

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 28<sup>th</sup> November, 2012

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker  
(Mr. Ethuro) in the Chair]*

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Departmental Committee on Education, Research and Technology Report on the Basic Education Bill, 2012

The Departmental Committee on Education, Research and Technology Report on the Universities Bill, 2012

*(By Dr. Otichilo)*

ORAL ANSWERS TO QUESTIONS

*Question No.1796*

LACK OF EMPLOYMENT OPPORTUNITIES  
FOR PHARMACEUTICAL TECHNOLOGISTS

**The Temporary Deputy Speaker** (Mr. Ethuro): Is Mr. Chanzu not in yet? We shall come back to that Question at the end.

*Question No.1834*

KILLING/MAIMING OF KURESOI FARMERS'  
DONKEYS BY KFS GUARDS

Is Mr. Cheruiyot not here? Let us move to the next Question.

*Question No.1776*

LIGHTING OF STREETS IN KISUMU CITY

Is Mr. Olago not here yet? We shall come to that Question at the end of Question Time.

*Question No.1604*

IRREGULAR ALLOCATION OF KMC  
LAND TO PRIVATE DEVELOPERS

Is Mr. Duale also not here yet? We shall come back to the Question later.

*Question No.1841*

TRAFFICKING NARCOTIC DRUGS  
USING DIPLOMATIC BAGS/CARGO

**Mr. Mwau** asked the Minister for Foreign Affairs:-

(a) whether he is aware that diplomats are allowing Diplomatic Bags and/or cargo to be used to traffic narcotic drugs, making it very difficult for the police and the Anti Narcotics unit to detect and/or apprehend drug traffickers;

(b) whether he could provide full details including the names of the missions, investigation reports and the names of persons involved in drug trafficking including the amounts seized in weight, and also any other criminal activity which has been detected where diplomatic bags and/or cargo is involved, from 1990 to the 15th of September, 2012 and indicate action taken against the mission and person(s) involved; and,

(c) whether he could provide details of containers imported into the country by each Embassy and/or High Commission from 1999 to 15<sup>th</sup> August, 2012, including details of the shipper, the consignee, description of the cargo, copies of the bills of lading, indicating the ports of shipment and action taken to ensure that Diplomatic cargo is not used for the trafficking of narcotic drugs or for any other criminal activity in view of the inviolability of diplomatic cargo.

**The Temporary Deputy Speaker** (Mr. Ethuro): Where is the Minister for Foreign Affairs? We will come back to the Question later.

*Question No.1539*

PROTECTION OF LANDLORDS FROM  
EVICTION BY TENANTS IN NAIROBI

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

(a) whether he is aware that many landlords in some settlements within Nairobi like Kibera, Mathare and Huruma were evicted from their houses by tenants who have refused to pay rent for the last four years following the Post Election Violence;

(b) whether he could provide the names and locations of tenants who live in houses for which they do not pay rent, outline what the Ministry has done about the matter and state how many cases have been reported or investigated from *bona fide* owners; and,

(c) what measures the Government has put in place to ensure that the landlords enjoy their constitutional right to property and that all rent arrears due to them is paid.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I beg the indulgence of the House for this Question to be answered next week on Tuesday. I do not have the answer because my colleague who is supposed to answer the Question is also not around.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I would have no difficulties in waiting for next week or even for 14 days as long as you can understand the magnitude and weight of the Question and the sufferings those people have gone through for all that time without their houses.

**The Temporary Deputy Speaker** (Mr. Ethuro): We will put the Question on Order Paper on Tuesday next week.

*(Question deferred)*

*Question No.1831*

AWARD OF HONOURS TO HEAD OF  
STATE/MEMBERS OF PARLIAMENT

**The Temporary Deputy Speaker** (Mr. Ethuro): Is Mr. C. Kilonzo not yet here? We shall come back to it later.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I have the response to that.

**The Temporary Deputy Speaker** (Mr. Ethuro): Where the hon. Member is there, you do not have the answer and where the hon. Member is not there you have the answer.

*Question No.1571*

STALLING OF CULVERT/DRAINAGE  
WORKS IN KERUGOYA TOWN

Is Mr. Gitari not here? We will come back to the Question in the second round.

*Question No.1785*

WITHHOLDING OF KCSE RESULTS  
OF MR. HASSAN O. MAKOKHA

**Mr. Washiali** asked the Minister for Education:-

(a) Under what circumstances the Kenya Certificate of Secondary Education (KCSE) results for Mr. Hassan Otulwa Makokha (Index No. 617311050), a student at St. Teresa's Bumini Secondary School in Mumias Constituency, Kakamega County were withheld; and,

(b) when his KCSE results will be released to enable him pursue his livelihood.

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

It is the policy of the Kenya National Examinations Council (KNEC) that any candidate registering for the KCSE examination should provide details of their Kenya Certificate of Primary Education (KCPE) so as to prove the identity of the person registering for KCSE and as such confirm the candidate registering to sit for the KCSE examination. This measure is in place to deter cases of impersonation. During the registration to sit for 2011 KCSE examination, Bumini Secondary School registered Mr. Hassan Otulwa, No.617311050 using incorrect year, 2007 KCPE examination index number 608368015 belonging to Anzette M. Dennis.

The KNEC communicated to Bumini Secondary School before the 2011 KCSE examination was administered requesting for the correct KCPE examination details for the candidate but nothing was forthcoming. As such, the candidate's results for the 2011 KCSE examination were withheld during the release of 2011 KCSE examination results and Bumini Secondary School was informed accordingly through the District Education Officer to provide copies of the candidate's KCPE and birth certificates in order to verify his identity.

Mr. Hassan Otulwa Makokha provided the required copies of the KCPE and birth certificates through Bumini Secondary School and upon submission it was established that the school had initially given an incorrect year of the candidate's KCPE examination, 2007, as the KCPE certificate that was provided indicated that the candidate sat for the KCPE examination in the year 2000, hence the anomaly.

The 2011 KCSE examination pending results case for Mr. Hassan Otulwa Makokha, index number 617311050 has been resolved and the candidate's results are ready for collection. The District Examination Officer, Mumias District has been contacted by the KNEC to collect the candidate's results.

**Mr. Washiali:** Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to thank the Minister for the action he has taken. The only question left is: why did he have to wait until a Question is asked on this Floor for him to act? This candidate has lost an opportunity of being recruited into the police force because the exercise ended the other day. I wish the Ministry was active and did not wait until a Member of Parliament asked a Question on the Floor of this House.

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, as I read out the answer, you saw where the problem lies. The problem was with the candidate and the school. If the candidate would have provided us with the necessary details, which he did not, the results would have been released. So, that was their mistake. So, he got his results once the mistake was corrected. We did not withhold the results unnecessarily. We had a good reason for doing that.

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, while thanking the Assistant Minister for the very positive response that he has given on this issue, could he indicate to the House when the KNEC communicated with the District Education Officer (DEO) of that area?

**Prof. Olweny:** Mr. Temporary Deputy Speaker, Sir, I do not have the actual date now. However, the important thing is that they have the information with regard to the availability of the results. The school had the information regarding this much earlier.

**Mr. Washiali:** Mr. Temporary Deputy Speaker, Sir, I have no further questions. I am satisfied with the answer. Hopefully, I will get the results.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! We are now doing the second round of Questions. If a Member is not present, the Question will be dropped. Let us move on to the Question by the Member for Vihiga.

*Question No.1796*

LACK OF EMPLOYMENT OPPORTUNITIES FOR  
PHARMACEUTICAL TECHNOLOGISTS

**The Temporary Deputy Speaker** (Mr. Ethuro): Is Mr. Chanzu still not here? The Question is dropped!

*(Question dropped)*

*Question No.1834*

KILLING/MAIMING OF KURESOI  
FARMERS' DONKEYS BY KFS GUARDS

**The Temporary Deputy Speaker** (Mr. Ethuro): Is Mr. Cheruiyot still not here? The Question is dropped!

*(Question dropped)*

*Question No.1776*

LIGHTING OF STREETS IN KISUMU CITY

**The Temporary Deputy Speaker** (Mr. Ethuro): Is the Member for Kisumu Town West still not here? The Question is dropped!

*(Question dropped)*

*Question No.1604*

IRREGULAR ALLOCATION OF KMC  
LAND TO PRIVATE DEVELOPERS

**The Temporary Deputy Speaker** (Mr. Ethuro): Is the Member for Dujis still not here? The Question is dropped!

*(Question dropped)*

*Question No.1841*

TRAFFICKING NARCOTIC DRUGS  
USING DIPLOMATIC BAGS/CARGO

**Mr. Mwau** asked the Minister for Foreign Affairs:-

(a) whether he is aware that diplomats are allowing Diplomatic Bags and/or cargo to be used to traffic narcotic drugs, making it very difficult for the police and the Anti Narcotics Unit to detect and/or apprehend drug traffickers;

(b) whether he could provide full details including the names of the missions, investigation reports and the names of persons involved in drug trafficking including the amounts seized in weight, and also any other criminal activity which has been detected where diplomatic bags and/or cargo is involved, from 1990 to the 15th of September, 2012 and indicate action taken against the mission and person(s) involved; and,

(c) whether he could provide details of containers imported into the country by each Embassy and/or High Commission from 1999 to 15th August, 2012, including details of the shipper, the consignee, description of the cargo, copies of the bills of lading, indicating the ports of shipment and action taken to ensure that Diplomatic cargo is not used for the trafficking of narcotic drugs or for any other criminal activity in view of the inviolability of diplomatic cargo.

**The Temporary Deputy Speaker** (Mr. Ethuro): Where is the Minister for Foreign Affairs? The Minister of State for Public Service, will you hold brief for your colleague?

**The Minister of State for Public Service** (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I seek your indulgence that you give me time to inform the Ministry. As you know, the Ministry of Foreign Affairs officials travel and sometimes flights mess up their schedules. So, neither the Minister nor the Assistant Minister is with us today. If you give me a week, I am sure I will trace them and arrange for a proper answer. This Question is very important.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Mr. Minister! It is very important that when it was called out the first time, you should have taken that opportunity to look for the Minister. I do not think that you are being fair to the House when you explain why the Minister is not present. You should give us a valid reason especially when you admit that the Question is important as should be expected of all Questions before the House.

**The Minister of State for Public Service** (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, all of us in the House expected someone to turn up at the second round of your call. Now that they have not, I am presuming that they are out on other business and may not have written in time to the Speaker on this matter.

**The Temporary Deputy Speaker** (Mr. Ethuro): Let me hear from the Member, hon. Mwau. But as he rises to speak, the Chair will not take kindly the absence of Ministers. When we find that Members are absent, we drop their Questions. Therefore, Ministers are expected to be present.

**Mr. Mwau**: Thank you, Mr. Temporary Deputy Speaker, Sir. The subject matter of the Question is very important. It is a matter that has, in the past, scandalized the reputation and dignity of the Members of this House. However, when the Front Bench wants to scandalize a Member of Parliament or our comrade, they are very punctual. They are here on time but when the truth is almost emerging, they take a dive and hide. They are not available and this should not be allowed to happen. The Standing Orders are quite clear; that Questions will be answered within five days. This is the first five days and the Speaker must take stern measures against this type of behaviour because drug trafficking is in the lap of the Ministry of Foreign Affairs. It seems as if that Ministry could have a hand in the matter related to drug trafficking. That is why they are not available in this House.

Mr. Temporary Deputy Speaker, Sir, I would like you to rule on this matter.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! This Question will be on the Order Paper tomorrow in the afternoon. Hon. Dalmas, you need to convey the sentiments of the House to the responsible Ministry. Failure to be present will result in dire consequences!

Yes, hon. Dalimas!

**The Minister of State for Public Service** (Mr. Otieno): Mr. Temporary Deputy Speaker, Sir, I will do as directed.

**The Temporary Deputy Speaker** (Mr. Ethuro): Yes, the Member for Yatta!

**Mr. C. Kilonzo**: Thank you, Mr. Temporary Deputy Speaker, Sir. First, let me apologise for my late arrival. With your permission I would like to ask Question No.1831.

*Question No.1831*

AWARD OF HONOURS TO HEAD OF  
STATE/MEMBERS OF PARLIAMENT

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

(a) whether he could confirm that under the honour and awards guide, immediately a person becomes Kenya's Head of State, that person is automatically awarded the Chief of the Order of the Golden Heart of Kenya (C.G.H.) and the Speaker of the National Assembly, Ministers, the Head of the Public Service and Secretary to the Cabinet, Chief of General Staff of the Kenya Defence Forces and the Attorney General, are all awarded Elders of the Order of the Golden Heart of Kenya (E.G.H.);

(b) whether he could also confirm that the Deputy Speaker of the National Assembly, Assistant Ministers, Lieutenant-Generals of the Kenya Defence Forces, Inspector-Generals of the Kenya Police are all awarded Moran of the Order of the Golden Heart of Kenya (M.G.H.) and the award of the Elder of the Order of the Burning Spear (E.B.S.) is awarded to Members of Parliament, Major-Generals of the Kenya Defence Forces, the Commandant of the General Service Unit and others; and,

(c) if he could further confirm that the awards of C.G.H., E.G.H., M.G.H. and E.B.S. were awarded to all the above mentioned, save for Members of Parliament.

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

(a) It is only the Head of State who is automatically awarded the Chief of the Order of the Golden Heart of Kenya on ascending to power. The others, like the Speaker of the National Assembly, Ministers, the Head of Public Service and Secretary to the Cabinet, the Chief of General Staff of the Kenya Defence Forces and the Attorney-General are awarded on the recommendation of the National Honours and Awards Committee. They are all awarded the Elder of the Order of the Golden Heart of Kenya, EGH. It is only hon. Minister of East Africa, hon. Musa Sirma and Minister for Higher Education, Science and Technology, hon. Prof. Kamar who have not been awarded but are eligible this year, having served now for a one-year term in the Ministerial posts.

(b) The Deputy Speaker, the lieutenant-General of the Kenya Defence Forces and the Commissioner of Police are all awarded the Moran of the Order of the Golden Heart of Kenya (MGH) after serving in that capacity in one consecutive year.

It is only Assistant Ministers who had served for two consecutive terms during the formation of the Government of National Unity (GNU) that were awarded the Moran Order of the Golden Heart of Kenya (MGH) in 2008. This was due to the need for national unity and good function of the Government. The Elder of the Burning Spear (EBS) is awarded to the various cadres of the uniformed forces for their exemplary and distinguished service, which is well documented and supported by their nominating bodies like the Kenya Police, Administration Police and Department of Defence; it is based on exemplary performance in their fields of operation like crime fighting, management skills and international assignments.

The Chief of the Order of the Burning Spear (CBS) is awarded to Major-Generals, force commanders of various forces formation of the Republic of Kenya and Chief Executive Officers, Accounting and Authorized Officers such as Permanent Secretaries after serving the country in the same capacity for one year continuously.

(c) The guidelines to honours and awards provide that only exceptional Members of Parliament can be awarded for their contribution towards legislative development of Kenya National Assembly through their personal initiative of a major or key Bill that has huge impact on the national development.

The National Honours and Awards Committee has honoured the following Members of Parliament for their key Bills that have become Acts of Parliaments: Eng. Muriuki Karue, in the year 2005, was awarded a CBS for spearheading the passing of Constituencies Development Fund Act; hon. Njoki Ndungu, now Judge of the Court of Appeal, in the year 2006 was awarded CBS for her contribution in moving the Sexual Offences Act; hon. John Mututho, the year 2011, was awarded the Elder of Burning Spear for his “Mututho law”, the Alcohol Control Act.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, the reason I asked this Question is that it appears the Executive discriminates against Members of Parliament. They came up with guidelines which were basically meant not to recognize the roles played crucially by Members of Parliament.

What is most disappointing is that we prosecute cases of Ministers who have been found involved in huge scandals; at the end of the year, those Ministers are given honours. The people who successfully prosecuted cases against those Ministers on the Floor of this House get nothing. So, could the Government consider looking at these guidelines fairly; it appears that within the Executive you get an award automatically when you attain that level. When it comes to Members of Parliament the guidelines do not apply. Could the Assistant Minister consider reviewing these guidelines?

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, promotion to a senior job or even election is not enough. You need to prove yourself and as I said--- Let me mention the criteria for nomination. All titles of honour are awarded on merit. Persons who are honoured by the President must, therefore, be men and women of proven integrity, whose roles----

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, could you protect me from Members who are consulting loudly?



**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Assistant Minister! You have the microphone and the Floor. Proceed.

**Mr. Lesrima:** Persons who are honoured by the President must, therefore, be men and women of proven integrity, whose roles in contribution to the country and society in general have been adjudged exemplary, profound, pre-eminent and inspiring, or people who have excelled in service to society and to the country in social, political, economics, scientific spheres through display of exceptional brilliance, courage, commitment and valour in their ambitions abilities, so that the award is seen to be very special, coveted and distinctive.

So, there is no discrimination. I want to say also that there is a process for arriving at these awards. There are committees at the district level which are constituted, of course, by the Executive but they are inclusive of Members of religious society, civil society, and prominent members of society. Names are received and forwarded to the national committee. There are also committees at the Ministerial level. Kenyans can also forward the names directly to the national committee recommending people for award. The Speaker can also do that on behalf of Members of Parliament. So, the matter is not entirely in the hands of the Executive when it comes to making recommendations for awarding of the medals for Members of Parliament specifically. But for other departments, as I have cited, they do have their own committees, for example in the military, police and Administration Police.

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, it is very disappointing that when the Front Bench answers a Question there is an element of actually concealing the truth.

Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has not tabled the policy document, or the rules he is talking about. It is good that you ask him to table the rules; immediately somebody becomes a President, that is what the rules say, he gets the CGH medal. There is no other consideration, board or anything.

Mr. Temporary Deputy Speaker, Sir, when I was in the Government I read the rules and I know what they say; I am actually highly decorated. I know once you become a Minister--- Immediately you are appointed a Minister, the following December you will be awarded the EGH medal. That is what the book says.

Mr. Temporary Deputy Speaker, Sir, immediately after you become the Speaker of the National Assembly, you are awarded the EGH medal. That is what the book says. Immediately you become the Commander of the Armed Forces, you are awarded the CGH medal---

**The Temporary Deputy Speaker** (Mr. Ethuro): What is your question, hon. Mwau?

**Mr. Mwau:** Mr. Temporary Deputy Speaker, Sir, the point here is that the rules are quite clear that once you attain a certain level in the Government like a Permanent Secretary, automatically you are awarded a CBS medal. The rules say once you are appointed an Assistant Minister, you are awarded the MGH medal. That is what the rules say.

Mr. Temporary Deputy Speaker, Sir, the rules say once you become a Member of Parliament, you are awarded the CBS medal. That is what the rules say. So, what the Assistant Minister says is not true and that is why it is important that the truth be told and people be given what is their due.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Mwau, you should have stood on a point of order to challenge the Assistant Minister, when he was actually answering. Maybe, Assistant Minister, you need to respond and say whether all those categories are actually awarded medals automatically by virtue of being appointed to certain offices.

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, I have read my answer, that the rules indicate what awards are given to what categories. But the practice is also that they have to take

sometime to prove themselves. But let me say that these rules are not cast in stone. In fact, what is happening now is the revision of the rules by the Ministry concerned. I only stepped in, in the spirit of collective responsibility. This Question was supposed to have been answered by the Vice President and Minister for Home Affairs. I understand this function of heroes actually belongs to the Ministry of National Heritage. So, the rules are not cast in stone. They can be revised but, as I said, any Kenyan can make recommendations, including the Speaker, on behalf of the Members of Parliament; anybody can---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Assistant Minister, now you are becoming repetitive. I think you had already stated that.

**Mr. Duale:** Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has set the rules and I heard him very clearly. He has said that he has given these rewards based on integrity, merit and honesty. Knowing that he has given these awards to Members of the Cabinet who have issues with integrity and moral standards, can he now tell us what you do when you issue an award to a Minister and he is subsequently removed from office on integrity issues? Do you withdraw the award?

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, yes, indeed, if you are removed from office on integrity issues, the medal or the award is withdrawn by the President.

**An hon. Member:** How many have been withdrawn?

**Mr. Olago:** Mr. Temporary Deputy Speaker, Sir, the response from the Assistant Minister indicates that the procedure for making these awards is not transparent and it is geared towards the Executive. I think time has now come for the awards committee to be expanded and removed from the Office of the President or the Vice-President's Office.

Last week in this House, Dr. Khalwale, in response to a comment by the Minister for Finance, complained that he was being treated badly by the Ministry because he is the Chair of the Committee that is supervising the Government's financial spending. That Committee is doing a good job. Why have people like Dr. Khalwale and others in this House not been considered? It is because the Executive does not recognize them. So, under these circumstances, when is the procedure going to be made transparent, so that other Kenyans outside the Executive will be included in making the awards?

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, the procedure is transparent, but Kenyans may not be fully aware of this, including hon. Olago. It is possible that many Kenyans are not familiar with this. I agree with the Member that we should make a public announcement as to the requirements for these awards including the procedures for forwarding recommendations at the district, county or national level. I agree with the Member on that aspect, but I do not agree with him that it is purely the Executive that rewards its Members. Prominent persons in the private sector like Chief Executive Officers of companies have been awarded similar medals over the years. Religious leaders and prominent farmers have also been recognized through this process.

As to when we intend to revise these rules, we will do that now that the function of recognition of heroes' lives lies in the Ministry of State for National Heritage and Culture. We will propose to them to revise the rules and come out with them, so that all Kenyans are made aware. Also, if you look at the rules, they do not recognize the new constitutional dispensation where we have governors and so on. So, I agree with the Member that we need to revise the rules to be more transparent and inclusive.

**Mr. Sirat:** Mr. Temporary Deputy Speaker, Sir, you will agree with me that Members of the Tenth Parliament have done tremendous work; a good job, starting with the passing of the

Constitution and many, many Bills, going up to midnight. The Assistant Minister has said that a citizen and even the Speaker can nominate Members of Parliament for this honor. I, therefore, propose and ask for your ruling that the Speaker proposes all the Members of the Tenth Parliament to be awarded this honor during this Christmas.

**Mr. Temporary Deputy Speaker** (Mr. Ethuro): Hon. Sirat, the Speaker does not become part of the Executive answering Questions. The Assistant Minister has told you that even your own Speaker can nominate Members to be recognized to the committee. So, you may wish to visit the Speaker if you are inclined to get recognized.

**Mr. C. Kilonzo:** Mr. Temporary Deputy Speaker, Sir, it is a known fact that majority of these awards are for political cronies. Were it not so, then perhaps the Assistant Minister should explain why people who have excelled in sports have not been given these awards, for example, Elijah Lagat who won the Boston Marathon twice and many other world championships. The committee he has talked about never found it fit for such a great son of this nation to be awarded a medal and many other people in the sports sector. We have seen the Public Accounts Committee taking courage to prosecute Ministers when they do the blunders that they do, but instead, the awards committee does not award even the Chair and the Committee. They award themselves.

He has spoken about integrity and I am just curious. Is he going to start vetting? Is he going to change the law, so that before a person is awarded a medal, he is vetted? It becomes very annoying to see somebody being awarded a medal and you know that his character is wanting.

**Mr. Lesrima:** Mr. Temporary Deputy Speaker, Sir, you realize that the hon. Member is reading the rules that he snatched from me a few minutes ago. But at the risk of repeating myself, I have said that these rules are not cast in stone. They need to be revised under the new constitutional dispensation. This will include what the Member has recommended, but it may be very difficult to go into a vetting process of the 200 slots that we normally set aside. On the issue of the heroes who have been left out, again, that will be taken into consideration. I also want to appeal to Kenyans and the Members that if there are any heroes who have been left out, this is the time to forward them individually or collectively, so that they can also be recognized now as we celebrate 50 years of Independence next year.

*(Several hon. Members stood up in their places)*

**Mr. Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! We must proceed. I know there is a bit of interest, but that matter has been interrogated sufficiently.

*Question No. 1571*

STALLING OF CULVERT/DRAINAGE WORKS IN KERUGOYA TOWN

**Mr. Temporary Deputy Speaker** (Mr. Ethuro): Is Mr. Gitari not here? The Question is dropped!

*(Question dropped)*

That brings us to the end of Question Time.

Next Order!

## BILLS

### *Second Readings*

#### THE MICRO AND SMALL ENTERPRISES BILL

**Mr. Nyammo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that The Micro and Small Enterprises Bill be now read a Second Time.

Everybody is aware that our small and medium enterprises are responsible for a lot of jobs and wealth creation, but we do not appear to have a legal framework within which they can operate. This Bill seeks to establish a legal framework within which the micro and small enterprises will operate. We seek to establish an authority which will get them access to the market, get them information and access to credit. We are aware that the statistics show that, for instance, in 2012, they were able to create up to 80 per cent of our jobs. They contributed 18 per cent to 20 per cent of the country's Gross National Product (GNP). Further, the Kenya Economic Survey established that the 503 jobs created in the year 2010, 440 were in the small and medium enterprises.

Mr. Temporary Deputy Speaker, Sir, generally in the developing countries, more than 90 per cent of all firms outside the agricultural sector are medium and small enterprises. Significant portion of GNP, for example in Morocco is 93 per cent, industrial firms are RMCs and account for 38 per cent of production, 33 per cent of investment, 30 per cent of exports and 46 per cent of employment. In Bangladesh, enterprises of less than 100 employees account for 99 per cent of firms and 58 per cent of employment. Similarly, in Ecuador, 99 per cent of all private companies have less than 50 employees and account for 55 per cent of employment. In Kenya, the medium and small enterprises sector make up well over 90 per cent of trading companies.

This sector has experienced great challenges in terms of growth and development. As I said earlier, it lacks the legal policy framework in terms of its organization and regulation. Further, it has disjointed support, interventions in terms of policy, advocacy, capacity building and resource mobilization, amongst others.

Mr. Temporary Deputy Speaker, Sir, this sector carries and caters for the majority of our people and major contribution sector to our economy. Small and Medium Enterprises (SMEs) utilize local resources using simple and affordable technology and also tend to show greater resilience in the face of recession by holding onto their businesses. Many times we talk about the Kenyan economy being resilient, that can only be attributed or ascribed to the performance of our SME sector.

Considering the contributions made by this sector, it follows therefore, that there is need to find ways of filling the gaps to facilitate organization and regulation. Members of this sector need to be supported to improve accessibility to business development services in the sector such as access to financial services and infrastructure. It hurts when you see producers, job and wealth creators without appropriate places of work. They need to be allowed to get access to infrastructure, research and development.

Mr. Temporary Deputy Speaker, Sir, the journey towards SMEs began from the Special Paper No.1 of 1992 on Small Enterprise and *Jua Kali* Development in Kenya. The National and Micro-Enterprise Baseline Survey of 1999 further refined and attempted interventions in the

sector. Further, there was Sessional Paper No.2 of 2005 on Development of Micro and Small Enterprises for Wealth and Employment Creation for Poverty Reduction. That ultimately was followed by the Micro and Small Enterprises Bill of 2011, which is the subject of today's debate in this House.

This Bill establishes legal and institutional framework by first providing an enabling business environment, facilitating access to business development services, facilitating formalization and upgrading of informal SMEs and providing an entrepreneurial culture of promoting representation of SMEs associations.

Mr. Temporary Deputy Speaker, Sir, the SME Authority established under this Bill is charged with the responsibility of facilitating economic development by SMEs, establishing links between SMEs and the relevant support institutions.

In conclusion, the contribution made by this sector of job creation for the GDP and as a result of poverty reduction cannot be over-emphasized. It is my solemn duty or our solemn duty to support this industry. Such support will create an enabling environment for economic growth and sustainability. When you talk about market for what they produce, I think this country must rise to the occasion and agree or force the Government to procure or to buy a given percentage of whatever is grown in the parastatals, Ministries or prisons from this particular sector.

Mr. Temporary Deputy Speaker, Sir, we shall be giving this sector a home, security, serenity and certainty. It has taken a long time to think and consider them but I am glad we focused our energy where it is needed.

I have been helped by many people to put this paper together. I would like to thank them all without singling them out for specific mention. I would like to thank the stakeholders who have been instrumental in the development of this Bill; the Ministry of Finance, Ministry of Trade, Ministry of Industrialization, Ministry of Labour and my own staff at Inoorero University.

With those few remarks, I beg to move that the Micro and Small Enterprises Bill, Bill No.54 of 2011, be read the second time.

Thank you.

**The Temporary Deputy Speaker** (Mr. Ethuro): Who is seconding your Bill, Mr. Nyammo?

**Mr. Nyammo:** I request Mr. Okemo to second the Bill.

**Mr. Okemo:** Mr. Temporary Deputy Speaker, Sir, I second the Bill.

*(Question proposed)*

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I want first of all to take this opportunity to thank the Mover of this Bill, Mr. F.T. Nyammo. This is a Bill that is extremely important for the development of this country. This is a Bill that will spur a lot of economic development in this country, realizing that most of the economic activities in this country are centred on micro and small enterprises.

As he has indicated, more than 90 per cent of the economic activities in this country are centred on micro and small enterprises. It is, indeed, unfortunate that this country has taken so long to come up with a legal and institutional framework. You know very well that the *Jua Kali* industry in this country has played a very commendable role but they have not had a legal and institutional framework. Therefore, it is important that this Bill is supported so that we can have a legal and institutional framework that will be able to spur the economy of this country through this channel.

Currently as it has clearly been stated in the Bill, we do not have a legal framework. So, this Bill is establishing a legal and institutional framework. Therefore, it is important that we support this. We know as we go to the devolved government system, we are going to promote a lot of small and micro enterprises at county level. As we expect this to happen, it is important that we have a legal and institutional framework to regulate this very dynamic industry that actually has been operating under no legal instrument.

Mr. Temporary Deputy Speaker, Sir, I want to thank the Mover of this Bill and I want to ask Members of this Parliament to support It.

I wish to support the Bill.

**Mr. Mwangi:** Mr. Temporary Deputy Speaker, Sir, I would like to take this opportunity to thank Mr. Nyammo for moving this Motion.

We are not reinventing the wheel; it is only that we have taken too long to have a legal framework for the micro and small enterprises in this country. If you take an example of India where cottage industries have played a very big part in industrialization, we would be doing a lot of justice if we supported our *Jua Kali* industries under the micro and small enterprises.

We are all concerned about the unemployment of our youth in this country. The Government is spending a lot of money to make all shopping centres in our country get electricity supply, so that the youth and other concerned people can start small industries; so that they can address the problem of unemployment of our youth. This Bill would not have come at any other better time than today.

We know our *Jua Kali* industries in the urban areas have faced challenges. If you take an example of Kamukunji *Jua Kali* Industries, we have an issue of land tenure. I do hope when this Bill becomes law issues of land ownership in urban areas will be addressed so that the operators of these *Jua Kali* industries and other micro and small enterprises will be considered when we come to allotment of land in the urban areas.

As we get county governments next year, it will be necessary for the county governments to address this issue in all our urban and market centres so that our youth do not rush and migrate to the cities of this country and arrest the need for employment in our rural areas. Even developed countries have authorized and allowed people to run small enterprises in their backyards or homesteads. So, we would have to explore other areas that would benefit our people and our youth in enhancing industrialization in this country, from all corners of this country.

With those few remarks, I support.

**Mr. Kioni:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity to contribute to this Bill. I want to start by thanking the Member for Tetu for this piece of legislation. It is true that this is one of the key sectors. We know that the Asian Tigers have got to where they are in terms of development because they did recognize the contributions that come from this sector, the micro and small enterprises sector.

Mr. Temporary Deputy Speaker, Sir, any of the persons aspiring to be governors, and I am not one yet, would only perhaps be worth that position if in their manifesto or vision, they are able to articulate to the people what they would want to help in their county; what they intend to do with this sector. I do not foresee any county that would make any form of movement forward in terms of development and creation of employment if the Governor will not be dealing with matters that relate to the micro and small enterprises sector. This Bill forms a good basis upon which such leaders can inform those they would want to lead in terms of their policies and the rest.

When Mr. Nyammo was moving the Bill, he did mention that it is true that this is a labour-intensive field; an area that requires low level of investment. That is why I feel that the Government has actually lagged behind. It is important to have the legislation that we have with us today, but the Government should also have moved much earlier and allowed these Kenyans to access funds not just through the banks which make it very expensive, but perhaps through the co-operative societies that are very near them. I think the Bill may be alluding to some of those things because it is this sector that must receive the maximum attention from the Government if this country is to move on.

Mr. Temporary Deputy Speaker, Sir, the number of young people who are coming out of schools is such that unless the Government does more than just lip service to this sector, it will be a disaster for this country. Human capital is not expensive. If we engage youth in some form of employment, the end result is that they will start paying taxes to benefit the whole country.

Mr. Temporary Deputy Speaker, Sir, I would like to thank the Mover for the good work he has done. I want to commend many people who assisted in the drafting of this Bill. I urge the Government to allocate more money to this sector, so that it is accessed by individuals who can create employment opportunities for our youth. These are the people who will fight unemployment levels in this country. We want to give hope to the young people who are leaving schools, universities and colleges. We need to give hope not only to the young people, but also to those who are already in that sector.

We have been waiting for this Bill for a long time to debate it. I want to thank the Mover and I beg to support it.

**Mr. I. Muoki:** Thank you, Mr. Temporary Deputy Speaker, Sir, for this opportunity. I want to join my colleagues in thanking the Mover of this Bill. It is an important Bill for this country, especially at the level we are in terms of development.

Mr. Temporary Deputy Speaker, Sir, when we talk about industries, development and economic development in the country we focus on the major industries such as the international industries and so on. However, you will agree with me that the small sector or medium level sector is actually the one which drives the economy. If the *Jua Kali* sector and the small and middle level industries were developed in every part of this country you can imagine the cumulative result that would come from the small towns to the national economy. Therefore, it is only good that we encourage our rural communities to come up with the small and micro and medium level industries so as to spur development.

Now that we are going the county governments way, I would encourage that every county headquarter and every urban area in the countryside develops the small industries, so that instead of our youth finishing Form Four and rushing to towns to look for employment they can get occupied in the rural areas and prevent rural to urban migration. They will also develop and improve the countryside.

Mr. Temporary Deputy Speaker, Sir, all of us in Kenya cannot be in salaried employment. Therefore, if we develop the micro and medium level enterprises our youth will be engaged in them and they will get some kind of income. I urge the Government to come up with an aggressive programme for training our youth, so that they can venture into enterprise straight after finishing Form Four or university. Instead of looking for jobs in existing companies, they could start their own companies, develop them and do very well. I am really urging for proper training, so that as they enter business, they are able to do a good job and succeed in it.

If good small and medium level enterprises taking root in the countryside, this will spread the wealth of this country. It will help the country grow evenly. Currently, if you look at the tax

revenue, you will realize that it is only Nairobi and a few urban centres which contribute to the national economy. Therefore, if we have small and medium level industries exploding everywhere in the countryside then the wealth of our country will be spread and our country will develop faster. The areas experiencing poverty will also develop.

Lastly, I would urge that we also think of having an incentive programme to really encourage the development of industries in all corners of the country.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to support.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir. First, let me draw your attention to a very unique situation. A few minutes ago I went for a call of nature and I realized that I was supposed to come back to second the Bill by the Member for Tetu, Mr. F.T. Nyammo. However, upon entering that small room, the door could not open. So, I was captive for 30 minutes inside that toilet, yet this is the most executive toilet in these premises. So, your attention is drawn to that because I realize that if it was at night, it is only the military who would have come to my rescue. I rest my case.

Mr. Temporary Deputy Speaker, Sir, in supporting this Bill by F.T. Nyammo, who is a very serious investor, and who has put a lot of resources in the education sector, and who is also the Chancellor of Inorero University, I would say that this is a historic Bill that needs to be supported by all Members. This is a Bill that will bring total revolution to the economy of our country. It seeks to create or establish businesses and opportunities for our youth in this country.

Unemployment has been the key issue in this country. It has affected most of our youths from the universities who are currently tarmacking in our towns. With the enactment of this Bill, more jobs will be created. This will bring peace and stability in this country. The Bill requires a lot of resources to be invested in this sector. This will create the necessary investment climate in our country.

Mr. Temporary Deputy Speaker, Sir, it will also be important to establish industrial centres, employment centres, or bureaus, in the newly created counties. It is only through industrialization that a country can advance. We have seen economic giants like Malaysia, China, Israel and Germany. These countries have invested a lot in their own economic activities. Therefore, this Bill is calling for more investment, so that our country moves from the current level to next level which will bring economic benefits in this country.

With those few remarks, I would like to commend the Member for Tetu for this very timely Bill.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, let me thank hon. F.T. Nyammo for this noble Bill. You will realise that we are devolving to counties. Most parts of this country do not have industries. They will have to begin from scratch. I would like to see this Parliament or the next Parliament establish a special fund where small and medium enterprises will go and borrow start-up capital. As you know, the banking sector is anti-small business. It will be good to put it in law that people can have access to basic start-up capital which is least costly. It is better if the money is set aside either from the county fund(s) or national kitty so that we can move forward.

The Bill is timely and I support it 100 per cent.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I would like to thank the Mover, hon. F.T. Nyammo most sincerely for coming up with this Bill. But looking at the youth today and the way we are in Kenya, particularly the small enterprises, one leaves no doubt in mind that unless drastic action is taken by the Executive and with the help of this House to ensure that these entrepreneurs are all taken care of, things will not work.



Mr. Temporary Deputy Speaker, Sir, I want to share with you some experience with Malaysia. In Malaysia, they look at a small enterprise as a very big enterprise. They go on and identify a project. If, say, a young man or small entrepreneur comes up with a design of a wheelbarrow or something like that, they come and partner with him. Once they partner with him, as a government, they invest the necessary capital. Upon maturity of that particular company, that company is handed over to the inventor or the entrepreneur. That way, they have been able to push the industrialization beyond their imagination. That way, they have also been able to capture all those good brains that we have all over the country to an extent that today, they have to import labour. It is easy. Let us take the example of our brothers and sisters from Lake Turkana. The smoked fish has a very big market in the United States, among the Nigerian communities. If somebody comes up with a good proposal to establish an enterprise, the Government comes in as a senior partner, but only to an extent of financing and until that company works.

Mr. Temporary Deputy Speaker, Sir, I support and look forward to seeing this Bill become a law in our time in the Tenth Parliament.

Thank you.

**Mr. Chanzu:** Mr. Temporary Deputy Speaker, Sir, I rise to support the Bill and congratulate hon. Nyammo for bringing this Bill which is very timely.

Mr. Temporary Deputy Speaker, Sir, we have had very many schemes introduced by the Government at various stages or times, but they have never been put into some kind of coherent laws, where somebody can follow. So, I support this Bill because I am sure that it will help consolidate some of the rules or regulations that we have put in place earlier on for the *Jua Kali*, Small and Medium Enterprises (SMEs)---

**Dr. Eseli:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Given the fact that every hon. Member is actually supporting this Bill, could I be in order to request that the Mover be now called upon to respond?

**The Temporary Deputy Speaker** (Mr. Ethuro): Proceed, hon. Chanzu!

**Mr. Chanzu:** Mr. Temporary Deputy Speaker, Sir, Dr. Eseli has got a Bill on the Order Paper which he wants us to support. He is trying to cut us short just because of his Bill. However, we will support his Bill because it is also important.

Mr. Temporary Deputy Speaker, Sir, we are looking at the creation of employment. We are also talking about the youth in this country being over 70 per cent. It is only through these small enterprises that we will be able to create employment for them. There are examples of other countries that have been quoted, including the cottage industries in India and so on. If we have to achieve Vision 2030, then this Bill is very important.

There is something that has happened which I think the leadership needs to take care of. The phasing out of the medium-level colleges---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order! I was trying to get the proper Standing Order. I, therefore, wish to put the Question.

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

**Mr. Nyammo:** Mr. Temporary Deputy Speaker, Sir, I would like to take this early opportunity to thank all the hon. Members who have supported this Bill. It is a very important

Bill for this country for our growth and development. In a country like Germany, nearly every big industry is supported by small and medium enterprises.

Mr. Temporary Deputy Speaker, Sir, one of my resentments is seeing the dying of the Kenya Industrial Estates (KIE). What is going to be the incubation centre for our young and upcoming industries? These SMEs are budding manufacturers and should be supported by everybody, including the Government.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, once again, I thank everybody for his or her support.

*(Question put and agreed to)*

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

#### THE CLIMATE CHANGE AUTHORITY BILL

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that The Climate Change Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, allow me to make the following famous quotes on climate change before I proceed with my presentation. The first quote is by Ban Kim---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Dr. Otichilo! How did you move it? Just start, so that we are sure.

**Dr. Otichilo:** Mr. Temporary Deputy Speaker, Sir, I beg to move that The Climate Change Authority Bill be now read a Second Time.

**The Temporary Deputy Speaker** (Mr. Ethuro): Now you appreciate why you are repeating. It is The Climate Change Authority Bill.

**Dr. Otichillo:** Mr. Temporary Deputy Speaker, Sir, allow me to make the following famous quotes on climate change before I proceed with my presentation. The first one is by Ban Ki Moon, the Secretary-General of the United Nations (UN). He made this quote in July 2010: It says:-

“Climate change is not going away. The risks and the costs of inaction grow each year. The more we delay, the more we will have to pay in lost opportunities, resources and life.”

The second quote is by De Boer, the Executive Secretary of United Nations Framework Convention on Climate change. He made this quote in November 2007. He says:-

“The world has recognized that climate change is no longer solely on an environmental problem. Rather, it has become an economic, trade and security issue that will increasingly dominate global and national policies as its impact become more apparent. We know the cost of inaction outweigh the cost of action.”

Mr. Temporary Deputy Speaker, Sir, it is universally accepted that climate change is one of the greatest challenges facing humanity this century. Studies have shown that about 90 per cent of all natural disasters afflicting the world today are related to severe weather and extreme climate change events. Impacts of the projected climate change are already affecting many sectors such as the environment, human health, food security, economic activities, natural resources and physical infrastructure.

Mr. Temporary Deputy Speaker, Sir, in Kenya, the phenomenon is already intensifying at an alarming rate and is evident from the countryside that temperatures are increasing and rainfall irregularity and intensification is accelerating. These climate driven changes affect resources critically for economic development of Kenya. An example is that in 1999 and 2000, the *La Nina* drought left approximately 4.7 million Kenyans facing starvation. In addition, increased average temperatures have left the spread of vector borne diseases like malaria to areas where the disease is not known to be endemic. So, is Rift Valley Fever.

Mr. Temporary Deputy Speaker, Sir, one may ask: What are the causes of climate change? The simple answer is that it is the human daily social and economic activities. Climate has always varied naturally, but compelling evidence from around the world indicates that a new kind of climate change is under way. It is causing drastic impact on people, economies and ecosystems. Levels of carbon dioxide and other greenhouse gases in the atmosphere have risen steeply during the industrial era owing to human activities like fossil fuel use, deforestation and use of wood fuel spurred on by economic and population growth. Like a blanket around the planet, greenhouse gases trap heat energy on the earth's lower atmosphere. If the levels rise high as it is happening, the resulting overall rise in the air temperatures leads to what is normally known as global warming, which is liable to disrupt natural patterns of climate.

Mr. Temporary Deputy Speaker, Sir, greenhouse emissions are continuing unabated. In future, the impacts of climate change are likely to worsen an already precarious situation. Since climate change is a global problem, it needs a global response that embraces the interests and needs of all countries. The United Nations Framework Convention on Climate Change has been crucial in addressing climate change and the need for reduction of emissions of greenhouse gases. The ultimate objective of the convention which has near universal membership is to stabilize greenhouse gases concentration in the atmosphere at a level that would prevent dangerous human interference with the climate system.

Mr. Temporary Deputy Speaker, Sir, the Kyoto Protocol came in force in 2005. The protocol constitutes an important first step in the fight against global climate change by setting out specific binding emission reduction commitments. The treaty has meanwhile expounded an international carbon market that has brought about significant emission reduction and contributed to transfer of clean technologies from industrialized to developing countries.

Mr. Temporary Deputy Speaker, Sir, in realization of this, our Government has taken a very positive step to enact a national climate change response strategy. This strategy was enacted in 2009. The vision of this strategy is for the prosperous and climate resilient Kenya. The mission is to strengthen and focus nationwide actions towards climate change adaptation and greenhouse emission mitigation. This will be achieved by ensuring commitment and engagement of all stakeholders while taking into account the vulnerable nature of Kenya's natural resources.

The key objectives of the strategy is to enhance an understanding of global climate change regime, to assess the evidence and impacts of climate change in Kenya, recommend robust adoption and mitigation measures needed to minimize risks associated with climate change while maximizing opportunities, enhance understanding of climate change and its impact nationally and in local regions, recommend research and technological needs to respond to climate change impacts and avenues for transferring existing technologies, recommend a conducive and enabling policy, legal and institutional framework to combat climate change and to provide a concerted action plan coupled with resource mobilisation plans and robust monitoring and evaluation plan to combat climate change.

Mr. Temporary Deputy Speaker, Sir, it is out of this national climate change response strategy that this Bill has been drafted for approval by this House. This Bill aims to provide a framework for mitigating and adapting to the effects of climate change on various sectors of the economy and to provide for the development of response strategies to the effects of climate change and for connected purposes.

Part I of this Bill provides an interpretation of the terminologies used in this Bill. Examples of such terminologies are “adaption”, “mitigation”, “climate change” and so on. The main objects and purpose of this Bill is to provide the following:-

- (i) To provide a framework for mitigating and adapting through the effects of climate change on all sectors of the economy.
- (ii) To provide appropriate response strategies in relation to climate change.
- (iii) To provide mechanisms for the financing, co-ordination and governance of matters of climate change.

Mr. Temporary Deputy Speaker, Sir, the Bill proposes to establish an authority that will be able to co-ordinate these said objectives. This Bill is anchored on normal certain principles that are spelt out clearly in our Constitution. These are the principles that are spelt out in Articles 42 and 69 of our Constitution and Articles 10 and 232 of our Constitution.

Basically, this Bill will ensure that public participation and consultations in matters pertaining to climate change are given top priority. This Bill also aspires to promote sustainable development under the changing climatic conditions.

The functions of the Authority which this Bill establishes are numerous. I will not endeavour to go through all of them because they are more than 20. I will only highlight a few of them. The first one is to advice the national and county governments on the legislative and other measures necessary for mitigating and adapting to the effects of climate change; provide coordination between and among various Government and non-governmental stakeholders dealing with matters related to climate change; advice the national and county governments on regional and international conventions and treaties on climate change; coordinate negotiations on climate change and related issues; carry out public education and awareness programmes and climate change and facilitate public participation in climate change programmes at national and county levels; coordinate the conduct of research on climate change, including the collection and dissemination of information relating to climate change to national and county governments, the public and stakeholders.

These are some of the key objectives that this Authority that will be established through this Bill will be undertaking. The Bill has many other sections like the section dealing on how the Authority will be managed, the establishment of the Board to manage the Authority, the qualification and the members of the Authority, the establishment of a secretariat to manage the activities of the Authority and the qualification of the chief executive officer of the secretariat and other members of the secretariat.

Section 33 of the Bill deals with climate change programmes and response strategies. This part looks at some of the programmes that are going to be undertaken through this programme. I do not want to go through the whole Bill. This Bill is very timely and it is important that we look at it because climate change is a major issue that is affecting the world. So, it is important that we put in place a legal and institutional framework that would be able to deal with this important and very serious problem that is of global nature.

Mr. Temporary Deputy Speaker, Sir, in conclusion, I want to thank the following who have participated so much in the drafting of the Bill: The Speaker of the National Assembly who

gave a lot of support, the Legal Department of Parliament which played a big role in the drafting of the Bill, the Kenya Climate Change Working Group for their immense contribution, the Office of the Prime Minister for sponsoring numerous regional climate change hearings, the Ministry of Environment and Natural Resources for their support and contribution to this Bill, numerous organizations for sponsoring various stakeholders' workshops; SUNY-Kenya for funding independent review of the Bill and the MPs workshop in Naivasha, Dr. George Wamukoya of COMESA for his independent review, the chairman and members of the Committee on Lands and Natural Resources for their contribution to this Bill.

I wish to thank you and I beg to move that this Bill be read a Second Time.

**The Temporary Deputy Speaker** (Mr. Ethuro): Dr. Otichilo, who is seconding you?

**Dr. Otichilo:** Mr. Mututho, will second me on this Bill.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I rise to second this very important Bill and thank Dr. Otichilo who has never stopped to amuse me of his capture of science. He reduces it not only to politics, but to everyday life. Dr. Otichilo, this is good. What he is trying to say in this particular Bill is that we need an Authority which will be ready to respond to specific challenges to do with climate change. Let us take the two extremes; one is that of very reduced temperatures as witnessed in South Africa the other day. All of a sudden in Cape Town and Johannesburg, temperatures were below zero and there was snow up to 6 inches. What would happen if that happened in Limuru today because it can happen? Are we prepared? Do we have blankets or housing? How prepared are we? We need an organization or an Authority than can respond to that. We talk of too much rain or no rain. At least we know how to cope with too much rain or no rain at all, but when the excesses of climate change will land on us and we have some of the wetlands converted to desert and some of them become wetlands, then challenges start. For example, if we have a lot of rain now, other than the roads failing, we are also going to have very serious cases of malaria, pneumonia and so on. Therefore, we need a responsive Authority that will be able to budget and respond specifically to these needs.

More interestingly is the issue of food. How secure are we when we rely on the climate and yet it oscillates as it does by changing at will? How sure are we that the North Rift is going to apply 80 per cent of the grains that they normally do? We need an Authority that will be able to come and make prior arrangement such that in the unlikely event that we do not have adequate maize in the North Rift, we still would have adequate food supply. We need sober men and women to sit somewhere and be able to monitor these changes. I could go on and on, but we discussed these issues and realized that there are other more serious scientific challenges, for instance, high rainfall in some areas that are dominantly very dry. We need to raise the water tables. This will lead to something called capping. As they evaporate, the land becomes barren. Again we need people who can sit and mitigate against all these.

I believe that at the Committee Stage, Dr. Otichilo will consent to the fact that going through this one leaves no doubt that this is a Government department because everybody in that board is principle secretary or chief executive officer. At that point, we would wish that we had it 50-50, so that we also have the private sector participate at that particular time. I am referring to Clause 8(a to i).

The other aspects I find a little bit harsh are the penalty clauses where you define any director or any officer and the action to be taken. I would think that upon being found out or if somebody does not obey those orders, they are referred to a technical committee so that before you are fined the Kshs2 million or jailed the technical committee would have ratified the decision.

With those few remarks, I beg to second.

*(Question proposed)*

**Mr. Ruteere:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. First, I would like to thank Dr. Otichilo for introducing this Bill at this time when the world is experiencing a lot of climate changes. Climate change is a reality, but many of us are taking it casually. It is through these kind of Bills that the public, the country and the Government will take more serious interventions, so that climate change does not affect us adversely.

Looking at what is happening around the world, we see that where there is drought, there is havoc. Where there are floods, there is also havoc. All this is caused by climate change. In our country, we have experienced periods of drought resulting to famine and many deaths. We have experienced heavy rains resulting to flooding that cause many deaths. Destructions have happened where there is flooding. There is no Authority established in this country to intervene on issues that are related to climate change. What happens is fire fighting exercises that come about because we are caught unprepared. This Bill is very timely. It comes at a time when everybody is waking up and when we need an authority to manage, mitigate and intervene in climate change which we are experiencing today.

Governments all over the world today are putting a lot of resources to climate change mitigation and intervention measures. This is because Governments have realized that without authorities to ensure that climate change is managed the fire fighting exercises will be in futility.

Dr. Otichilo has taken us through his Bill very well; he highlighted its objectives. I happen to be a Member of the Departmental Committee on Lands and Natural Resources. The Committee has looked at the Bill exhaustively. We will be introducing a number of amendments as a Committee to strengthen this Bill. We will be doing this in consultation and with the agreement of hon. Dr. Otichillo. We have already agreed on this. Our Chairman has agreed and assured me that we will move these amendments. He has requested me to tell the House that the Committee is in agreement and it supports this Bill.

The introduction of mitigation issues in this Bill is very important. The Authority is very crucial because it is the one that will take care of us. Global warming which is as a result of climate change is making the ice lands melt. When they melt, the ocean volumes increase. If the ocean volumes increase, we will see some of the cities sink. We will also see more flooding. We will also see more climate change issues related to global warming. The glaciers on Mount Kenya are being reduced. Unless we carry out more afforestation in areas that are around the mountains and take care of our wetlands, we will experience situations where we will have no water.

Therefore, I support the Bill.

*[The Temporary Deputy Speaker  
(Mr. Ethuro) left the Chair]*

*[The Temporary Deputy Speaker  
(Dr. Eseli) took the Chair]*

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir. Let me start by thanking the Member for Emuhaya, Dr. Otichilo who is an acclaimed space scientist for this very timely Bill addressing the climatic change in our country and our neighbouring countries. This is the first time that a Bill of this magnitude has been developed. Therefore, this is very important because it is about how we will manage our climatic environment.

Currently, our country is facing desertification. Unless serious measures are taken by the Government, this country will become a desert because we have not even realized the international forest cover that we are supposed to develop and maintain. This has been necessitated by human error and the greed of our people. When brutal logging is taking place in our forests unabated and no action is taken, this jeopardizes the lives of Kenyans. Afforestation programme is a big issue. I am happy that it is now being addressed by this Bill. It is only through afforestation that this Bill will be in tandem. We note that in South America, particularly in Brazil and Argentina where the governments are serious about their forests cover, employment is guaranteed. We need as a Parliament to go there and study how forests and economic advancement is realised. Kenya should copy those countries.

This Bill, therefore, is a wakeup call in this country that more attention must be put to make sure that the sought Climate Change Authority is given the best impetus and establishment. We also recall that in China, where they give a lot of attention to their forests, we have herbal medicine from which that huge country taps a lot of resources internationally. I do not see why Kenya cannot also attract the same resources.

It is also important that the same Bill is calling for a clear formation or composition of the Board. I note that hon. Dr. Otichilo has really tried to formulate a credible Authority. The Bill is not specific about the four persons who are cited there. We need to say who these people are and from which background they will come from.

The other issue on the same is about gender balance. It is important as this country continues to grow that gender issues are given proper attention.

**The Minister for Public Works (Mr. Obure):** Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to support this Bill.

I want, in particular, to thank the Member for Emuhaya for the initiative in bringing this Bill to this House. The Member for Emuhaya has demonstrated the ability to make interventions and to contribute to very important national issues. I really thank him for the interest and energies he has demonstrated in this area. I am aware that a lot of work has been done to bring this Bill to this level. I know consultations have taken place. I also know that consultations have taken place with the relevant Ministry, the Ministry of Environment and Mineral Resources. Following a brief discussion with the Minister, I am assured that the Ministry and the Government supports this Bill because of its significance to the economy and the people of this country.

Mr. Temporary Deputy Speaker, Sir, climate change has taken place and it is taking place all the time. We are aware of that. We are also aware that the effect on society and economy can be very huge. We are aware that climate change is a consequence of human activities, the activities by people in cutting down trees, diverting rivers and streams and all that. All these could have very adverse impact on the lives of the people over a long period of time. Therefore, we, as a country, need to find ways and means of mitigating the effects of climate change on society, the economy and on the lives of our people. We need to put in place strategies to monitor and deal with issues of climate change. We need to find funds to assist co-ordinate our

efforts in dealing with issues of climate change. We need to find ways of taking advantage of funds available internationally for mitigating the impact of climate change.

Mr. Temporary Deputy Speaker, Sir, there is sufficient justification in creating this Authority. I would like to see this Authority take its mandate seriously, in particular to educate the people and create awareness among the people on the impact of climate change on their lives.

Mr. Temporary Deputy Speaker, Sir, the authority will co-ordinate efforts of the various stakeholders, both governmental and non-governmental agencies, which have programmes to deal with climate change. We need a mechanism and an authority that will co-ordinate the activities of all stakeholders. We need an Authority which will implement proposals and various actions which have been recommended over time. We need an authority that will co-ordinate research activities, and which will disseminate the findings of research initiatives and all that. Let us take full advantage of research findings to be able to deal with this issue of climate change effectively.

We need to ensure that the laws which have been passed by various international conventions are enforced, so that we can take advantage of these and deal firmly with issues of climate change. I am aware that if we do not do so, we will all perish.

Therefore, I want, once again, to thank the Member for Emuhaya, Dr. Otichilo, for this initiative, for the work he has done. I also want to thank all those who supported him to bring this Bill to this House.

I want to urge Members of this House to support this very important initiative, and to make sure that it is enacted into law as soon as possible. We hope that the authority created thereafter will help deal with matters of climate change.

With those remarks, I beg to support.

**Mr. Nyammo:** Mr. Temporary Deputy Speaker, Sir, I would like to start by thanking my good friend and colleague, hon. Dr. Otichilo, for coming up with this Bill. Somebody said he never stopped getting amused. I get amazed all the time because of the energies and efforts hon. Dr. Otichilo puts into all manner of Bills.

The climate change is phenomenon that cannot be wished away. It is a phenomenon that is here to stay. It is a phenomenon that we, as a nation, must agree to tackle together or collectively. If destruction that brings about climate change is caused by human activities; it is time to revitalize civic education by the NGOs, the Kenya Government and all of us. Some of the floods we have seen all over the world, in North America, Eastern Europe, Asia, cause a lot of economic destruction. We, as Kenyans, must try to prevent in such destruction by getting back to re-afforestation which we have paid lip service to for a long time. We have destroyed our forests; probably, we are reaping what we sowed by destroying our forests. We must engage in re-afforestation.

It is not a joke any more and it is important to support this Bill, especially establishment of the authority to continue educating our people and putting together resources to minimize whatever phenomenon may come about as result of climate change. It is worth repeating that this phenomenon cannot be wished away. It is here to stay and it is for us to manage it.

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

**Mr. Mwangi:** Mr. Temporary Deputy Speaker, Sir, from the onset, I would like to congratulate our colleague Dr. Otichilo for this great job he has done.

Mr. Temporary Deputy Speaker, Sir, without repeating ourselves, maybe, when we come to the Committee Stage we need to look at Clause 8, because if that is not checked, the board will be another Executive kind of a board and may not realize what this Bill intends to do.



Having said that, it is a well thought out Bill. My attention is also drawn to Part III, Climate Change programmes and response to strategies. It is commendable. Looking at the programmes and strategies referred to here we realize Dr. Otichilo and all those concerned in drafting this Bill were concerned in whatever we will want to do. I am happy to note that in these programmes and strategies, they have brought in the issue of education and creation of awareness in issues that affect the social economic factors.

Mr. Temporary Deputy Speaker, Sir, we do not have to belabour this Bill a lot. Just a few months ago, we had unusual rainfall in the Rift Valley. We realized Lakes Baringo, Nakuru and Naivasha were affected by unusual floods. The effect of flooding in Lake Nakuru were felt. The flamingos migrated to other parts of Africa like all the way to Eritrea and other countries. What are the effect of such change? When you look at tourism industry, what climate change effect would we have to address?

So, the creation of the Climate Change Authority has come at the right time. My worry is that the Government may have to be encouraged and urged to implement this law. When this Bill becomes an Act, quick action should be taken. When addressing the Millennium Development Goals (MDG) in this country, the aspects that are addressed here like food security, health and afforestation are crucial to our environment and the existence of our communities. We would not want to underrate the importance of addressing the transport networks in this country.

Mr. Temporary Deputy Speaker, Sir, when it rains, most of our highways are covered with silt. The issue of soil erosion in this country has not been adequately addressed by the line Ministries. I hope that when this Bill becomes an Act, the Climate Change Authority Board will quickly make an effort to address the issue of soil erosion.

On desertification, the northern part of Kenya could be an area where we can develop livestock industries if we were able to manage the coverage of our savannas, forests, rivers and other aspects that will encourage our communities to develop worthwhile economies, considering the environmental factors. I hope that when we go the Committee Stage and amendments are introduced, we will consider other qualifications for the members of the board because not everybody who has a degree is conscious of our environment.

With those few remarks, I beg to support.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I want to thank Dr. Otichilo for this Bill. I concur that it is timely. We need to have a legal framework to deal with this. The effects of climate change are with us about everywhere. I want to thank him for the work that he has done. If we ignore this, it will be at our own risk and at the risk of our future generations.

**Mrs. Odhiambo-Mabona:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Bill. I want to congratulate Dr. Otichilo who has distinguished himself as the parliamentary expert on this matter. I would also like to thank him for very consistently pushing the agenda of dealing and mitigating the effects of climate change for this country.

The issue of climate change has captured the attention of the international community in an unprecedented manner. According to the latest assessment report of the United Nations (UN) Inter-Governmental Panel on Climate Change (IPCC), there is unequivocal evidence that the earth's climate is warming largely due to anthropogenic green house gas emissions. In the absence of effective mitigating strategies, the IPCC predicts that the earth's temperatures will increase by 2.0 to 4.5 degrees by the end of the century resulting in increased levels of temperatures. It, therefore, calls on us to take very quick action to mitigate the impacts. The

predicted temperature increases in the Arctic are even more extreme. It is projected that it will rise from 5 degrees to 7 degrees by 2099.

Mr. Temporary Deputy Speaker, Sir, indeed, we are already seeing the effects, first on our *flora* and *fauna*. Some of the effects we are seeing relate to diseases. Indeed, if you see, even in Kenya, we are experiencing some diseases that we never saw before which are appearing as a consequence of the effects of climate change. We are experiencing worsening drought and desertification. We find that areas that traditionally got rain no longer get the rain and *vice versa*. Indeed, you can see even from today, this is the period that we normally get our short rains. But if you notice, we only got a bit of the rain at the beginning of November and, then suddenly, the rains disappeared. Then from nowhere, there are rains today. Even for purposes of planning, especially for the farmers, it becomes very difficult. I was born on 1<sup>st</sup> November. In the past, I would tell you with so much certainty that it would definitely rain on 1<sup>st</sup> November because it always rains on my birthday. I no longer can tell people that because of the effects of climate change.

We are already noting the catastrophes that are related to climate change, namely, the *tsunamis*, the *La Nina* and the *El Niños*. If we do not mitigate these extreme temperatures which are coming as a consequence of climate change, then, not only are we going to have loss of life, but we are going to have, as I have indicated before, diseases that are related to those effects. Indeed, carbon dioxide has increased by 35 per cent since the industrial revolution and human activity has compromised ecological integrity. That is why we are witnessing all that we are seeing.

Article 3.1 of the UN Framework Convention on Climate provides that:-

“The State parties should protect the climate system for the benefit of present and future generations of human kind on the basis of equity and in accordance with their common, but differentiated responsibility and respective capacities. Accordingly, the parties of developed countries should take the lead in combating climate change and the adverse effects thereof”.

Mr. Temporary Deputy Speaker, Sir, strategies for mitigation must, therefore, take into account, not only ecological dimensions of climate change, but the dimensions of human rights, equity and environmental justice, especially for the vulnerable and indigent. Indeed, when you look at the issue addressed by Article 3.1, when we are talking about our future generations, we are talking about our children. That whatever mitigating impacts and effects that we are thinking of must take into account future generations, who are our children.

Because of that, I want to thank and laud the Member for setting up that body which will look into issues of food security and the impact of the new marine species. For instance, the other day, it was reported in the coastal region that there is a new and poisonous fish species that had become extinct, but has now reappeared. Unless we do something, we will be seeing a lot of these.

I will not go into the details and content of the Bill, but I will forward to the Committee any detailed suggestions that I want to give. At one point in my life, I was an environmental expert, but I ceded to human rights. So, now and again, I marry the environmental bit with the human rights bit. That is why I want to encourage the Member that in the mitigating strategies, they must take into account human rights and human justice.

I congratulate the Member.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank my good friend, Dr. Wilber Otichilo, for coming up with this very important Bill. I want to confirm to you that I have

worked very closely with Dr. Otichilo on matters pertaining to environment and land. I want to say that he is an expert in that area, especially in mapping and remote sensing. He is, therefore, the right person to come up with such a Bill.

Mr. Temporary Deputy Speaker, Sir, climate change is real. I want to confirm that if you travel to Baringo right now, you will see it for yourself. The lake has swollen and some hotels are actually getting submerged. That is because of the effects of climate change. We all know that the late hon. Prof. Wangari Maathai was actually a champion in environmental matters. Also, the former Vice-President of America Mr. Al Gore was awarded a Nobel Peace Prize for informing Americans and the whole world that global warming is real.

As I talk now, the entire Arctic and Antarctica region is actually warming. Mrs. Odhiambo-Mabona has just told us that, by 2099, all the continents will be affected. Our interest is actually Africa. I want us to support such an authority so that the Government can come up with policies that will address environmental concerns. The Government should ensure that trees are planted all over the country, so that we can also get what we call carbon credit from the World Bank and other sources. We should implement the provisions of Kyoto Protocol. Some countries did not sign it because of their own selfish interest.

Mr. Temporary Deputy Speaker, Sir, as you know, the ozone layer is lethal to the survival of Homo-sapiens or the human beings as you know them. Therefore, we must protect our environment to ensure that we do not get into problems like what the USA went through recently - Hurricane Sandy, the *La Nina*, the *Katrina*, *El Nino*, Hurricane Rita, *Tsunamis* and what have you.

I want to support this Bill in totality. I want us to really fast-track it so that it can be assented to by the President and the Authority is formed to start work immediately.

I thank you, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister, Ministry of State for Defence** (Maj-Gen. Nkaiserry): Mr. Temporary Deputy Speaker, Sir, I would like to commend Dr. Otichilo. This gentleman has done a wonderful job of bringing this very important Bill. That is because climate change has really caused a lot of damage to this country.

I come from a constituency which is very expansive and large. When I was a young man growing up, most of the streams we called *maparasha*, were flowing. However, now, all those streams have run dry. One of the main functions of this Authority is to look for measures and ways to mitigating the effects of climate change.

Mr. Temporary Deputy Speaker, Sir, the results of climate change include persistent drought. This causes a lot of havoc. One of the functions of this Authority is to look at the best ways to mitigate the effect of drought. I think it is a good measure for this House to pass this Bill so that the Authority can take appropriate action.

The Authority will not carry out its mandate unless it is fully funded. I have seen one of the measures the Authority will be looking into is funding. To mitigate drought, the Authority will look into ways of building dams and dykes in some of the seasonal rivers, so that people can benefit. We can do a lot of irrigation and afforestation by planting trees. This is the way I expect this Authority to carry out its mandate.

Secondly, there is the effect of floods. You realize we have various areas like Budalangi which have continuous floods every time we get heavy rains. The Authority will come up with the best ways to mitigate the causes or effects of flooding.

*[The Temporary Deputy Speaker*

*(Dr. Eseli) left the Chair]*

*[The Temporary Deputy Speaker  
(Mrs. Odhiambo-Mabona) took the Chair]*

Madam Temporary Deputy Speaker, there is wanton destruction of our forest because of the use of charcoal. I am sure the Authority will come up with the best ways to stop the wanton destruction of our small forests.

Thirdly, there is a very interesting aspect that has come up; that is the harvesting of sand from our rivers. This has brought down the water levels of some the rivers. I am very sure that with coordinated effort with international organizations on the subject of climate change, the Authority will come up with measures to help this country face the effects of climate change.

Therefore, I commend my good friend for bringing this important Bill. This gentleman will go very far as far as environmental science is concerned.

Madam Temporary Deputy Speaker, I would like to support this Bill very much.

**Mr. Nyambati:** Madam Temporary Deputy Speaker, thank you for giving me a chance to contribute to this very worthy Bill.

I want to start by thanking Dr. Otichilo for this very well thought Bill which is very necessary for this country. I also want to pay tribute to Wangari Maathai who fought so gallantly to ensure that the effect of climate change and afforestation is heeded in this country.

Madam Temporary Deputy Speaker, it is extremely important that, we, as a country, understand what climate change is all about. This country of ours is basically an agricultural country. This will be enable us to recreate what we produce in the country, what we do as a country and how we plan our food security in this country. This is because a country which cannot feed its people is not worth its salt. A Government which cannot take care of its people has no business governing the country.

Madam Temporary Deputy Speaker, I am particularly impressed by Section 19 of this Bill which gives the powers to formulate, publish and co-ordinate the implementation of national and county climate changes programmes and shall make the programmes available to the public in both print and electronic media.

It is extremely important that the country understands the essence of climate change because then we will be prepared as nation when we have *El Nino* rains and drought. This will enable the Government to inform the citizens on what is happening. In the final analysis, climate change will affect everything that happens in this country. It will affect the agricultural products that we produce in this country. In the final analysis, it will affect the welfare of the people of this country.

Madam Temporary Deputy Speaker, it is extremely important that we have an authority which will give us correct information on what is happening in every part of this country. This country has diverse climates all over the counties. So, it is important to know, for example, what kind of climate the County of Nyamira is expecting all the year round. A lot of times we have got wrong information. We can get even the weather forecast saying there will be rain when there is no rain. We need to have this actual and factual information so that as a nation, we are able and ready to plan.

I, therefore, want to strongly support this Bill and say that it is long overdue. As a country, we need to have had it in place so that together we can manage our country effectively.

I strongly support.

**Mr. Shakeel:** Madam Temporary Deputy Speaker, I stand to support the Bill. It is a long awaited Bill---

**Mr. Oyugi:** On a point of order, Madam Temporary Deputy Speaker. Since it looks like all hon. Members are in support of this particular Bill, I am wondering if it is in order to request the Mover of this Motion to respond.

**The Temporary Deputy Speaker** (Mrs. Odhiambo-Mabona): Noting that it is only Mr. Shakeel Shabir who has made a request, I will allow him to speak and then we will proceed.

**Mr. Shakeel:** Madam Temporary Deputy Speaker, I am very grateful to you for allowing me to speak. I will speak very briefly. It is a very good Bill. It is long overdue. Many a times we have gone to this climate change workshops where we spend a lot of very valuable time and money, but we really have no idea as to the way we should work. Whenever we come back, we have great ideas and have been part and parcel of the climate change movement yet we cannot come to enforce any of these climate change proposals and recommendations made.

This Bill is important. I want to thank Dr. Otichilo for bringing it. I want to say that this will put us on the map for climate change. However, I want to be sure that this Bill localizes and takes cognisance of the local situation and that we do not adopt and take over the western ideas without acclimatizing it to our local environment.

With those few remarks, I want to thank you very much. I support the Bill.

**The Temporary Deputy Speaker** (Mrs. Odhiambo-Mabona): Is there any response from the Ministry? Is there a Minister here who would wish to respond? Given that the responsible Minister is not here, I will now call upon the Mover to reply.

**Dr. Otichilo:** Thank you, Madam Temporary Deputy Speaker. I am thoroughly impressed and thankful to the Members of this august House for whole-heartedly supporting this Bill. They have clearly stated the importance of this Bill. We, as a country, should be on the forefront to come up with a climate change legal and institutional framework to ensure that this country is on the right path of socio-economic development.

I want to thank hon. Members for all the proposals they have given with regard to the amendments that we should effect on this Bill. Particularly, I want to thank Mr. Mututho who has indicated that we need to look at some clauses dealing with some penalties and hopefully set up a technical committee to look into the issues before the matter is taken for legal action.

I also want to thank Mr. Ruteere who on behalf of the Committee on Lands and Natural Resources has promised to look at this Bill in detail and provide the necessary amendments that will enrich this Bill.

I do not want to waste a lot of time. I want to say that all the comments that Members of this House have made will be considered when we shall be discussing the appropriate amendments to this Bill.

With those few remarks, I beg to move that this Bill be read a Second Time.

*(Question put and agreed to)*

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

*Second Reading*

THE HUMAN RESOURCE MANAGEMENT  
PROFESSIONALS BILL

**Dr. Eseli:** Thank you, Madam Temporary Deputy Speaker. I beg to move:-

THAT, the Human Resources Management Professionals Bill, 2012 be read a Second Time.

In moving this Bill, I would like to bring the attention of the House to what necessitated this Bill to be brought to the House. We passed a new Constitution that has led to devolution of most services to the counties, including some elements of human resource management. It would be very serious if we ended up in a situation where each county is practising their own way of human resource management which might not necessarily be consistent with the new Constitution.

Madam Temporary Deputy Speaker, we need a body that can actually regulate these activities throughout the country and make it uniform. As we are well aware, the Public Service Commission is perhaps the biggest human resource organization, but mainly dealing with public service. In view of this, you will find that a lot of people have been misplaced and put in the wrong places where they, probably, do not have any qualifications on human resource management. Usually, this has translated into what you find as frequent strikes and industrial action. Mainly this is as a result of poor human resource management.

That is not a very good thing we want in this country because we are intending to be a middle income country and we need a lot of investment, especially foreign investment. If you compare Kenya to South Africa, you will find that many of the foreign companies investing in South Africa actually they are wishing to move out of there and, perhaps, latch in a place like Kenya because of the facts that there are frequent strikes and industrial unrests in South Africa which lead to interference with their investment. However, when you have proper human resource management as we do in Kenya so far, and this Bill intends to improve on it, you will find that foreign investors find it a more conducive atmosphere in the sense that industrial unrest is mitigated because human resource management is being handled by well qualified people who should be able to handle that area very well.

Professionals in every field in Kenya have been setting up organizations that self-regulate them. For example, we have lawyers covered by the Law Society of Kenya. The accountants also have a body regulating them. Recently, in 2007, we passed the Supplies Practitioners Management Act, 2007 which deals with the people in the procurement area. So, you realize that many professionals have come up with bodies that regulate their activities. Some of them institute disciplinary against their members if they go out of their code of conduct. In the process, you find a well organized area like the huge human resource pool that Kenyans possess yet the human resource sector has got no self-regulating mechanism. If this Bill becomes an Act of Parliament, it intends to put a self-regulatory mechanism for this category of professionals. It is not a new thing. You will find it in Canada and Australia. We have actually looked at what these countries were doing and tried to tailor it to suit our local situation.

As I said before, the Public Service Commission is the largest human resource organization in this country. However, you will be very surprised to find that because of the frequent transfers in the public service, people are transferred by the Public Service Commission (PSC) who are not necessarily human resource experts. This can lead to a skewed kind of staffing of members. When you have such a large organization which is unable to cope because some of the people do not have the requisite qualifications, then that does not augur well even for

the public service. This Bill actually intends to put in place certain minimums so that those people who have qualifications can be placed in the right places.

What is happening now, because of people without qualifications being put in those places, you find that human resource management is poorly managed to the extent that you find areas where human rights are trampled on and with regard to gender equality you find areas where this is being trampled on. You even hear of sexual harassment. This is because these things are mainly perpetrated by people who are not qualified. If this is the case, there has been no mechanism of self-regulation and self-discipline within the human resource profession. This Bill actually intends to address that so that we weed out non-professionals from masquerading as human resource managers or practitioners of human resource management. We need to weed out non-professionals and quacks from running human resource companies which are relied on to hire human resources for other organizations.

This Bill seeks to ensure that all those practitioners of human resource management are actually regulated so that if you are going to set up an organization that is going to deal with the provision of human resource services, then there should be some qualification that you should meet and you should be able to employ qualified people so that everything is managed as it should be.

If you go through the Bill you will find that apart from self-regulation, there is also the issue of registration of these practitioners so that they can set a minimum qualification, say, a certificate, diploma, or whatever that this category of people require before they are registered to practice as human resource practitioners. In the process, they can also set up an examination board to examine this category of people so that those who qualify are the ones who are allowed to practice.

Now, this Board is also self-regulatory in the sense that those setting the exams apart from the Kenya National Examinations Council (KNEC) and the Ministries involved in human resource management, that is, the Ministry in charge of Public Service and also the Ministry of Labour and Human Resource Development who will be involved as per the recommendations of this Bill so that they set certain exams which people must pass before they can practice as human resource managers.

In the process, this Bill actually comes up with the issue of discipline within the profession so that the human resources institute which will be set up by this Bill is in a position to institute disciplinary measures against errant members of the institute. This will bring sanity into the institute. As I said earlier, this is not a new thing. This is something that most professionals have done and all that human resource practitioners are asking is to be allowed a leeway through a legal framework that they be able to self-regulate in their practice. We have worked on this Bill for quite some time with members of the Institute of Human Resource Management whom I really wish to thank for their input.

I would also like to thank the Speaker of this Parliament and the Clerk's Office for enabling us to go through everything up to the publication stage with the Government Printer. I would also like to thank the legal department, especially Vane Akama who has worked on this Bill for quite some time to bring it to fruition. I also thank the Departmental Committee on Labour and Social Welfare which we were consulting as we prepared this Bill.

With those many remarks, I beg to move and call upon hon. Dr. Otichilo to second.

**Dr. Otichilo:** Madam Temporary Deputy Speaker, Sir, I want to take this opportunity to thank hon. Dr. Eseli Simiyu for bringing this Bill to this House. This Bill is long overdue. The issue of human resource management in this country and elsewhere in the world is so crucial for

socio-economic development. Therefore, it is important that this important profession is organized in a manner that it can regulate itself and put down rules and regulations that will govern their activities and conduct.

I am particularly impressed that this Bill is proposing to establish an institute of human resource management which will be responsible for the establishment, monitoring and publishing of standards of professional competence and practice among human resource professionals.

Madam Temporary Deputy Speaker, most fields including engineering, law, planning, architecture and others have professional bodies to regulate their activities and ensure that certain minimum standards are upheld. The human resource management has been lacking. This is the biggest of all of them because anywhere you go you must have human resource managers. It is long overdue that they should have an institute or body that regulates their activities and particularly to register their members as per the required ethics and standards and ensure that in conducting their activities sanity, humility and fairness are upheld particularly when it comes to recruitment. This is because in some of the organizations we have human resource managers who, because there are no regulatory mechanisms, when it comes to recruitment of staff, they recruit staff based on various criteria. Some of them use unfair criteria and they cannot be reprimanded. Therefore, if this Bill is enacted into law, those errant managers will not be able to practice what they are practicing today.

Madam Temporary Deputy Speaker, I want to thank my good friend, Dr. Eseli, for bringing this Bill and I Second it wholeheartedly.

*(Question proposed)*

**Mr. Midiwo:** Madam Temporary Deputy Speaker, I rise to support this noble Bill.

As has been alluded to by the Mover, whom I thank very much, this Bill seeks to put a regulatory framework on how we run the profession of human resource. As you know, the job market in the country today is flooded by people who call themselves experts, but they are generally quacks who purport to know anything about human resource. This is because there are no standards set on what these people should be doing. So, I want to thank the hon. Member for trying to create a profession or structure where these people will practice with some ethics.

Madam Temporary Deputy Speaker, I looked at the Bill and saw that there are even penalties for people who violate the code of conduct. I think that, that is good, because if it is good for lawyers, architects and engineers to have a code of conduct, it should also be good for human resource practitioners to have it. However, I have seen in the Bill where it says that the salaries of the officers of this body will be determined by the Salaries and Remuneration Commission. I brought this to the attention of the supporters of the Bill and I want to bring it to the attention of the hon. Member, I think that this body should not have anything to do with the Government. It should be an independent body and as we move to the Third Reading, which we hope will be soon, given the nature of business that we are handling, hon. Members should move the necessary amendments to give this body independence or to make it a body of professionals and not a body that can be subject to interference by any Government agency.

Madam Temporary Deputy Speaker, I beg to support.

**Mr. Njuguna:** Thank you, Madam Temporary Deputy Speaker. Let me take this opportunity to thank the Mover of this very critical Bill, Dr. Eseli. This is the first time that we are going to have a regulatory body to address the concerns that we have noted in this country.



Madam Temporary Deputy Speaker, the Bill also seeks to build capacity that will allow the country to move in the right direction. In countries that are really advancing, like South Korea and others, professionals have been given key attention. They are properly regulated and well paid. This Bill will also try to improve the performance of practitioners in this country. Promotion of ethics and standards will also be realized in this country. A well regulated management authority will also attract a lot of resources locally and internationally. This is really important for the advancement of our economy. It will also help to create the necessary number of professionals who will manage all the sectors of the economy and create extra manpower for export to the neighbouring countries.

I note in the Bill that special recognition has been given to ordinary fellows who have not been recognized in this country since Independence. This Bill is giving special recognition to the forgotten professionals who will now be brought on board. Highly experienced Kenyans will now be able to serve in that body. It also gives a serious signal to those who really practice nepotism and tribalism in their places of work. This will be a deterrent to such people. This country has been plagued by people who are not serious with their neighbours.

*[The Temporary Deputy Speaker  
(Mrs. Odhiambo-Mabona) left the Chair]*

*[The Temporary Deputy Speaker  
(Mr. Ethuro) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, I also note that the Bill has generated a disciplinary committee that will address the discipline and behaviour of those in the profession. Time and again, we have seen quacks operate in this country and innocent Kenyans being cheated in the provision of services, for example, innocent Kenyans being treated by quacks and even dying not knowing exactly what happened. Therefore, this body is very important because it will curb some of those things. Now that we have discovered oil in this country, we require professionals of high calibre who will be sent to these areas, so that the necessary potential and improvement of the economy will be realized. The discovery of oil in Turkana and other areas is a very sensitive engagement. It, therefore, calls for professionals and not people who are not morally upright or dedicated to this exercise.

Mr. Temporary Deputy Speaker, Sir, this is a very healthy Bill that demands full support by the entire membership of this House.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I fully support the Bill.

**Mr. Kioni:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity to thank Dr. Eseli for this Bill.

Mr. Temporary Deputy Speaker, Sir, it is true that the human resource is one of the most important aspects of any enterprise. To do a registration which allows for the establishment of an institute and examination board for those people in human resource management is a commendable thing. It is true that this is one of the many areas within the business sector and working environment where we have many quacks who masquerade as people who can do everything, but in the process, end up mismanaging the human resource. We are experiencing many strikes in the country and we are not quite certain that some of those disagreements are not as a result of the profession being manned by people who have no training. It is important to recognise that a lot of money is being spent both by the public and private sectors in training

individuals who can handle human resource. It is only fair that we allow them to exist in a professional body as it is proposed in this Bill.

Mr. Temporary Deputy Speaker, Sir, I support the Bill and thank Dr. Eseli for this good piece of work.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, I congratulate hon. Dr. Eseli for bringing this Bill.

*(Loud consultations)*

I would like to indicate that--- Mr. Temporary Deputy Speaker, Sir, could you protect me from hon. Kioni and hon. Midiwo who are having another debate beside this one?

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Midiwo and hon. Kioni! The hon. Member, Millie-Odhiambo must be heard!

**Mrs. Odhiambo-Mabona:** Thank you, Mr. Temporary Deputy Speaker, Sir, for protecting me against the bullies. I want to thank hon. Eseli for bringing this Bill. I only have two issues to comment on. I have looked at the Bill and it talks about human resource professionals and what it seeks to do is to regulate the profession of human resource management. What it *prima facie* seeks to do is to look at the professionals who have actually studied human resource as a profession. We know that in this country, there are very many other professionals like doctors and lawyers who are forced to undertake roles that are human resource related. I am a lawyer but before I came here, I did less lawyering but more of management as a chief executive and, therefore, I learnt human resource on the job. In that regard therefore, I do not see this Bill speaking to that because if we do not capture that, then persons like me will be considered as quacks and yet, by the very nature of the work I was doing, I was managing a lot of human resource. By virtue of that---

**Hon. Members:** You were a quack!

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, the hon. Members are insisting that I was a quack. I am not a quack. I learnt on the job and I became very professional and very knowledgeable about human resource. But again---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Millie-Odhiambo! I thought you sought the protection of the Chair from your neighbours. Apparently, you are now entertaining them.

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, it is because they are consulting too loudly. But I want to say that it is, indeed, from my experience that I want to contribute to this Bill.

There is a second issue that I want to raise on this Bill. I would like to see principles contained in this Bill – general principles of human resource management even though we are talking about providing regulations. But in Kenya, unless you spell some things substantively in a Bill, when you leave it to regulations, they never get captured. Some of the issues that hon. Eseli spoke about such as the issue of sexual harassment, policies relating to persons with HIV/AIDS, the issues of gender, equity and equality. As a general broad principle, we need to provide that in the Bill. They must inform any policy or regulations on human resource management.

Otherwise, with those few remarks, I support.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Members! If there are no further requests, I will call upon the Mover to reply.

**Dr. Eseli:** Thank you, Mr. Temporary Deputy Speaker, Sir. I wish to thank all the hon. Members who have contributed to this Bill. The fact that most have recognised the importance of this Bill to the development of this country and the issue of the necessity for self-regulation within a legal framework of the human resource practitioners; the fact that skewed recruitment which might be involving nepotism, racism, tribalism, cronyism and so on might be mitigated by this Bill if it becomes an Act of Parliament, the practitioners will be able to identify such loopholes and actually discipline themselves.

Mr. Temporary Deputy Speaker, Sir, another thing is that if this Bill becomes an Act of Parliament, it will restore respect to the profession of human resource managers. It will also restore their dignity because for some time now, they have been blamed for very many ills that are happening in the profession, and which they might not have been party to.

I agree with some of the suggestions especially from hon. Midiwo about the body being an independent one and which is essentially not drawing any money from public coffers. There will be no reason to subject them to either the Auditor-General or the Salaries and Remuneration Commission. They should be able to be allowed that leeway to determine it for themselves. We will be looking at that at the Committee Stage so that we can ensure that the institute's independence is actually ensured. For tangible economic take off of the country, this framework is very necessary so that we are able to ensure that all human resource management aspects are taken care of, so that they are channeled towards the key issues of development of the country.

We will also look at what hon. Millie Odhiambo has said about defining who human resource management professionals are, and also include the principles of human resource management. However, one aspect about sexual harassment and so on is also specifically put in the Bill. It is looked at critically if such an event arises.

With those few remarks, I beg to move that the Human Resource Management Professionals Bill, 2012, be read a Second Time. Thank you, Mr. Temporary Deputy Speaker, Sir.

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Next Order.

## **BILL**

### *Second Reading*

#### THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

*(Mr. Kapondi on 26.9.2012)*

*(Resumption of Debate interrupted on 3.10.2012)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Kapondi was on the Floor.

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, I had moved this Bill and I want to take the shortest time possible to say that this Bill is meant to sort out the practical challenges that the original Bill which was enacted into law by hon. Mututho. The issues that this amendment is going to deal with are related with labeling – the 300 metre rule, issues to do with

regulations whereby we want the public to be involved and Parliament to approve. We also want to simplify the licensing process because there are a lot of inconveniences when it comes to the licensing process.

Mr. Temporary Deputy Speaker, Sir, because the Bill has very clear objectives and I do not want to belabor to explain further than that.

With those few remarks, I beg to move and ask my dear brother, hon. Oyugi Neto, to second.

**Mr. Oyugi:** Mr. Temporary Deputy Speaker, Sir, first, I would like to congratulate my very good brother, hon. Kapondi, for bringing this amendment. Whereas we are sympathetic to the various families who are dealing with alcohol bills, I think the Alcoholic Act as it is, needs to be dealing with local brewers and regulation of the same. I will be appealing to the Committee that when we are harmonising the various Bills, to ensure that the local brewers are captured in the regulations and the same brought to Parliament for ratification.

Mr. Temporary Deputy Speaker, Sir, I would like to support the fact that we need to increase slightly the hours for bars to be opened and the labeling as it is in the Act is fairly impractical. On the 300 metre rule, if you look at it that you need to establish a bar within 300 metres of learning institutions – some of those are challenges that the Act proposes and are fairly impractical.

Mr. Temporary Deputy Speaker, Sir, I would like to second this particular amendment and propose that when the time comes, we need to harmonise the penalties of drunken driving as in the Act with those with the provisions of the Traffic Act. That way, the two Acts will not be in conflict. We should increase the penalties that both the Acts propose in terms of drunken driving. Otherwise, I really think that the amendments are timely and appropriate.

With those few remarks, I beg to second.

*(Question proposed)*

**Mrs. Odhiambo-Mabona:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity. I want to oppose the amendment. In opposing, I want to say that there are several proposed amendments to the Bill but I want to use the two examples that Mr. Oyugi has sighted as my basis for opposition. If you are talking about schools, I am a protector of children's rights and I do not think business interests override the rights of children. For those same reasons, I would oppose such an amendment that compromises the right of children over profits. When Mr. Mututho brought the original Bill which is now an Act of Parliament, I took time to speak to many hon. Members and about ten that I spoke to have a family member who is struggling with alcoholism including myself. Alcoholism is a disease. There are people who are able to manage it very effectively but there are others who are not able to because of their personal mechanisms. Because of this, it is up to us, as leaders, to help them manage and control the people who have been trying to kick that habit but they are unable. This is causing a serious strain on families. Indeed, one Member of Parliament while speaking burst into tears because she lost a brother due to alcoholism.

Mr. Temporary Deputy Speaker, Sir, I want to state that the right of brewers cannot override individual family rights and that of our young people. There are areas in this country where people's sexual abilities and libidos have been affected by alcoholism and it was, indeed, raised the last time when this Bill came before this House.

Therefore, so long as this Bill contains those amendments, I wish to go on record that I oppose.

**Mr. Midiwo:** Mr. Temporary Deputy Speaker, Sir, I want to be very brief. I rise to support the amendment brought by Mr. Kapondi. I want to say that I have been talking to Mr. Kapondi and Mr. Mututho so that they can sit together, marry and address the issues of the Alcohol Drinks Control Bill.

I want to disagree with Mrs. Odhiambo-Mabona; how do you say that there is a school, the Holy Family Basilica and there is Inter-Continental Hotel that sells alcohol and you are asking the hotel to move. It cannot happen because there is a way of doing these things practically. Further, I realize that I am the one who was pushed so hard in the Traffic (Amendment) Act to put stiffer penalties on drunk driving. So, I know the effects of alcohol. At some point, this Parliament will have to act sane and realize that the problems of alcoholism are different from county to county and that this issue would have to be dealt with by individual counties. There is no way a country can talk about a 24 hour economy and tell people that you can only drink from such a time to such a time. These contradictions do not match with our Vision 2030 expectations. So, it is good to be sober and I want to plead with Mr. Kapondi and Mr. Mututho to bring the “Mututho Bill” and we marry the two so that we can deal with them in the same manner as we did with my amendment to the Traffic Act alongside those of the Minister because there may be some clauses in this Bill that offend Mututho and others and vice-versa, so that we can all move together.

With those few remarks, I beg to support.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir, for the opportunity to very briefly contribute to this Bill. Recently, we have seen mothers demonstrating in this country because the consumption of alcohol is very high. This has really affected families and caused the breakdown of marriages. I am concerned about relocation of trading centres which were there before schools were constructed. Unless the Government avails adequate resources for all the traders to buy new land and construct new premises, the sought amendments will not work. Therefore, I appeal to the implementing agencies to make sure that there is sanity as we engage in the implementation of this law. Otherwise, we will destabilize the whole country. I call for further consideration and harmonization of the two laws as proposed by the Government Chief Whip.

With those few remarks, I very reluctantly seek for closer consultations.

**Mr. Kiuna:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would also like to support this amendment Bill for one reason. We have consumed alcohol since time immemorial. Every community had its own traditional alcohol. If you went to western, you would find people taking *busaa* and *chang'aa* and they did not die. If you went to Rift Valley, you would find that people took *busaa* and they did very well health-wise. In Central Province, we had what we called *muratina* and during those days, the *wazee* were very healthy and sexually very active. I will support this Bill in this sense. Let us go back to the drawing board or revisit this Bill depending on the county or community. Let us go to Coast Province where we have *mnazi*. We should not condemn this. Let us go back to the drawing board and revisit this Bill.

With those few remarks, I support the amendment.

*(Mr. Kiuna murmured something)*

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, is the hon. Member in order to say that---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order! He has already concluded. You may make your contribution if you have any.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I have a lot to contribute. Can I go on?

**The Temporary Deputy Speaker** (Mr. Ethuro): Contribute!

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, there is nothing much to say really.

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, Members! If you do not have your normal card bearing your name, it is good to approach the Chair, so that we know exactly who bears what card.

**Mr. Mututho:** The issue of alcohol and alcohol abuse is well known to everyone. It is shocking that the Chairman of the Committee decides that we have 12 hours of drinking, one hour to prepare and one hour to close; that makes 14 hours. That means, Kenyans should prepare themselves to drink from 11 o'clock to midnight. If that is good for the economy, I beg to differ. It cannot be. It will not be because you have 14 hours of drinking, two hours of working and that makes 16 hours of drinking and working and eight hours of sleep. A working nation cannot be based on a drinking culture.

The other thing is that there is a morality issue here. When you have your young child, and you are here as fathers in addition to being legislators--- Kids are dancing up to midnight and then they get bottles of beer for a reward; what happens in those *Mugithi* shows and all those other places? It makes us look a very bad society.

Mr. Temporary Deputy Speaker, Sir, even hyenas are able to take care of their young ones. There are only two pairs of breeds in a party of hyenas---

**The Temporary Deputy Speaker** (Mr. Ethuro): Delegate 28, you are on a point of order. Hon. Kapondi, your name is showing. You are not the delegate. Wavinya's name is also showing.

Okay, what is your point of order, hon. Kapondi?

**Mr. Kapondi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Mututho in order to mislead the House that this Amendment Bill is going to give Kenyans the freedom to drink and ensure that Kenya is not a working nation, when in reality Mututho's law is so restrictive that it does not cater for hundreds or millions of Kenyans?

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Kapondi! That is a contribution.

**Mr. Kapondi:** It is not a contribution; I am building on my point of order.

**The Temporary Deputy Speaker** (Mr. Ethuro): That is a contribution. You do not build; you just use whatever hon. Mututho has pointed out in your point of order.

**Mr. Kapondi:** Okay, let me reframe it, Mr. Temporary Deputy Speaker, Sir.

Many Kenyans wake up early in the morning, at 8.00, to drink the whole day. Is he in order to say that 12 hours, or an addition of two hours, will make Kenyans go beyond what they already do? Is he in order to mislead the House?

**The Temporary Deputy Speaker** (Mr. Ethuro): That is a fair attempt.

**Mr. Mututho:** I think the hon. Member is very anxious to see a drunken Kenya that he cannot interpret a simple law that he has drafted; he is proposing 12 drinking hours, one hour to prepare and one hour to close. That makes 14 hours. That is all I am saying. In a day that has 24

hours, you subtract 14 hours, you have ten hours, you normally sleep for eight hours. So, you have two hours to work. It is simple Mathematics.

That notwithstanding, I do not think he believes in what he is talking about. There is no nation that can be involved in this kind of thing. If you look at all the nations--- Let us look at Russia for instance. When they regulated the drinking hours, they saved up to one million people. That is documented.

Leave out central Kenya which has a problem. I really laugh at the hon. Member when he talks about *muratina*. Where is *muratina* these days? The *muratina* you guys in central Kenya are taking is such that you cannot even get babies. That is not *muratina*. What we are talking about is chemicals, which come in as blended wine; these things that even the WHO will not even imagine will be consumed by human beings.

What we are saying basically is that this Bill---

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member on the Floor in order not to appreciate the fact that the chemicals mentioned by the MP for Molo only appear in certain parts of this country? People do not drink chemicals where I come from. So, we are telling him this law cannot be universal in this country. That is why we are pleading with him. We have spoken to him, so that they can marry. You cannot punish us because your people are drinking chemicals.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Midiwo, you are being repetitive. You made a point, which hon. Mututho should respond to.

Proceed, hon. Mututho.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, for clarity, they manufacture the chemicals from Western and Nyanza and then they are drunk in Central. Specifically, that is the problem! If they can stop manufacturing that chemical, then the chemical will not be available.

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Mututho! Although you are right in stating that the consumption and the production are done at two different places, the issue, really, that hon. Midiwo raised was a matter of consumption irrespective of the source or production.

*(Applause)*

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I would like to inform the House that the alcohol prevalence among students is as follows:- Western Kenya is leading with 43.3 per cent, Nairobi at 40.9 per cent, Nyanza, hon. Midiwo, at 26.8 per cent and Central at 26.3 per cent. The bottom in the line is North Eastern at 1.6 per cent. If you look at it again, alcohol prevalence among non-students is as follows:- Western at 90.1 per cent; Nairobi at 89.9 per cent; Rift Valley at 86.1 per cent and Central at 84.1 per cent. Nyanza has 85.5 per cent, Eastern has 73.4 per cent, Coast has 73.1 per cent and North Eastern has 15.6 per cent.

We have an alcohol problem here. If you look at this very objectively and, again with the backdrop of the fact that alcohol consumption is affected by only three parameters---

**The Temporary Deputy Speaker** (Mr. Ethuro): Order, hon. Mututho! What is the source of your statistics?

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I would like to table the NACADA

Report on Alcohol Consumption in the Republic of Kenya. I would also like to cite other authorities---

**The Temporary Deputy Speaker** (Mr. Ethuro): I am satisfied, hon. Mututho. Proceed.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I am basically saying that the only thing that they have a point is how we deal with neighborhood schools. The neighborhood schools can be dealt with, even at Basilica's level, in a better way. For example, by erecting a wall, a barrier or a board that has a positive message between the two institutions. In my amendment, that has been taken care of so that you cure the 300 meters rule. Hon. Kapondi has done this and it is a big problem because he is the Chairman of the Departmental Committee on Administration and National Security. It is a big problem. It is a direct negative of the "Mututho Bill". I would like to persuade him that we will address the issue of neighborhood schools through the idea of labeling, so that at the label, you have a warning which takes 30 per cent of that label. That works out well, but all these other things that hon. Kapondi has put do not. Surely, as a father and a legislator, he cannot sit here and allow Kenyans to die in bigger numbers than what is happening currently because of this.

So, I oppose.

*(Applause)*

**Mr. Kapondi:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member in order---

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Kapondi, except that hon. Mututho has already finished.

**Mr. Kapondi:** So, let me forgive him!

*(Applause)*

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Kapondi, in this House, there are no opportunities for such.

**Mr. Kioni:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to oppose this Bill.

Yesterday we were supposed to have been here in Parliament, but we were around talking to Kenyans for reasons that many of us can guess. When you go round this country in every shopping center, the young men who try to reach to you, you would do anything that is possible within the law including enacting legislation in this House to totally ban alcohol in this country. It has taken the population the wrong way. We are not advocating for total ban but levels of restrictions must be enhanced. We cannot allow bars next to schools. We cannot allow young people to drink in the number of hours they are drinking. This economy cannot grow if we do not take care of those people.

Mr. Temporary Deputy Speaker, sir, even as we appreciate that this can best be done at the county level, we cannot allow ourselves to wait for another two, three or four persons to die because the county government is coming into operation in the coming months. Whatever we can do now must be done.

I ask my good friend, Mr. Kapondi, to reconsider this. I know we may have difficulties of enforcing and I would rather we look at ways of enforcing rather than making it easier for people to continue drinking. I would like to invite him to even come. It is not just in Central Province. I



have given him the statistics. However, if they are not in your neighbourhood, I want to invite you to our areas and sympathize with the human being who is actually dying on the day. We take it as a joke when we say that they cannot make babies. That is just a joke. If you look at the damage that we are suffering as a nation; the waste of very young people that we are going through, you actually cannot allow this kind of amendment to go through.

Mr. Temporary Deputy Speaker, Sir, with those few remarks and many other feelings that I have inside myself, I beg to oppose.

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, if we can maintain being brief, we can take more contributions because the interest is quite high.

**The Assistant Minister for Youth Affairs and Sports** (Ms. Ndeti): Mr. Temporary Deputy Speaker, Sir, I stand to oppose. One of the reasons for this is that I am a mother. I am also a woman Member of Parliament.

People might take this lightly but it is not a joke. The regulating of hours for opening bars has brought a big change in the country. In some of my areas, I would go there during the day and find the youths very drunk. This has changed nowadays; you find them sober and doing their work. We need to regulate the hours.

If you go to Europe, even the discotheques open at certain times. They open at 11.00 p.m. and close maybe at 3.00 a.m. We need to regulate the hours of drinking and buying alcohol.

Mr. Temporary Deputy Speaker, Sir, about schools, the villages we come from, you just find a school there and a bar. A child comes from school and sees drunken people falling all over. What are we trying to show our young people? We need to regulate that. We are the ones who give birth; we are the mothers and our children are the ones who are getting spoilt. I want to thank the fathers who are supporting us here. We need to regulate the hours. If it is Inter-Continental Hotel and the Holy Family Basilica, there is something that can be done about that. I support what Mr. Mututho is saying. They can erect a wall or do something.

You have been in the villages and you know where some of those bars are. A bar is there and a school is there. People are eating this thing you call *muguka*, *sijui* what. They are chewing and drinking at the same time. Some of our young girls have been raped by some of those people because when they drink, I do not know what happens to their heads. We need to regulate the drinking.

We have lost many people along Mombasa Road. There are many bars from Mlolongo , Kyumbi to Salama. If we open all those bars, then we are going to lose many people along Mombasa Road. We need to regulate opening time. We need to also take serious action on the proximity of those bars to schools.

I oppose.

**The Assistant Minister for Industrialization** (Mr. Muriithi): Mr. Temporary Deputy Speaker, Sir, I oppose with every fibre of my body. A few months ago in a village called Maina Village in Nyahururu, some seven young men were buried. They had consumed some brew and then they died.

The whole purpose of us being here is to protect lives. We must make laws that help that enterprise alongside protecting lives. We know of substances like alcohol that become addictive and ruin us. We must oppose.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Mr. Temporary Deputy Speaker, Sir, I stand to contribute. For one, let us not just think that control is the solution to this problem. Secondly, let us not get worried that the Inter-Continental Hotel is next to the Holy Family Basilica. The people who go to Inter-Continental Hotel are not the kind people who

consume *chang'aa* and other cheap liquor because the cost of drinking there is pretty high. I really do not think that those are the issues. The issue really is one; why do people drink? Why are the youth predisposed to drinking? Why are people building bars all over the place? For one, cities and towns must have strict codes of zoning both business, living and learning premises. What has gone wrong is the failure to plan properly for space use. So, if we can have strict and proper rules and regulations on space use in our urban and city centres, then we shall be okay to begin with.

Secondly, we must think of the fact that as we develop, more and more people will live in urban areas. The idea regarding these mushrooming urban centres in rural areas as markets is outdated. They should be properly planned as urban areas and urban space use principles must be applied. In that regard, you will find that it is not just bars that should be controlled or should be properly placed in proper places, but even toilets.

We have a big problem of public health in our urban centres and in the rural areas. As we need to build more toilets in these areas which are getting more and more human beings living there, we shall not only be dying from alcohol abuse but we are also going to dying from poor public health because we are not using our spaces properly. We will end up building toilets which should not in this day and age, be used as a way of getting rid of refuse but we should use proper refuse disposal systems using water. So, I think that this issue is much bigger than we are putting it and although it is important to focus on it, I think it is also important to focus on why there is alcohol abuse in this country.

Secondly, the alcohol content of drinks is important. If we have proper alcohol regulations and we control the content of alcohol in every drink, we shall go a long way in doing this.

Let me give you the example of Uganda. Uganda had a similar problem of what we refer to here as *chang'aa*. Uganda made it possible for that Nubian gin to be processed industrially to be produced as *Waragi* whose alcoholic content was regulated and known and the price was put in such a way that it could not be abused that easily.

So, let us look at the scientific, technical and proper way of dealing with the issue of alcoholism in our country and not deal with it in the prohibitive sense. That is why I said I was going to contribute and not oppose or support the Bill but to say that I think the reasons why there is alcohol abuse are better understood if you look at those technical and scientific issues than make it rather simplistic.

I have contributed, thank you.

**Ms. Amina Abdalla:** Mr. Temporary Deputy Speaker, Sir, I wish to oppose this Bill. It is one thing to say that you should look at other issues around the---

**Mr. Midiwo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Seeing that people seem to have exhausted this debate, they are being repetitive; would I be in order to ask you to call upon the Mover to reply?

**The Temporary Deputy Speaker** (Mr. Ethuro): You cannot do so, Mr. Midiwo, because you had already contributed.

**Ms. Amina Abdalla:** Mr. Temporary Deputy Speaker, Sir, given the time and knowing that Mr. Midiwo is on the other side and he is in the minority, I would like to urge that the Mover be asked to respond so that we can vote.

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

**Mr. Kapondi:** Mr. Temporary Deputy Speaker, Sir, I want to say that those who have supported this Bill, I thank them for their sobriety. By bringing this amendment, we are trying not to punish the middle class people of this country.

Mr. Mututho had a very noble idea when he came up with the original Bill, but unfortunately, it has never protected those ones who were meant to be protected.

With that, I beg to move.

*(Question put and negatived)*

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Ethuro): Hon. Members, it is now time to interrupt the business of the House. The House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.