Question into the Statement. Let the Statement be given on Thursday, next week at 2.30 p.m. The Member for Ainamoi will have to note that. If he is not in the House, he should be informed that his Question will be covered in the Ministerial Statement. He will be given adequate opportunity to ask for clarifications on any area that will not be covered by that Statement. He will do that together with the Member for Wajir South. Please note so that we use our time properly. The Member for Ainamoi, confirm that you have noted that!

Mr. Langat: Mr. Speaker, Sir, I have noted as long as the Question that I will ask will also be captured properly in the Statement.

Mr. Speaker: Indeed, the Minister is under duty to do so.

Yes, the Deputy Leader of Government Business!

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, indeed, I was getting a bit concerned that there are very many issues to do with the elections and they were all getting scattered in different Ministerial Statements and Questions. We will try to get them all within a comprehensive answer through the Statement.

Mr. Speaker: It is so directed! The Clerks-at-the-Table, please note, so that we do not have a situation where the Ministerial Statement will be due and the Order Paper will still have a Question on elections next week. Avoid that possible duplication.

I think that brings us to the end of the Order No.7.

What is it Hon. Sophia?

EXTENSION OF TIME FOR SUBMISSION OF
REPORT ON AFRICAN SAFARI CLUB STAFF

Mrs. Noor: Mr. Speaker, Sir, there was a directive that you gave to the Departmental Committee on Labour and Social Welfare to the effect that we should bring a report on the African Safari Club staff. This was requested by hon. Sheikh Dor. As a Committee, we are requesting that you extend our time so that we can conclude our Report.

Mr. Speaker: How much more time do you need?

Mrs. Noor: Two weeks, Mr. Speaker, Sir.

Mr. Speaker: Two weeks from today and strictly so. It is directed accordingly!

Mrs. Noor: Thank you, Mr. Speaker, Sir.

STATUS OF CONSTRUCTION WORKS ON
MAU SUMMIT-KERICHO ROAD AND
KERICHO-KISUMU ROAD

Mr. Langat: On a point of order, Mr. Speaker, Sir. Around June, I requested for a Ministerial Statement from the Minister for Roads regarding the status of construction works on the Mau Summit/Kericho Road and Kericho/Kisumu Road. The Minister has been promising to come with the Statement, but so far he has not delivered.

Mr. Speaker: The Deputy Leader of Government Business when will that Statement come?

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, can I try to use the limited window on Wednesday morning where we seem to have some space for Statements to get the Minister to bring it?

Mr. Speaker: That is permitted. So, it is directed that it comes on Wednesday morning! What is it, the Member for Igembe South?

FAILURE BY DPM TO HONOUR CIRCULAR
ON INCREMENT OF POLICE SALARIES

Mr. Linturi: Mr. Speaker, Sir, two weeks ago the Speaker deferred a Question that I had brought to this House in relation to the failure by the Department of Personnel Management in the Ministry of State for Public Service to honour a circular that was increasing the salaries of police officers. When the matter was canvassed in this House, it was found that, that Question would be best answered by the Prime Minister. I seek your guidance because I think it is the right time that the Prime Minister came and addressed this matter. This is because the matter was referred to him by the Speaker. I want an indication when this can be done.

Mr. Speaker: The Member for Igembe South, I have heard you although I would like to advise that this is not the right stage at which you would have raised that matter. This is because that matter, in fact, belongs to Order No.6 and we are just concluding Order No.7. That notwithstanding now that you know, of course, next time you will be better guided. I want to request the Deputy Leader of Government Business to follow up on that and give indication to the House. Maybe we will put this Question on the Order Paper on Thursday, but if you could perhaps indicate to us appropriately. If you have determined that it should go to the Prime Minister, then we will put it on Wednesday under the Prime Minister's Time. Otherwise, it will be on the Order Paper on Thursday.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I think it might be safer to put it on Wednesday in the Prime Minister's Time, because of very many---

Mr. Speaker: For the time being we stand guided, that we will put it under the Prime Minister's portfolio. The Office of the Clerk will accordingly dispatch the Question to the Prime Minister.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, that is right.

Mr. Speaker: Fair enough! The Member for Igembe South, please note and be guided accordingly.
Next Order!

BILLS

First Reading

THE VALUE ADDED TAX BILL

(Order for the First Reading read – Read the First Time and ordered to be referred to the relevant Departmental Committee)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Ethuro) took the Chair]*

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! We are in the Committee of the whole House. We will consider two Bills. The first one will be The Ratification of Treaties Bill (Bill No.28 of 2011).

THE RATIFICATION OF TREATIES BILL

Clause 2

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, clause 2 of the Bill be amended—

(a) in the definition of the term “ratification” by deleting the word “accession” and substituting therefor with the words “acceptance, approval and accession where the treaty so provides”;

(b) by inserting the following new definitions in the proper alphabetical sequence—

“bilateral treaty” means an agreement concluded between Kenya and any other State or between Kenya and an international organisation;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to treaties;

“international organisation” means an intergovernmental organization;
“relevant State department” means the State department responsible for the subject matter of the treaty to be approved for ratification;
“reservation” means a unilateral statement made by a State when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to the State;

“signature” means an act whereby the State expresses its willingness to consent to the text of a Treaty and has the effect of obligating the said State, even though it may not be a Party to the treaty, to refrain, in good faith, from acts that would defeat the object and purpose of the treaty;

“relevant State department” means the State Department responsible for the subject matter of the treaty to be approved for ratification.

(c) by renumbering clause 2 as sub clause (1) and inserting the following new sub clause immediately after sub clause (1) –

(2) Despite subsection (1), until after the first election under the Constitution, references in this Act to the expression “Cabinet Secretary” and “State Department” shall be construed to mean “Minister” and “Ministry” respectively.

Mr. Temporary Deputy Chairman, Sir, I have had a word with the author of the Bill, who I must first start by congratulating because she has done a wonderful job. I believe that she is comfortable with the changes as proposed. They are intended to bring clarity, to ensure that the definitions conform with the Vienna Convention and related laws on treaties.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Millie, you will appreciate that the Attorney-General’s amendment is similar to yours. This means that if it is carried, we will not carry yours except for what you had indicated to the Chair. But let me propose the question of the amendment.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I have actually just noticed that the part that I was showing you was the long title. But, otherwise, in relation to Clause 2, I support the amendment by hon. Attorney-General which is more comprehensive and I withdraw mine.

*(Proposed amendment to Clause 2 by
Mrs. Odhiambo-Mabona was withdrawn)*

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Millie, you started with Clause 1? Just repeat your statements before you came to Clause 2 and agreed with the Attorney-General?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I was indicating that, actually, what I was bringing to your attention earlier is the long title and I erroneously thought that it was under Clause 2. So, I will wait for the long title but otherwise under Clause 2, I support the amendment.

The Temporary Deputy Chairman (Mr. Ethuro): I want to clarify on the long title. It will come under Clause 1, which is usually towards the end.

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

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)
(Clause 2 as amended agreed to)*

Clause 3

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 3 of the Bill be amended—

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

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

(2) This Act shall apply to—

(a) multilateral treaties;

(b) bilateral treaties which deal with—

(i) the security of Kenya, its sovereignty, independence, unity or territorial integrity;

(ii) the rights and duties of citizens of Kenya;

(iii) the status of Kenya under international law and the maintenance or support of such status;

(iv) the relationship between Kenya and any international organisation or similar body; and

(v) the environment and natural resources.

(3) A treaty relating to the adjustment, alteration or variation of the present position of Kenya on matters of sovereignty, independence and territorial integrity shall be approved in a referendum in accordance with Article 255 of the Constitution.

(4) Notwithstanding subsection (1) (b), the Government may enter into bilateral agreements –

(a) necessary for matters relating to government business; or

(b) relating to technical, administrative or executive matters.

This is for the reasons that I have already alluded to in respect of the discussion of Clause 2.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, I support.

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

(Clause 3 as amended agreed to)

Clause 4

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 4 and substituting thereof the following new clause—

Approval
by
Cabinet.

4. Where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State Department shall, in consultation with the Attorney-General, submit to the Cabinet the treaty, together with a memorandum outlining –

- (a) the objects and subject matter of the treaty;
- (b) any constitutional implications including –
 - (i) any proposed amendment to the Constitution; and
 - (ii) that the treaty is consistent with the Constitution and promotes constitutional values and objectives;
- (c) the national interests which may be affected by the ratification of the treaty;
- (d) obligations imposed on Kenya by the treaty;
- (e) requirements for implementation of the treaty;
- (f) policy and legislative considerations;
- (g) financial implications;
- (h) ministerial responsibility;
- (i) implications on matters relating to counties;
- (j) the summary of the process leading to the adoption of the treaty;
- (k) the date of signature;
- (l) the number of states that are party to the treaty;
- (m) the views of the public on the ratification of the treaty;
- (n) whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
- (o) the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance national interests or ensure conformity with the Constitution; and
- (p) whether expenditure of public funds will be incurred in implementing the treaty and an estimate, where possible, of the expenditure.

The reasons for this are similar. It is intended to allow the Bill to clean up and provide clarity as I have explained in the previous debate.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Ethuro): I want to bring to the attention of hon. Millie Odhiambo-Mabona that her proposed amendment will be dropped if the one of the Attorney-General is carried.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the proposed amendment by the hon. Attorney-General is more comprehensive and I support.

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

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

(Clause 4 as amended agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): So, we will not entertain hon. Millie's amendment as a result of carrying that amendment.

*(Proposed amendment to Clause 4 by
Mrs. Odhiambo-Mabona was withdrawn)*

Clause 5

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5 of the Bill be amended—

(a) in sub clause (1) by deleting the words “Bill published” and substituting there for the words “treaty approved for ratification by the Cabinet”;

(b) by renumbering the existing sub clause (1) as sub clause (1A) and inserting the following new sub clause as the new sub clause (1)—

(1) Where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of the National Assembly.

(c) in sub clause (2) by deleting the word “Bill” and substituting therefor the word “treaty”;

(d) in sub clause (3)—

(i) by deleting the words “pass a Bill seeking to ratify” and substituting therefor the words “approve the ratification of”;

(ii) by deleting the words “as contained in the Schedule of the Bill”.

(e) in sub clause (4)—

(i) by deleting the word “Bill” and substituting therefor the word “treaty”;

(ii) by deleting the words “during the consideration of the Bill by the Committee of the Whole House”;

(f) by inserting the following new sub clause immediately after sub clause (4)—

(4A) Where one House approves the ratification of a treaty and the other House refuses to approve the ratification of a treaty, the treaty shall be referred to the mediation committee in accordance with Article 112 of the Constitution.

(4B) Where both Houses refuse to approve the ratification of a Treaty, the Speakers of the two Houses shall submit their decision to the relevant Cabinet Secretary within fourteen days of the decision.

(4C) Nothing in this Act precludes the resubmission of a treaty to the National Assembly and where applicable the Senate, where approval for the ratification of the treaty has been refused.

This is for reasons I have already given, but in addition, we want to insert a new Section 4; the importance of that being that we want to make clear the part played by both Houses in the formulation and ratification of treaties.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I support.

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

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

(Clause 5 as amended agreed to)

Clause 6

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 6 of the Bill be amended—

(a) in paragraph (1)—

(i) by deleting the words “a Bill referred to in section 5 is passed “and substituting therefor the words “the ratification of a treaty referred to in section 5 is approved”;

(ii) by deleting the words “assent to the Bill” appearing in the fourth line and substituting therefor the words “approval of ratification of the treaty”.

(b) in paragraph (2) —

(i) by deleting the word “ a Bill” and substituting therefor the word “treaty”;

(ii) by deleting the word “passed” and substituting therefor the words “is approved for ratification”;

(c) in paragraph (3) by deleting the words “ rejects the Bill referred to in section 5” and substituting therefor the words “refuses to approve the ratification of the treaty”;

These are reasons that I have already given.

(Question of the amendment proposed)

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

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

*(Clause 6 as amended agreed to)
(Clauses 7, 8, and 9 agreed to)*

Clause 10

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 10 of the Bill be amended in sub clause (1) by deleting the words “foreign affairs” and substituting there for the word “treaties”.

The reasons for this are the same as I have given before. We are trying to get the language of the Bill to be consistent.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I just want to say on record that I know we negotiated with the Ministry of Foreign Affairs, but the hon. Attorney-General has persuaded me that they will deal with this matter administratively. I think it is about situating this matter whether in the Office of the Attorney-General or Ministry of Foreign Affairs. So, the Executive can deal with it administratively. So, I support.

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

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

(Clause 10 as amended agreed to)

Clause 11

The Temporary Deputy Chairman (Mr. Ethuro): Order, Attorney-General. We have two amendments and I think hon. Millie should go first before yours. Hon. Millie!

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, I beg your indulgence a little bit in this Clause. I do not know because I had not noted that I wanted to amend my own amendment. I do not know whether it would be possible because it is not anything major. It

would read: “The Registrar who shall be appointed by the Public Service Commission through an open and competitive process shall be headed by Registrar of Treaties.”, instead of my current proposed amendment.”

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Millie Odhiambo. Yes, you are allowed to amend your own amendment as long as you do not substantially alter the meaning of the proposed amendment.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I have not substantially altered it. If you look at it, it says---

The Temporary Deputy Chairman (Mr. Ethuro): On that basis you need to read the amended one.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the amended one would then read:

“The registry shall be headed by the Registrar of Treaties---”

The Temporary Deputy Chairman (Mr. Ethuro): Are you amending your proposed amendment?

Mrs. Odhiambo-Mabona: Yes, Mr. Temporary Deputy Chairman, Sir. My current amendment indicates who shall be appointed by the Cabinet Secretary with the approval of the Public Service Commission (PSC). I was suggesting that---

The Temporary Deputy Chairman (Mr. Ethuro): That is immediately after the words “Registrar of Treaties”?

Mrs. Odhiambo-Mabona: Yes, Mr. Temporary Deputy Chairman, Sir. I was suggesting that we provide instead: “The registry shall be headed by the Registrar of Treaties who shall be appointed by the Public Service Commission (PSC), through an open and competitive process.” Is that a fundamental change?

The Temporary Deputy Chairman (Mr. Ethuro): Just repeat to me the new one.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the one I am suggesting is: “The registry shall be headed by the Registrar of Treaties who shall be appointed by the PSC through an open and competitive process.” The reason I am saying that is if you want to---

The Temporary Deputy Chairman (Mr. Ethuro): So, you are basically deleting the words “Cabinet Secretary” and inserting the words “The registry shall be headed by the Registrar of Treaties” before the words “who shall be appointed” and then you are deleting “by the Cabinet Secretary with the approval of the PSC” and add “through an open and competitive process.”

Mrs. Odhiambo-Mabona: Yes, Mr. Temporary Deputy Chairman, Sir. To me, it is because what I was really concerned about in this process is to ensure competitiveness and openness in the appointment. Then you can leave the organ which will be doing that; whether it will be the Cabinet Secretary or the PSC to do it through an open and competitive process, it still does not take away from the Cabinet Secretary or the PSC so long as it is done in a competitive and open process.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I would like to persuade my good friend, Mrs. Odhiambo-Mabona that we reverse that order because this is not a very senior position. It is an important position, but not very senior. We can say that the Cabinet Secretary will appoint this officer through a competitive process and with the approval of the PSC, so that he will be answerable to the PSC to demonstrate that he had an open process.

The Temporary Deputy Chairman (Mr. Ethuro): Except just to add, Mrs. Odhiambo-Mabona, the Bill is yours and so you have all the rights and privileges to introduce amendments.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the Attorney-General was my teacher of jurisprudence and I like his wording. So, I can adopt his wording for amendment.

The Temporary Deputy Chairman (Mr. Ethuro): So, whose amendment is it?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the Attorney-General's.

The Temporary Deputy Chairman (Mr. Ethuro): Then procedurally I will carry your amendment.

(Prof. Muigai consulted loudly)

Order, Prof. Muigai!

I was calling your name, Mr. Attorney-General, in order for you also to learn from the Chair. I know you are excited that Mrs. Odhiambo-Mabona learnt from you; could you also learn from me?

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I always learn from you; I think you are a very good teacher.

(Laughter)

The Temporary Deputy Chairman (Mr. Ethuro): I am yet to instruct you then you can determine whether I am a good teacher and I can determine whether you are a good learner.

The proposal from the Chair is that I will propose Mrs. Odhiambo-Mabona's amendment and for you as a way of contribution, you make an amendment to the amendment. That will be the best way for us.

The Attorney-General (Prof. Muigai): I will do so, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Ethuro): That will require a bit of writing and signing.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, we will do that shortly.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Attorney-General, now you can put your amendment, at least, on record.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move a further amendment to Clause 11(a) as proposed by Mrs. Odhiambo-Mabona.

The Temporary Deputy Chairman (Mr. Ethuro): You are on Mrs. Odhiambo-Mabona's amendment. Just use the expressions you used which, to my understanding, was that "who shall be appointed by the Cabinet Secretary in an open and competitive process with the approval of the PSC."

The Attorney-General (Prof. Muigai): Thank you, again, Mr. Temporary Deputy Chairman, Sir.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, what I just wish to draw to your attention is only in relation to Clause 11(1); the Attorney-General has other amendments so that we do not pass it and then we are told that we are too late. So mine is only---

The Temporary Deputy Chairman (Mr. Ethuro): I know where you are coming from; the Chair is alert to that. We are dealing with your amendment to Clause 11(1) and take note hon. Attorney-General.

(Question of the further amendment proposed)

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

Prof. Muigai, do you still have further amendments to Clause 11?

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11 of the Bill be amended—

(a) in subclause 3(a) by-

(i) deleting the word “law” and substituting therefor the words “in any social science”;

(ii) inserting the words “from a university recognized in Kenya” at the end thereof;

(iii) deleting the word “and”;

(b) in subclause 3(b) by inserting the word “and” immediately after the expression “;”;

(c) by inserting the following new paragraphs immediately after subclause 3(b)—

(c) has training and knowledge and at least three years experience in information science or a related field.

(d) by inserting the following new subclause immediately after subclause (3)—

(4) The Registrar shall—

(a) maintain a record of—

(i) the treaties to which Kenya is a signatory;

(ii) the treaties proposed for ratification by Kenya;

(iii) the treaties that Kenya has ratified;

(iv) Kenya’s reports to any treaty body;

(v) the recommendations and concluding observations from any treaty body on Kenya’s reports;

(b) monitor the implementation of the treaties ratified by Kenya;

(c) inform lead State departments to observe and uphold the obligations of the respective lead state department under the respective treaties;

(d) advise any citizen of Kenya on the rights and obligations of Kenya under a treaty;

(e) maintain a website of the treaties to which Kenya is a signatory;

(f) keep copies of the published reports of proceedings of the negotiations that led to the adoption of the treaties ratified by Kenya;

(g) facilitate public access to treaties which Kenya has ratified;

(h) respond to public inquiries on any treaty ratified by Kenya; and

(i) perform such other functions as may be prescribed by the Cabinet Secretary.

This will be except (a)(i) which we have already dealt with and subject to an agreement

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Attorney-General, you should ignore reference to (i); it is already carried. Your amendment as per the Order Paper is very clear: Sub-clause 3(a) and 3(b).

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I will stop there; you are quite right.

(Question of the further amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I need your direction about how to move because we had agreed with the Attorney-General that he drops his amendment in sub-clause 3(a)(i) and 3(b) that he was proposing to insert a new sub-clause 3(b)--

The Temporary Deputy Chairman (Mr. Ethuro): According to the Order Paper which is on page 4168, according to the language, in sub-clause 3(a) (i) that should be deleted and the rest should remain intact, and according to the language, your (b) after the (a) to be deleted.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, on page 4169--- be amended by inserting the following new paragraph immediately after sub-clause 3(b): “has training and knowledge and at least three years experience in information science or a related field” because this is strictly a legal field.

The Temporary Deputy Chairman (Mr. Ethuro): I know; I just want to be sure; one is (a) on page 4168 and then (c) on page 4169. So, either you can move the amendment to the Attorney-General’s amendment which is the reverse order of what he did to yours.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, thank you for your guidance. I support the amendment by the Attorney-General, but with a further amendment and I propose that we delete sub-clause 3(a)(i) of the Attorney-General’s proposed amendment and---

The Temporary Deputy Chairman (Mr. Ethuro): You can say part (c) as per the amendment itself.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, part (c) as per the amendments on page 4169 that provides for the training in information science or a related field. So, I propose the rest of the amendment, but with that further amendment.

The Temporary Deputy Chairman (Mr. Ethuro): Is there any justification?

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, the justification is that if you look at even the part that the Attorney-General has introduced, part (4) that shows the work of the Registrar, it is a work that requires more legal expertise than information science. So, it is a person who needs to have excellent knowledge on treaties and ratification of treaties. It is not just a filing or technological skill. It is a legal skill.

The Temporary Deputy Chairman (Mr. Ethuro): I, therefore, propose the Question that the amendment by the Attorney General be further amended as proposed by the hon. Mrs. Odhiambo-Mabona.

The Attorney General (Prof. Muigai): I accept this amendment. I accept the rationale provided by the hon. Member.

The Temporary Deputy Chairman (Mr. Ethuro): It is only that you are lucky. This is where as the Deputy Speaker would have actually said, the Chair would have liked to be on the Floor.

(Question of the further amendment proposed)

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

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

(Clause 11 as amended agreed to)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I wanted to contribute on the last one but it is okay now that you have already dealt with it.

(Clause 12 agreed to)

Clause 13

The Temporary Deputy Chairman (Mr. Ethuro): Attorney General, you have a proposed amendment.

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 13 of the Bill be amended by inserting the words “the Attorney-General and” immediately after the word “with” appearing in the third line.

The reason is self evident.

(Question of the amendment proposed)

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

(Clause 13 as amended agreed to)

(Clauses 14 and 15 agreed to)

Clause 16

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting clause 16.

There was an attempt to create a transitional mechanism, which we have agreed is not necessary in the circumstances. We would like this to come into effect immediately.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I notice we are looking at a whole lot of things with the hon. Attorney General. So, we discussed Part 1, which I

agreed with him. But if he could explain to me further Part 2, because what we are doing really is to give a timeline for the Executive to do certain things within 18 months' period.

If you read it says:

“Within 18 months from the date of the commencement of this Act, the Cabinet Secretary in consultation with the relevant Cabinet Secretary shall ensure that all the relevant Bills are published for consideration by Parliament so as to domesticate all treaties which Kenya has ratified but has not domesticated before the 27th of August”

So, it is really just making sure that the Executive does its work. So, I really do not have a problem with Part I because his earlier amendments took care of that. But this second part, if he could please explain---

The Temporary Deputy Chairman (Mr. Ethuro): I think you are repeating yourself, hon. Odhiambo-Mabona.

Hon. Attorney General you have been challenged by your student.

The Attorney General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, it is the duty of the Executive to do precisely what this particular provision insists it should do.

One of the worries that we have found in this House is that sometimes when we create timelines, sometimes very tight ones, we lack the resources or the ability to comply with them and we can bring the law into disrepute. I think this is something we should address progressively and I will rather suggest that we did not have it here. But we all understood that within the spirit of the Constitution, all these must be brought into conformity within a reasonable time.

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I was going to support the proposal by the Attorney General. I think where it is not fundamentally crucial that a certain Act must be done within a certain time by giving ourselves timelines, we are just making life difficult for ourselves. Let us leave it to the good discretion of the Cabinet Secretary to bring it into operation. He does not have to wait for 18 months. He can actually do it from day one. I am sure we are going to have a very efficient and effective Cabinet Secretary who will be able to do it even before 18 months are over. But let us not give him a deadline. He can do it immediately because the Cabinet Secretary will not be a politician. He will be a person from the NGO world and from the business community. So, he will have nothing else to do but to concentrate on the job. So, I agree with the Attorney General.

Mr. Njuguna: Mr. Temporary Deputy Chairman, Sir, in supporting the explanation given by the Attorney General, I wish to indicate that the explanation is quite clear. It is urging the country to be awake to the reality that all treaties must be taken seriously. Therefore, this explanation is satisfactory.

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

(Clause 16 was accordingly deleted)

New Part

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

Part I- THAT, the Bill be amended by inserting the following new Part immediately after

PART 1A – INITIATION AND NEGOTIATION OF TREATIES

General responsibility for treaty initiation. 3A (1) Subject to the provisions of this Act, the national executive shall be responsible for initiating the treaty-making process, negotiating and ratifying treaties.

(2) The responsibility provided for in sub section (1) may be delegated to a relevant State Department.

Initiation of treaty-making process. 3B (1) Subject to the provisions of this Section, the relevant national executive or the relevant State Department shall initiate the treaty-making process in such manner as may be prescribed by the Cabinet Secretary.

(2) When deciding whether to initiate the treaty-making process or not, the national executive or the relevant State Department shall consider the following-

(a) the need that the new treaty is to meet;

(b) the existing legal regime, including the extent of its applicability to the perceived problem;

(c) the probability of reaching the required measure of agreement on the solution aimed for;

(d) any relevant legislative efforts related to the perceived problem;

(e) the optimal form for the proposed treaty;

(f) the likelihood that the proposed treaty shall be accepted by a sufficient number of states, where the treaty is multilateral;

(g) the anticipated time schedule for completing the treaty-making process;

(h) the expected costs of formulating and adopting the treaty to Kenya;

(i) in formulating treaties relating to technical or scientific problems, whether extensive scientific studies or research have been carried out, to determine the parameters of the problem and the lines of potential solutions.

(3) The national executive or the relevant State Department shall record whether the conditions in (2) are met, and shall present a proposal to commence treaty-making for approval by the Cabinet.

(4) The Cabinet shall consider and approve or disapprove of a proposal for treaty making presented in accordance with sub section in (3) within a reasonable time.

Values and principles in negotiating treaties. 3C. (1) In negotiating treaties, the national executive or the relevant State Department shall be bound by the values and principles of the Constitution; and shall take into account regulatory impact of any proposed treaty.

(2) When appointing persons to negotiate a treaty, the national executive or the

relevant State Department shall appoint persons who are competent to undertake such negotiations in the interest of the people of Kenya.

(Question of the new part proposed)

(New Part read the First Time)

(Question, that the New Part be read a Second Time proposed)

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I have no major problems with this proposed amendment and I support it.

(Question, that the new part be read a Second Time, put and agreed to)

The new part was read a Second Time)

(Question, that the new part be added to the Bill, put and agreed to)

New Part IIIA

The Minister for East African Community (Mr. Sirma): Mr. Temporary Deputy Chairman, Sir, I think you have seen that the trend in this Bill is that we have agreed on many issues. I have consulted the hon. Attorney-General together with the Mover of the Bill, hon. Odhiambo-Mabona, and we have agreed that I withdraw these particular amendments and they be deleted from the amendments, that is both 11A and 11B. However, we are saying that the Committee on regional integration is a very important committee to this House, and we should amend the Standing Orders to provide for it, so that treaties will be scrutinized by Parliament in future.

The Temporary Deputy Chairman (Mr. Ethuro): The Chair can confirm that, that proposal is under active consideration. So, for the purpose of the House those clauses are nowhere. So, we will proceed.

(Proposed new Part IIIA withdrawn)

Dr. Khalwale: Mr. Temporary Deputy Chairman, Sir, looking at the work by the Minister for East African Community, I think there is reason for us to be convinced why he is being persuaded to drop these amendments. Why are we rushing? We want to do a good law. It is a fact that decisions made by EALA and other regional Parliaments usually have no way of getting into national Parliaments. I was waiting for this; having allowed it to enter into the Kenyan Parliament we would have requested the Minister that, at the sitting of the Council of Ministers of East African Community, he does talk to the other Ministers, so that it becomes a standard practice. There is a lot of good work that is done by EALA, but nothing happens to it when it comes to actualization by the partner States.

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members, and especially the Front Bench! I appreciate your readiness to assist the Chair, but I want to confirm that this is a different institution.

(Laughter)

Hon. Dr. Khalwale, we entertained you because the Chair is aware that as a former Assistant Minister in that Ministry you have obvious interest, but really you were talking on a non-existent issue. The matter had been withdrawn and you cannot force the Mover to bring it back. So, we have no way of doing it.

However, in order to allay your fears, the Minister had confirmed that this particular matter is under active consideration under the Standing Orders. It will be considered. That is really extra and is not for now. These clauses are not here for now. So, we will proceed.

Long Title

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Odhiambo-Mobona, you will notice that if we carry the Attorney-General's amendment then yours will be dropped.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I just want to make sure that if we have consensus on this one we do not take the House through conflicting amendments; if we can agree on one---

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Attorney-General, my earlier advice stands. I had already advised you that you proceed with yours. If we carry it, you do not have to worry about hon. Odhiambo-Mabona's.

The Attorney-General: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT the Bill be amended by deleting the long title and substituting therefor the following new long title--

“AN ACT of Parliament to give effect to the provisions of Article 2(6) of the Constitution and to provide the procedure for ratification of treaties and for connected purposes”.

(Question of the amendment proposed)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I support but wish to move a further amendment.

THAT, the proposed amendment be further amended by inserting the words “the making and” in between the words “for” and “ratification”

(Question of the further amendment proposed)

The Attorney-General (Prof. Muigai): Yes, I would agree with it. I think it further clarifies what we are doing here. We are both making the treaty and providing for its ratification.

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

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

(The Long Title as amended agreed to)

Clause 1

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT Clause 1 be amended by deleting the words “Ratification of Treaties Act, 2011” and substituting therefor the words “Treaty Making and Ratification Act, 2012”.

Mr. Temporary Deputy Chairman, Sir, the essence of this is to give a title that is in tandem with the amendments that we have made so that it reads: “Treaty Making and Ratification Act” instead of “Ratification of Treaties Act”.

(Question of the amendment proposed)

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

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

(Clause 1 as amended agreed to)

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Ratification of Treaties Bill, Bill No.28 of 2011 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Mr. Ethuro): Members, we have to keep pending the other procedures for this particular Bill until we exhaust the second Bill. We are, therefore, going to the Prevention of Terrorism Bill, Bill No.36 of 2012. The Minister and the Members responsible for amendments should be alert.

THE PREVENTION OF TERRORISM BILL

Clause 2

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 2 of the Bill be amended-

(a) by deleting the definition of the term “financial institution” and substituting therefor the following new definition-

“financial institution” means any person or entity, which conducts as a business, one or more of the following activities or operations-

(a) accepting deposits and other repayable funds from the public;
(b) lending, including consumer credit, mortgage credit, factoring, with or without recourse, and financing of commercial transactions;

(c) financial leasing;

(d) transferring of funds or value, by any means, including both formal and informal channels;

(e) issuing and managing means of payment (such as credit and debit cards, cheques, travellers' cheques, money orders and bankers' drafts, and electronic money);

(f) financial guarantees and commitments;

(g) trading in-

(i) money market instruments, including cheques, bills, certificates of deposit and derivatives;

(ii) foreign exchange;

(iii) exchange, interest rate and index funds;

(iv) transferable securities; or

(v) commodity futures trading;

(h) participation in securities issues and the provision of financial services related to such issues;

(i) individual and collective portfolio management;

(j) safekeeping and administration of cash or liquid securities on behalf of other persons;

(k) otherwise investing, administering or managing funds or money on behalf of other persons;

(l) underwriting and placement of life insurance and other investment related insurance; and

(m) money and currency changing;

(b) in the definition of the term “terrorist act”-

(i) by deleting sub-paragraphs (i) and (ii) of paragraph (b) and substituting therefor the following –

(i) intimidating or causing fear amongst members of the public or a section of the public; or

(ii) intimidating or compelling the Government or international organization to do, or refrain from any act; or

(ii) by inserting the following new sub-paragraph immediately after sub-paragraph (ii) of paragraph (b)

(iii) destabilizing the religious, political, Constitutional, economic or social institutions of a country, or an international organization;

(iii) by inserting the following proviso immediately after paragraph (b)-

“provided that an act which disrupts any services and is committed in pursuance of a protest, demonstration or stoppage of work shall be deemed not to be a terrorist act within the meaning of this definition so long as the act is not intended to result in any harm referred to in paragraph (a) (i) - (iv).”

(c) In the definition of the term “terrorist property” by inserting a new paragraph immediately after paragraph (b) to read as follows-

(c) any property belonging to a specified entity.

(d) By inserting the following new terms in the alphabetical order.

(i) “funds” mean assets of every kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable and legal documents or instruments evidencing title to, or interest in such assets.

(ii) “property” means assets of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in such assets and includes funds.

(iii) “Financial Reporting Centre” means the Financial Reporting Centre established under Section 21 of the Proceeds of Crime and Anti Money Laundering Act, 2009.

(Question of the amendment proposed)

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

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

(Clause 2 as amended agreed to)

Clause 3

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 3 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “sub-section (2)” and substituting therefor the words “sub-section(3).

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

(2) Before making a recommendation under sub-section (1), the Inspector-General shall afford the affected entity an opportunity to demonstrate why it should not be declared as a specified entity.

This is to afford the affected entity an opportunity to be heard before a decision is made in line with the principle of natural justice and fair administration herein in the Constitution.

(Question of the amendment proposed)

(Question, that the words to be left out be left

out, put and agreed to)

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 5 of the Bill be amended-

(a) by inserting the words “attempts to collect” immediately after the word “collect”

(b) by inserting the word “attempts to provide” immediately after the word “provides”

(c) by deleting the word “finance” whenever it appears and substituting therefor the word “funds”.

This is to support the provisions of Clause 45 and cater for the incomplete offences. There is need to use the term “funds” which has been defined instead of the term “finances” which has not been defined.

(Question of the amendment proposed)

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

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

(Clause 5 as amended agreed to)

(Clauses 6, 7, 8, 9 and 10 agreed to)

Clause 11

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 11 of the Bill be amended in paragraph (c) by deleting the words “or for the benefit of a terrorist group or a member of a terrorist group” and substituting therefor the following words- “that person to commit an offence under this Act”.

This is to isolate Clause (c) from the provisions of (a) and (b).

(Question of the amendment proposed)

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

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

(Clause 11 as amended agreed to)

(Clause 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 agreed to)

Clause 25

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 25 of the Bill be amended by inserting the words “knowing or” immediately after the words “facilitating a meeting”.

It is important to establish that the person committing offence has full knowledge of what he is doing as opposed to one who innocently engages in crime. This is also to align it with the rest of the provisions of the Bill.

(Question of the amendment proposed)

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

(Clause 25 as amended agreed to)

Clause 26

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 26 of the Bill be amended by deleting the word “ten” appearing immediately after the word “exceeding” and substituting therefor the word “twenty”.

This is to harmonize the sentence with the other related offences.

(Question of the amendment proposed)

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

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

(Clause 26 as amended agreed to)

(Clauses 27, 28, 29, 30 and 31 agreed to)

Clause 32

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT Clause 32 of the Bill be amended in sub-clause (1) by deleting paragraph (b) and substituting therefor the following-

(b) the twenty-four hours ends outside ordinary court hours or on a day that is not an ordinary court day.

This is to ensure conformity with the Constitution which prescribes the circumstances under which a suspect may be held for more than the normal 24 hours.

(Question of the amendment proposed)

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

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

(Clause 32 as amended agreed to)

(Clauses 33 and 34 agreed to)

Clause 35

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 35 of the Bill be amended in paragraph (a) of sub-clause (3) by deleting paragraph (iii).

This is to ensure that the rights of other individuals not suspected of any offence are not interfered with and to align it with the right to privacy under the Constitution.

(Question of the amendment proposed)

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

(Clause 35 as amended agreed to)

Clause 36

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 36 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “a subordinate” appearing immediately after the words “*ex-parte, to*” and substituting therefor the words “the High”

(b) by deleting the proviso appearing immediately after paragraph (b) of sub-clause(5) and substituting therefor the following –

“shall, subject to the provisions of any other written law, be admissible in proceedings for an offence under this Act”.

(c) by inserting the following new sub-clause immediately after sub-clause (5)-

(6) A police officer who intercepts communication other than is provided for under this Section commits an offence and shall on conviction be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding five million shillings or to both.

This is to ensure that applications for interception are only made to the High Court where the rights of the suspects may be better protected. This is also to align it to other similar provisions in the Bill and other legislation. It is also intended to guard against abuse.

(Question of the amendment proposed)

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

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

(Clause 36 as amended agreed to)

Clause 37

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 37 of the Bill be amended-

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

(1) Where the Inspector-General has reasonable grounds to suspect that any property has been, or is being used for the purpose of committing an offence under this Act, he may make an *ex-parte* application to the High Court supported by an affidavit, for an order to seize property.

(b) by deleting sub-clauses (2)

(c) by deleting sub-clause (3) and substituting therefor the following new sub-clause-
(2) Where it is not reasonably practicable, having regard to the urgency of the situation, the Inspector-General may, notwithstanding the provisions of sub-section (1) seize the property, provided that the Inspector-General shall, as soon as is practically possible, but not later than seventy two hours after seizing the

property, make an application to the High Court for the order specified in subsection (1).

(d) in sub-clause (4) by deleting the words “subsection (3)” and substituting therefor the following words- “sub-section (1)”

(e) in sub-clause (5)-

(i) by deleting the words subsection (6) and substituting therefor the following words- “subsection (5)”

(ii) by deleting the words subsection (4) and substituting therefor the following words- “subsection (3)”

(f) in sub-clause (7)-

(i) by inserting the word “personally” immediately after the words “shall lie”

(ii) by deleting the words sub-section (1) and substituting therefor the words “sub-section (3)”

This is to guard against the right to property as inscribed in the Constitution. It requires the Inspector-General to obtain a court warrant before seizing property.

(Question of the amendment proposed)

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

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

(Clause 37 as amended agreed to)

(Clause 38 agreed to)

Clause 39

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 39 of the Bill be amended by inserting the words “subject to the provisions of any other written law,” immediately after the words “or substance described in the certificate is a weapon, shall”

This is to ensure that evidence received is in line with our laws, particularly, the Evidence Act.

(Question of the amendment proposed)

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

(Clause 39 as amended agreed to)

(Clauses 40 and 41 agreed to)

Clause 42

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 42 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words “a police officer” and substituting therefor the words “the Financial Reporting Centre”.
- (b) by deleting sub-clause (2);
- (c) in sub-clause 3 by deleting the words “a police officer” and substituting therefor the words “the Financial Reporting Centre”.
- (d) in sub-clause (4) by deleting the words “Central Bank of Kenya” and substituting therefor the words “the Financial Reporting Centre”.

This is to mirror the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 which give the Financial Reporting Centre the mandate of monitoring suspicious transaction reports.

(Question of the amendment proposed)

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

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

(Clause 42 as amended agreed to)

(Clauses 43, 44, 45 and 46 agreed to)

Clause 47

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 47 of the Bill be amended-

- (a) in sub-clause (1) by inserting the words “Notwithstanding the provisions of any other written law,” before the word “An”.
- (b) in paragraph (a) of sub-clause (1) by inserting the words “or entering” immediately after the word “from”
- (c) by deleting sub-clause (2).

This is generally to ensure that it is consistent in drafting language and also address the departure and entry into the country.

(Question of the amendment proposed)

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

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

(Clause 47 as amended agreed to)

(Clauses 48 and 49 agreed to)

Clause 50

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 50 of the Bill be deleted and substituted with the following new Clause:-

50.(1) The Cabinet Secretary may make Regulations in respect of all matters in respect of which regulations are required or authorized by this Act.

(2) Where the Security Council of the United Nations decides, in pursuance of Article 41 of the Charter of the United Nations, on the measures to be employed to give effect to any of its decisions and calls upon member States to apply those measures, the Cabinet Secretary may, by regulations make such provisions as may be necessary or expedient to enable those measures to be applied.

(3) Where a regulation under sub-section (2) declares that there are reasonable grounds to believe that an entity specified in that regulation is engaged in terrorist activity, that entity shall be deemed with effect from the date of publication of the regulation to have been declared a specified entity under section 3 of the Act.

(4) Regulations made under sub-section (2) shall be laid before the National Assembly.

This is to give the Cabinet Secretary powers to make regulations to implement United Nations Security Council Resolutions. These regulations will be laid before the National Assembly. This also ensures that the Bill complies with internal conventions on terrorists financing and the requirement of the Financial Action Task Force.

(Question of the amendment proposed)

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, you were moving very fast that I had to get interventions on both microphones. With regard to the proposed amendment, this deals with the making of rules generally. The rules that the Minister proposes to lay on the Floor deal with sub-section 2. So, is it not better that instead of saying “those particular rules”, that we say; “any other rules that you may wish to make should be laid on the Table”? Therefore, sub-section 50(4) should read; “regulations made under this section shall be laid on the Floor” instead of

“regulations made under sub-section 2.” I am just telling the Minister that it might be better to clarify that way.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Abdikadir, are you making a contribution, moving an amendment or you are seeking a clarification from the hon. Minister?

Mr. Abdikadir: Mr. Temporary Deputy Chairman, Sir, I am asking the Minister to clarify whether he just wants to lay the specific regulations because under the main Act, this section generally deals with rule-making.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I fully agree with hon. Abdikadir that, that is very specific to this Act.

Dr. Nuh: Thank you, Mr. Temporary Deputy Chairman, Sir. I do not know whether the Minister can also clarify what happens when a Paper is laid in the House. Is approval mandatory? Will laying just be laying and approval will not be sought by the National Assembly? I thought that such an amendment shall be laid before the National Assembly and approval sought or maybe a simple majority approval would be more prudent than just saying that we lay the Paper.

The Temporary Deputy Chairman (Mr. Ethuro): Mr. Minister, if you are still consulting, we have other hon. Members who are interested. We can allow them and then you deal at ago with all the issues that they will raise.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I want to respond to Dr. Nuh.

The Temporary Deputy Chairman (Mr. Ethuro): I am proposing that we also hear hon. Baiya and then you respond.

Mr. Baiya: On a point of order, Mr. Temporary Deputy Chairman, Sir. In view of the fact that he agrees with the issue raised by hon. Abdikadir, what amendment does he propose to carry this? Should he not move an amendment to give effect to that provision allowing regulations generally and not specifically to sub-section 2? This is also with regard to Dr. Nuh’s issue?

The Temporary Deputy Chairman (Mr. Ethuro): Order, hon. Members! If you cared to be in the House, you would have learnt very easily from the good working relationship between the Attorney-General and hon. Grace Millie Odhiambo-Mabona, the student and the teacher. Maybe the hon. Minister and hon. Abdikadir can borrow from that.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, in view of what hon. Abdikadir has said, I want to propose a further amendment to sub clause 4 to read “regulations made under this section shall be laid before the National Assembly.”

On what Dr. Nuh has said, once regulations are laid before the National Assembly, the Standing Orders will apply.

The Temporary Deputy Chairman (Mr. Ethuro): Hon. Minister, the Chair is at a loss. This is because Section 4 reads “regulations made under sub-section 2 shall be laid before the National Assembly,” and what I heard from you is “regulations made under this section shall be laid before the National Assembly”. So, you are deleting the words “sub-section” appearing between the words “under” and “shall” and replacing them with the words “this section”? Are we having the same understanding?

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): You are right, Mr. Temporary Deputy Chairman, Sir.

(Question of the further amendment proposed)

The Minister for Finance (Mr. Githae): Mr. Temporary Deputy Chairman, Sir, I wanted to intervene to get the amendment but now that you have done so, we owe so much to you. I am wondering whether Parliament has authority to issue honorary law degrees. I would recommend you to be the first recipient of the same.

The Temporary Deputy Chairman (Mr. Ethuro): Thank you, Minister for Finance. I wish that was coming from the Attorney-General, who is in your neighbourhood.

What it is, Dr. Nuh?

Dr. Nuh: Mr. Temporary Deputy Chairman, Sir, a few months ago, the same Minister said that honorary degrees are not any degrees. So, is he in order to wish to give the Chair something he has said has no much value?

The Temporary Deputy Chairman (Mr. Ethuro): Dr. Nuh, that is why even the Chair said he wished that statement came from somebody else, who is in his neighbourhood.

The Attorney-General (Prof. Muigai): Mr. Temporary Deputy Chairman, Sir, I did not know whether the time was right for me. Since the Mover of the proposal has been discredited due to previous utterances he made, I will take full responsibility for that initiative.

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

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

(Clause 50 as amended agreed to)

(Clauses 51, 52 and 53 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Prevention of Terrorism Bill (Bill No.36 of 2012) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Dr. Laboso) in the Chair]*

REPORTS, CONSIDERATION OF REPORTS AND THIRD READINGS

THE RATIFICATION OF TREATIES BILL

Mr. Ethuro: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered The Ratification of Treaties Bill (Bill No.28 of 2011) and approved the same with amendments.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Attorney-General (Prof. Muigai) seconded.

(Question proposed)

(Question put and agreed to)

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I beg to move that The Ratification of Treaties Bill (Bill No.28 of 2011) be now read the Third Time.

The Minister for Transport (Mr. Kimunya) seconded.

(Question proposed)

The Temporary Deputy Speaker (Dr. Laboso): Hon. Millie Odhiambo, you wanted to say something. This is the point at which you speak.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I am getting a little confused by my learned colleague here.

Having said so, I just want to thank the Attorney-General for the support he has given to the Parliamentary Caucus on Children, the Kenya Women Parliamentary Association, the House as a whole, The Cradle, a children's foundation and the International Centre for Jurists (ICJ).

Finally, I want to indicate that when we were pushing for the passage of the Constitution, some of our opponents, especially the church, said that they were opposed because we were taking away the role of Parliament in treaty making and ratification, and I promised to bring this Bill to the House, which I have since done.

Thank you.

The Temporary Deputy Speaker (Dr. Laboso): Yes, hon. Charles Onyancha.

Mr. Onyancha: Madam Temporary Deputy Speaker, I rise to congratulate the raw/new Minister of State for Provincial Administration and Internal Security for getting onto ---

The Temporary Deputy Speaker (Dr. Laboso): Hon. Charles Onyancha, what terminology did you use on the Minister? Is it "raw" Minister?

Mr. Onyancha: Madam Temporary Deputy Speaker, yes that is a very good English terminology; if what I said offends you I apologize and withdraw it.

I want to thank the Minister---

The Temporary Deputy Speaker (Dr. Laboso): Mr. C. Onyancha! We are on the Ratification of Treaties Bill and not the Prevention of Terrorism Bill.

Mr. Ethuro: Madam Temporary Deputy Speaker, Sir, I want to thank the Kenyan woman who is my Chair, because I am the Treasurer of the Children Caucus. I want to appeal to the Attorney-General that the deletion of Clause 16(2), the reasons you gave should have been the reasons for retaining it. Why? This is a Private Member's Bill because the Executive has failed to do what it is supposed to do. So, you must make sure that within the next six months, you bring all those treaties.

Mr. Njuguna: Madam Temporary Deputy Speaker, let me start by thanking Mrs. Odhiambo-Mabona for a job well done, and secondly call for full implementation by domesticating all the treaties that have been ratified but have not been enacted for the interests of Kenyans. Therefore, I fully support this honourable job.

Mr. Oyugi: Madam Temporary Deputy Speaker, first, I would like to start by congratulating my dear sister and a learned senior, Mrs. Odhiambo-Mabona for a job well done. I would like to appreciate the non-retroactive nature of the Bill as expressed in Article 3. I would like---

Mr. Duale: On a point of order, Madam Temporary Deputy Speaker. If you look at that side of the House, there is something different from the proceedings going on; I think the Chief Whip should declare what is happening at the back.

Mr. Midiwo: Madam Temporary Deputy Speaker, just to clarify to my friend, my job, as a Chief Whip, requires that I cohabit and do all these things. I am doing my job excellently, and I need to be thanked because I am doing my best. So, let me keep doing it.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Oyugi, please, proceed and conclude. This is just Third Reading; so, just a sentence is enough.

Mr. Oyugi: Thank you, Madam Temporary Deputy Speaker. I was saying that with non-retroactive nature of the Bill as expressed in Article 3, there is need to interrogate the various treaties that Kenya signed and acceded to before coming into effect of this particular Bill. I would really like to say that the public awareness that is anticipated in Article 12 also needs to be directed to those Bills and treaties that we signed before this Bill came into place. Otherwise, thank you very much. I think it is a job well done.

There is an article that talks of the registry of treaties; this is going to give Kenyans a chance to look at the various treaties that Kenya has acceded to and signed.

Mr. Kioni: Madam Temporary Deputy Speaker, I was just going to say thank you to Mrs. Odhiambo-Mabona, because she has been able to demonstrate to those who had doubts when we were campaigning for the Constitution that actually we are still committed to ensuring that their fears are addressed.

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Speaker, I want to recognize and appreciate the very serious intellectual and professional input of Mrs. Odhiambo-Mabona to this very crucial Bill. It demonstrates that the people of Kenya have made the right choices of their younger people, their women and their leaders. I want to thank her for the co-operation.

I want to encourage Mr. Midiwo, Chief Whip, who has a Bill on Consumer Protection to bring it as soon as it is practically possible with the same enthusiasm that has been demonstrated.

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

THE PREVENTION OF TERRORISM BILL

Mr. Ethuro: Madam Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered The Prevention of Terrorism Bill and approved the same with amendments.

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

The Attorney-General (Prof. Muigai) seconded.

(Question proposed)

(Question put and agreed to)

The Minister of State for Provincial Administration and Internal Security (Mr. ole Metito): Madam Temporary Deputy Speaker, I beg to move that The Prevention of Terrorism Bill be now read a Third Time.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa) seconded.

(Question proposed)

Mr. Duale: Madam Temporary Deputy Speaker, I want to thank the Government and more specifically the Minister of State for Provincial Administration and Internal Security, for reaching to Parliament today historically and bringing legislation on prevention of terror. For the first time we have seen that it took a short time for us to pass this Bill. It shows that where consensus is built and leaders and the Government look at the Constitution, then the work of legislation is easier. Yesterday I said, and I am on the HANSARD, that until and unless the Minister brings the requisite amendments through consensus, I was not for the Bill; but today I want to say that I am a classical example of a victim of terror, because 17 people in my constituency were killed by terrorists. Today, I am happy that both locally and internationally, Kenya has joined nations that have created a legislative framework for the fight of, and prevention against, terror.

Dr. Nuh: Madam Temporary Deputy Speaker, I was even lost a few minutes ago because I did not know whether to call you Mrs. Speaker or Madam Speaker; the other term for “Mr. Speaker” in English is “Mrs”. “Madam” only applies when “Sir” comes in.

More importantly, I want to thank the Minister of State for Provincial Administration and Internal Security---

Mrs. Odhiambo-Mabona: On a point of order, Madam Temporary Deputy Speaker. Is the hon. Member in order to imagine, dream of suppose that you can be “Mrs. Speaker”? That presumes that there is a Mr. Speaker and you are his wife, yet you are not!

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, we will continue with the debate, otherwise, we are going to lose track.

Dr. Nuh: Madam Temporary Deputy Speaker, I was only seeking advice, and I am well advised now.

More important, I want to thank the Minister, who, albeit having been in office for less than two weeks, has rallied a consensus on this very crucial Bill. If everybody was to abide by laws everywhere--- What is needed is usually concerted effort towards consensus; it is an issue of consultation. It only comes after a negotiated settlement, and when everybody is comfortable with the law that ought to govern him or her.

The Temporary Deputy Speaker (Dr. Laboso): Conclude your remarks.

Dr. Nuh: Madam Temporary Deputy Speaker, when we balkanize the nation and some people feel like they are victims of a certain law, we will not go anywhere. But I want to thank this House as well as to support the Minister. I want to urge the Government, all Ministers and even Members of Parliament that when we want to legislate, it is always possible to drive a consensus on any particular law even if the bridges and the differences were so wide. We can put our heads together. I want to once again thank Mr. Katoo ole Metito and say that it is a well-deserved portfolio.

Thank you.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Madam Temporary Deputy Speaker, the honourable Speaker, Marende, once told us that history was beckoning us to enter its annals as the Tenth Parliament and we did that when we passed the new Constitution. Today, we have yet again entered the annals of history as the House that has passed this Prevention of Terrorism Bill, a Bill that eluded other Parliaments that came before us. We have demonstrated that through dialogue and consensus no problem is insurmountable. We want to embrace this in future.

We congratulate the new Minister, his predecessor Mr. Haji and the late Prof. Saitoti and his team who laid this foundation.

Thank you.

Mr. Abdikadir: Madam Temporary Deputy Speaker, let me first of all advise the earlier speaker that since he is not married he should not be worried about “Mrs”. But more importantly, let me congratulate the Minister, my good friend Mr. ole Metito and the team that he had. I was so impressed by the team of young lawyers who worked with the Minister; who worked so hard when we worked on this Bill. I am happy that this Bill is in their hands as it moves forward.

Madam Temporary Deputy Speaker, laws do not fight terrorism, they support the fight against terrorism. Ultimately, terrorism will be fought by excellent police work, intelligence work and hard work by those professional services. They need to put in that hard work.

This Parliament has handed substantive powers to those institutions. Those powers are meant to be used for the good of the people; they are not meant to be abused. They are certainly not meant to be used against innocent people.

I wish them well and I support.

The Attorney-General (Prof. Muigai): Madam Temporary Deputy Speaker, let me join my colleagues in congratulating the Minister first and foremost and the team that negotiated this consensus. To my mind this demonstrates the future that we can have in this country. It is not necessary that we should have showdowns on issues that can be negotiated. This is a law for all the Kenyan people, all races, all ethnic groups, all religions and I am happy that it is a product of a consensus process. I thank everybody who was involved in it.

Thank you.

Mrs. Noor: Thank you, Madam Temporary Deputy Speaker. I want to add my voice in congratulating the Minister. I want to say that any good law takes into account the masses that it

will affect. The process has been excellent and very good. I want to say thank you so much for involving and building consensus.

I want to urge hon. Members to build consensus on the gender issue. In particular, I want the Chief Whip who said that it is his work, to please do good work; to build consensus on the gender issue so that we can carry this country because it is a national issue.

Mr. Kapondi: Madam Temporary Deputy Speaker, I would say it is a good day in the sense that the anxiety and fear that surrounded this Bill initially, finally is buried. Our security agencies have the legal framework to fight the terror that is forced upon us from outside and from inside. So, it is really a great day for this country.

The Assistant Minister for Youth Affairs and Sports (Ms. Ndeti): Madam Temporary Deputy Speaker, I would like to take this opportunity to thank the Minister and the Ministry for a job well done. This is a strong signal to the terrorists. We have seen how terrorism has affected our economy and our businesses in this country. This sends a very strong signal that whatever they try to do in this country we will be able to deal with them.

Thank you.

The Minister for Finance (Mr. Githae): Madam Temporary Deputy Speaker, I want to go on record congratulating Members of the Tenth Parliament. This Bill was elusive in the Ninth Parliament and they were not able to pass it. It has now been passed by the Tenth Parliament and I think my congratulations are in order.

Again, I want to say that if there is one Parliament that has worked and deserves accolades, it is the Tenth Parliament. The sacrifices that the Tenth Parliament has made---Even as Members of Parliament we know our biggest dream is to be appointed to the Cabinet, but we said that with the new Constitution, we were foregoing this privilege. We are giving it to the Non-Governmental Organizations (NGOs), business people and anybody else who is not a politician.

Madam Temporary Deputy Speaker, secondly, I want to congratulate the new Minister of State for Provincial Administration and Internal Security. I think those who had doubts about his performance and capability have been put to shame. I think he has done a wonderful job, he has brought consensus on a very controversial issue and he has succeeded.

Lastly, as the Minister for Finance, today I will sleep soundly. I had threats from a body known as Financial Action Task Force (FATF). They had given us up to the end of next month; that if we do not pass this Bill, then we will be blacklisted. I am a very happy man.

Madam Temporary Deputy Speaker, I support.

Mr. Midiwo: Madam Temporary Deputy Speaker, just a minute for me. Let me thank the Chair, the Minister and the Ministry. It shows what young blood can do and it is time for us to take over this country.

Madam Temporary Deputy Speaker, I want to encourage the Minister for Justice, National Cohesion and Constitutional Affairs to build consensus on the one-third rule so that we can actualize the Constitution. He should follow what his new colleague has done, because he is also fairly new.

Lastly, I want to assure the Attorney-General that my Bill on Consumer Protection will be on the Order Paper on Tuesday. I want to ask everybody to come and support it.

Mr. Kioni: Madam Temporary Deputy Speaker, a week ago we looked like we were going to lose this Bill. The fact that we have it today is enough testimony to the fact that we do not need to work with ultimatums. We only need to reach out to one another and we all mean good for this nation.

Madam Temporary Deputy Speaker, I thank the Minister for a job well done.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I believe that our boys and girls in Somalia will now feel more energized as they fight terror out there, especially after seeing the backing at home.

I would like to thank hon. Members. The journey has taken long since 2004, I believe, when we started on this matter. This House has now laid it to rest or set the foundation for further improvements in the fight against terror. I want to thank especially the Chairman, hon. Kapondi, the Ministry and all the people who have participated in actualizing this Bill.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, first of all, I just want to say that the persons who spearhead reforms are not very popular, and that is why this Tenth Parliament is not very popular. But if you look back into history, we have done the most significant and heaviest work.

Madam Temporary Deputy Speaker, I want to thank the Minister for being young and vibrant. He gives us confidence in youth.

Finally, on the gender rule, hon. Members the most difficult things, with a willing heart, we can manage.

Thank you.

Mr. Njuguna: Madam Temporary Deputy Speaker, I rise to thank the Minister for the manner in which he has executed the amendments to this Bill. He was very courageous and candid.

Thank you.

Mr. Ethuro: Thank you, Madam Temporary Deputy Speaker. I also wish to congratulate the hon. Minister. I hope all these accolades are not getting into his head, because he is my friend and I am a promoter of the youthful energy. The message we are sending from the Floor of this House is that the fight against terrorism is on and each one of us has a responsibility and it has nothing to do with ethnicity or religion.

Secondly, I want to agree with hon. Abdikadir; until this Government makes sure that the breeding grounds for terrorism, in terms of poverty, and marginalization and neglect of northern Kenya are addressed, what we are doing now is not enough.

Thank you.

Mr. Mwadeghu: Bi Naibu Spika wa Muda, ninaomba kumpongeza Waziri mwanamwali. Uwanawali umedhihirisha kuwa ubichi wako pia una uhondo wake. Ninawashukuru.

Mr. Onyancha: Madam Temporary Deputy Speaker, I have already congratulated the Minister, but I also want to add one or two things. First, I want to thank hon. Kimunya because of the role that he played, which is unbeknown to many people in this House in explaining to us the import of passing this Bill on time. It happened because he came to the bar one day.

(Laughter)

Madam Temporary Deputy Speaker, I also want to thank our brothers from North Eastern Province who were worried about this Bill that they have agreed with the Minister. Again, I want to congratulate the new Minister. He will always have our support.

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, we now have to put the Question.

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time to adjourn the House. Therefore, the House stands adjourned until Tuesday, 2nd October, 2012, at 2.30 p.m.

The House rose at 6.30 p.m.