

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 5<sup>th</sup> December, 2012

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

### PAPERS LAID

The following Papers were laid on the Table:-

Sessional Paper No.9 of 2012 on the National Industrialization Policy Framework for Kenya, 2012 to 2030 with the theme of transforming Kenya into a globally competitive regional industrial hub.

*(By the Minister for Industrialization)*

Sessional Paper No.8 of 2012 on the National Policy for the Sustainable Development of Northern Kenya and other Arid Lands, releasing our full potential and accompanying papers ending drought emergencies in Kenya; the National Policy for Sustainable Development and Vision 2030 Strategy, which is an annex to our national vision.

*(By the Minister of State for the Development of Northern Kenya and Other Arid Lands)*

### NOTICES OF MOTION

ADOPTION OF SESSIONAL PAPER NO.8 OF 2012 ON  
NATIONAL POLICY FOR SUSTAINABLE DEVELOPMENT  
OF NORTHERN KENYA AND OTHER ARID LANDS

**The Minister of State for Development of Northern Kenya and other Arid Lands**  
(Mr. I.E. Mohammed): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts Sessional Paper No.8 of 2012 on the National Policy for Sustainable Development of Northern Kenya and other Arid Lands laid on the Table of the House, today, Wednesday, 5<sup>th</sup> December, 2012.

APPROVAL OF SESSIONAL PAPER NO.9 OF 2012 ON  
THE NATIONAL INDUSTRIALIZATION POLICY

**The Minister for Industrialization** (Mr. Kosgey): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House approves the National Industrialization Policy, Sessional Paper No.9 laid on the Table of the House today, 5<sup>th</sup> December, 2012.

## ORAL ANSWERS TO QUESTIONS

*Question No.1539*

### PROTECTION OF LANDLORDS FROM EVICTION BY TENANTS IN NAIROBI

**Mr. Deputy Speaker:** Is Mr. Mututho not in the House? Is he out of the House today on any parliamentary business?

The Question is dropped.

*(Question dropped)*

*Question No.1803*

### EXPENDITURE ON DROUGHT MITIGATION IN WAJIR DISTRICT

**Mr. Sirat** asked the Minister of State for the Development of Northern Kenya and other Arid Lands:-

(a) how much money was slashed from each Ministry and/or department for drought mitigation in the 2011/2012 Supplementary Budget;

(b) how the money was spent and whether he could provide itemized expenditure; and,

(c) how much money was spent on drought mitigation in Wajir South Constituency.

**The Minister of State for Development of Northern Kenya and Other Arid Lands** (Mr. I.E. Mohamed): Mr. Deputy Speaker, Sir, I have been travelling and I came straight to Parliament. I beg the indulgence of the hon. Member that I answer this Question on Thursday.

**Mr. Deputy Speaker:** That is tomorrow?

**The Minister of State for Development of Northern Kenya and Other Arid Lands** (Mr. I.E. Mohamed): Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** It is the indulgence of the Chair and the House and not the hon. Member alone. Mr. Sirat, are you comfortable with the Question being answered tomorrow in the afternoon?

**Mr. Sirat:** Mr. Deputy Speaker, Sir, I wish to state that this Question is not meant for the Minister of State for Development of Northern Kenya and Other Arid Lands. If you read the Question, you will find that it says: "How much money was slashed from each Ministry and/or Department for Drought Mitigation in 2011/2012?" This Question was actually meant for the Minister for Finance. Last week, it was on the Order Paper and it was addressed to the Minister for Finance. I do not know why it has been transferred to the Minister of State for Development of Northern Kenya and Other Arid Lands. I wish that this Question be directed to the Minister for Finance.

**Mr. Deputy Speaker:** I think among the roles of the Ministry of State for Development of Northern Kenya and Other Arid Lands is to co-ordinate the expenditures in all the other

Ministries, including the votes that have been set aside. In my opinion, this Question is properly placed. In any case, the Government has that collective responsibility and it decides on who answers the Questions. For your information, even if the Minister for Labour was to decide to answer a Question directed to the Minister for Finance, that is acceptable in the rules and Standing Orders.

It is my presumption that this Question will best be answered by this Ministry because it is the one which has the capacity to engage all those other Ministries. The Ministry of Finance or the Treasury is a disbursement Ministry.

**The Minister of State for Development of Northern Kenya and Other Arid Lands** (Mr. I.E. Mohamed): Mr. Deputy Speaker, Sir, now that I am aware of this Question, I need more time to get that information. This is because it will involve multiple Ministries. Maybe, Thursday, next week will be appropriate. That information does not lie within my Ministry and I have to write to all the Ministries to get it.

**Mr. Deputy Speaker:** Precisely! The letter we have from the Treasury was addressed to your Ministry and I would like to read it verbatim. It is addressed to the Permanent Secretary, Mr. Lawrence Lenaiyapa. It states:-

“The above-mentioned parliamentary Question by the Member for Wajir South, hon. Sirat, regarding allocation of funds towards the drought mitigation refers. Further to our previous correspondence, the latest being this office Letter Reference No.--- We have viewed the matter and our considered opinion is that your office is better placed to respond to the issues raised being the Accounting Officer responsible for the budgetary Vote under which the allocation was made.

Accordingly, I hereby re-direct the Question for your instructions. I attach copies of both Printed Estimates and/or unrevised estimates of the relevant vote for the period in question for ease of reference.”

If the Government itself is in a position to have that internal integrated mitigation on how to deal with this matter, the Chair has no option but to accept accordingly.

**Mr. Imanyara:** On a point of Order, Mr. Deputy Speaker, Sir. I think there is a more fundamental issue and I am not in any way challenging your ruling. The Member has said that he asked the Question. It is his responsibility and he directed the Question to a particular Ministry. Even though I agree that any Minister can answer that Question, who changed the position that the Question that was addressed to Treasury be answered by the Ministry of State for Development of Northern Kenya and Other Arid Lands? I think that is a fundamental issue he has raised. The Treasury cannot determine for any Member as to where to direct a Question, but, of course, the Government may determine which Minister can answer.

**Mr. Deputy Speaker:** Precisely. The Treasury is part of the Government. It is in this process that there is internal correspondence between the relevant Ministries and the decision was made at the Government level. Parliament has accordingly been notified. All that Parliament can do is to allow that in the sense that it says:-

“---being the Accounting Officer responsible for the budgetary Vote under which allocation was made.”

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, with due respect, that is a correspondence between the Treasury and a Ministry. The Member of Parliament asked a Question. Surely, he is entitled to know the circumstances under which it was changed and directed to another Ministry which he himself has not sought and I have no problem---

**Mr. Deputy Speaker:** Order, Mr. Imanyara! You know this very well. As a matter of fact, you are a Member of the Speaker's Panel---

**Mr. Imanyara:** That is why---

**Mr. Deputy Speaker:** Order! The redirection of one Question from one Ministry to another is purely the prerogative of the Government and it is not a matter to be determined by the Chair. That happens always. A Ministry would feel that a Question would best be handled by another Ministry and in the process send it to that Ministry. The Chair is not there to supervise and organize the Government functions. It is understandable the hon. Member directed the Question to the Treasury and the Government within its own jurisdictions and prerogative decided that it has to be handled differently. There is no way the Chair can direct anything different from that.

Under the circumstances, how much time do you need? In any case, knowing very well what the hon. Member is looking for, it is important that we do not waste time on the semantics, but get to the real issues and have the Question answered.

**The Minister of State for Development of Northern Kenya and Other Arid Lands** (Mr. I.E. Mohamed): Mr. Deputy Speaker, Sir, now that I have the Question, I have to get an answer not only from Treasury, but also from all the other Ministries. I seek the indulgence of the House that I will write to all the Ministries today. I hope I will get the answers by Thursday, next week.

**Mr. Deputy Speaker:** It is precisely within your mandate as the Minister of State for Development of Northern Kenya and Other Arid Lands. The Development Vote does not come to your Ministry but it goes to other Ministries. All you have to do is to co-ordinate and make sure that it is well spent. So, that is within your mandate. So, the Chair directs that this Question-- Hon. Sirat, are you comfortable with that?

**Mr. Sirat:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Okay. I direct that this Question be put on the Order Paper on Thursday, next week and the stated Ministry to avail the answers.

*(Question deferred)*

*Question No.1856*

DELAYED DISBURSEMENT OF LOANS BY  
WOMEN ENTERPRISE DEVELOPMENT FUND

**Mr. Oyugi** asked the Minister for Gender, Children and Social Development:-

(a) how long it takes, upon application by a women's group, to access loans from the Women Enterprise Development Fund (WEDF); and,

(b) what she is doing to remove bottlenecks to ensure quick access of these loans by women groups.

**The Minister for Gender, Children and Social Development** (Dr. Shaban): Mr. Deputy Speaker, Sir, I beg to reply.

(a) It takes a minimum of one month and a maximum of two months upon application by a women group to access loans from the WEDF.

(b) To remove bottlenecks to ensure quick access of these loans, the Ministry is taking the following initiatives:-

- (i) decentralization of the operations;
- (ii) increased frequency of loan committee meetings;
- (iii) intensified financial literacy training using volunteers found in each constituency;
- (iv) use of public *barazas*, the Provincial Administration and the media to sensitize women on the need to pay their loans promptly to improve on the turn-around effect;
- (v) use of M-Pesa for loan repayment encourages timely payments and use of SMS to remind women when to repay their loans;
- (vi) continuous engagement of the financial intermediary partners to encourage them to simplify and relax their lending terms and conditions so that women can be able to access these loans;
- (vii) women are also being sensitized on the importance of forming their own co-operative societies which are expected to be more friendlier than financial institutions; and,
- (viii) giving the Fund legal autonomy through an Act of Parliament. We have already done the Draft Bill.

**Mr. Oyugi:** Mr. Deputy Speaker, Sir, the Minister has said that it takes a maximum of two months for women groups to access these loans. Is she aware that there are many women groups totaling to about 15 which have been waiting for the past more than three months to access these very loans?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, yes, I am aware but once this vigorous exercise has been undertaken by the committee, then it is transmitted to the board and the board sits twice in the headquarters to be able to give the final go ahead but I am aware that there is Kshs1 million which is supposed to be released next week and we would want to even invite the hon. Member of Parliament to be there to give the 16 women groups these cheques.

**Mr. Oyugi:** Mr. Deputy Speaker, Sir, first, of course, the Minister does not do very beautiful arm-twisting by inviting me to preside over the cheque presenting ceremony which I am happy to participate in just that it does not fall within the two months that she said. However, on a totally different question: What steps has the Minister then taken to make sure that the fund gets legal autonomy as she anticipates in her last part of her answer?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, I have just mentioned that there is a draft Bill which is still to be approved by the Cabinet so that it can be published for debate in this Tenth Parliament and until it has gone through the Cabinet, then I cannot really say but it is amongst the Bills we are trying to push through to be approved by the Cabinet.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, this Question is very important because these are some of the schemes or the reforms that the Government has put in place in order to get these resources to the grassroots but I think the biggest problem I see is information flow for the women to be sensitized to be able to take the loans in some parts of the country. So, what is the Minister or the Ministry doing to increase capacity at the grassroots so that we have many more people who go around to give information to those who would like to apply for the loans?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, what I have realized is that people really listen to their elected leaders and it is important for the involvement of Members of Parliament so that our people can really hear our voice concerning the Women Enterprise Development Fund (WEDF) and how it works and how it helps our people. For example, not so many people are aware that the loans which go to the constituency level specifically to the groups; that is the special scheme that is there for the women groups at the constituency level do not attract any interest rates.

People do not know that and we like involving the sitting Members of Parliament so that these women can be able to come up in big numbers and take these loans. I just want to give an example. With regard to Homa Bay County, you will find that there is one constituency which has accessed over Kshs9 million and yet there is one which has accessed only Kshs2 million and yet they are in the same county. So, it really depends on how the people's representatives are involved in this.

**Mr. Oyugi:** Mr. Deputy Speaker, Sir, the Minister has mentioned that there is intensified finance literacy training using volunteers in the various constituencies. I am not aware if there any such volunteers in Ndhiwa and that will be the reason why there will be a disparity in terms of the loans. So, would she tell the House how many women volunteers exist in Ndhiwa and how much training has so far been done?

**Dr. Shaban:** Mr. Deputy Speaker, Sir, there are 210 women and a few men who are actually volunteers in terms of educating people concerning this WEDF. In fact, prior to that, there was a pilot programme which was done and it involved only 65 constituencies and we saw there was a big improvement in terms of what the volunteers were doing and in terms of women accessing these funds. So, in Ndhiwa, you have one volunteer who is paid by the WEDF. That is more than enough.

**Mr. Deputy Speaker:** Next Question by Mr. Chanzu.

*Question No.1796*

LACK OF EMPLOYMENT OPPORTUNITIES FOR  
PHARMACEUTICAL TECHNOLOGISTS

**Mr. Chanzu** asked the Minister of State for Public Service:-

- (a) whether he is aware that there are many pharmaceutical technologists who have not been employed to-date; and,
- (b) what plans the Government has to find employment for these technologists.

**The Assistant Minister, Ministry of State for Public Service** (Maj. Sugow): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that there are many pharmaceutical technologists in the labour market who have not been employed to date. Both public and private medical training institutions which train health workers do so for the labour market and not necessarily for absorption into the public service. Recruitment of staff into the public service depends on various factors including the existence of vacancies in the authorized establishments for the various Ministries or departments, existing workload and more importantly availability of funds in the voted provisions among others. Currently, the Ministry of Medical Services has 414 vacant posts in the various grades of pharmaceutical technologists. However, due to financial constraints, the Ministry has only been able to fill 85 vacancies in various grades of the cadre in the last three years.

(b) In view of the foregoing, the Government will continue to recruit pharmaceutical technologists and other health professionals in the labour market depending on availability of funds.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for the answer but actually it is the responsibility of the Government to create an enabling environment

both in the public and private sector for trainees like these ones to be able to get into the labour market. Could the Assistant Minister inform the House whether the Ministry finds it necessary to fund the cost of employing these trainees and what he is going to do to create the enabling environment so that these trainees can get recruited into the labour market?

**Maj. Sugow:** Mr. Deputy Speaker, Sir, I very much agree with the hon. Member that there are quite a number of these officers who are in the market and are not employed but also there are so many other professionals in the country who are not employed. Employment of these professionals together with others in various sectors also depends on the prevailing economic circumstances generally in the country. So, it is improvement of that that will actually determine the absorption rate of these various professionals. It is not only pharmaceutical technologists who have a backlog of these numbers in the labour market but there are so many others. It does not necessarily mean that we have to stop training of these professionals because we are still working hard as Kenyans to improve our economy to ensure that we provide employment for our professionals across all sectors. Therefore, I would not probably advise that we actually stop training. After all, we could still be able to provide these professionals to the outside world and not necessarily for our local market. So, that is what I agree with. I cannot advise that we stop training.

**Mr. Mwangi:** Mr. Deputy Speaker, Sir, the Assistant Minister has admitted that the Ministry of Health has so many vacancies that they have not filled in this field of pharmaceutical technologists and other holders of diploma programmes that have been undertaken in medical training colleges. This country is one of the signatories of the Millennium Development Goals (MDGs) and one of the goals addressed is health. How could the Assistant Minister concede that the Government is not ready to employ these diploma holder clinical officers? A lot of money through the Constituencies Development Fund (CDF) has been putting up health centres and dispensaries all over the country and yet the Government has not provided enough funds to employ these diploma holders from our medical training centres. Could the Ministry or the Government commit itself and come up with a programme other than investing in training that is going to waste and parents are spending a lot of money on these youths? What action or programme is the Ministry coming up with to absorb these diploma holders in all these areas?

**Maj. Sugow:** Mr. Deputy Speaker, Sir, the absorption, as I had earlier indicated, is very much dependent on the prevailing economic circumstances. As earlier indicated, the health sector is one of the key sectors in our Millennium Development Goals for purposes of development, but we need to look at the matter holistically, namely, the greater picture of economic situation in the country. Therefore, we will continue to employ most of our professionals depending on the economic circumstances, availability of funds and also on the basis of priority depending on the line Ministries and how they prioritize the professionals to be employed. There are so many requirements for employment and due to economic constraints, the respective Ministries prioritize which professionals they will employ and how many at any one time.

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, what is the Ministry doing in terms of incentives to the private sector, so that it can absorb these professionals? Secondly, now that he has said that only 85 have been employed out of the 414, could he come up with a programme, so that those who are waiting to be recruited can know roughly when they can get into employment in the Public Service?

**Maj. Sugow:** Mr. Deputy Speaker, Sir, I have answered that part of the question asked by Mr. Chanzu. However, the Ministry can consider prioritizing on the basis of the time of

graduation and seniority in the market for these particular officers when they are being employed. For the private sector, these are private businesses and the overall economy is what encourages growth in that particular sector and, therefore, employment. Therefore, we need to address the problems of the economy and improve our economy, so that the private sector can also thrive and employ some of these professionals.

*Question No.1478*

BUDGETARY ALLOCATION FOR SPECIAL SCHOOLS/TECHNICAL  
TRAINING INSTITUTIONS IN MOMBASA

**Mr. Yakub** asked to ask the Minister for Education:-

(a) whether he could provide a list of all special schools and technical training institutions which are caring for the mentally challenged, physically challenged and the deaf/blind in Mombasa County;

(b) whether he could consider funding these institutions adequately, in view of the current high school fees, which most parents/guardians cannot afford; and,

(c) whether he could also consider posting qualified teachers to the institutions.

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

(a) The list of special schools and technical training institutions which are caring for the mentally challenged, physically challenged and the deaf/blind in Mombasa County is attached as Appendix I which has been given to the Member. It consists of 35 institutions.

(b) All the special needs institutions are supported by the Government through the free primary education and the free day secondary education funds for primary and secondary schools, respectively. However, owing to the additional costs of instructional materials for special needs education, the Ministry gives an additional capitation for the special needs children in public schools. Those additional funds are used for purchase of specialized instructional materials and assistive devices. Capitation is pegged on the overall Free Primary Education Budget as approved by the Treasury. I wish to acknowledge that the funds provided are inadequate and, therefore, there is need to increase the funding for these institutions. As a matter of fact, borders are also given support.

(c) The institutions already have qualified teachers posted by the Teachers Service Commission (TSC).

**Mr. Yakub:** Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for listing almost all the schools which I had asked for, but I would like to ask him a question. He has acknowledged that the funding is inadequate. Could he tell the House how he is going to increase this funding as it is really needed in the coming year?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, we make requests to the Treasury through this House. This House approves and the Treasury always has the final say. We shall do the same and if the Treasury allows, then we shall get the funding. Then the schools will get additional funding to what they already get from us. Let me be a little bit clear that the top up funds in special needs primary schools is Kshs2,000 per child. The borders, whether in primary or secondary, get an



additional Kshs8,000 per child on top of the normal free day secondary school education funds and the free primary education funds.

**Mr. Yakub:** Mr. Deputy Speaker, Sir, the Assistant Minister has done very well to my Question. However, there is the issue of qualified teachers. I have gone around to some of the schools which he has mentioned and there is a shortage of professional teachers. What measures will he put in place for the coming financial year on the particular item of increasing the number of qualified teachers to these needy students?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, with regard to the recruitment of teachers, which is now to be done by the TSC, the TSC will recruit teachers as funds become available to it. I hope that the Government will give additional funds to the TSC to recruit more teachers. The special needs schools will be given the right teachers they need to take care of special needs education.

*Question No.1680*

ACCREDITATION OF CHINESE UNIVERSITIES  
BY KENYAN GOVERNMENT

*Question No.1836*

**Mr. Deputy Speaker:** Mr. C. Kilonzo is not feeling well. He is sick and I direct that this Question be listed on the Order at the time when he is healthy and we wish him a very quick recovery.

*(Question deferred)*

*Question No.1836*

DELAYED PAYMENT OF DUES TO UNICEF  
SUPPORTED PROGRAMME EMPLOYEES

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

(a) whether she is aware that employees who were employed in 2008 under UNICEF supported program were not paid their dues from July 2009 to 2010; and,

(b) why they were not paid and when their dues will be settled.

**Mr. Deputy Speaker:** Where is the Minister for Public Health and Sanitation? Prof. Kamar, where is your colleague from the Ministry of Public Health and Sanitation?

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Deputy Speaker, Sir, I was assuming that she will be here today, but I would like to request that, this not being the last Question, you give her a few minutes. She may be on the way.

**Mr. Deputy Speaker:** We have so many Bills to transact. The rule now is that we ask Questions only once. There is no second round.

**The Minister for Higher Education, Science and Technology** (Prof. Kamar): Mr. Deputy Speaker, Sir, in that case, I undertake to inform her so that the Question could appear on the Order Paper on Tuesday, next week.

**Mr. Deputy Speaker:** Mr. Kiuna, are you comfortable with Tuesday, next week?

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

**Mr. Deputy Speaker:** Therefore, the Chair directs that this Question be listed on the Order Paper on Tuesday, next week.

*(Question deferred)*

*Question No.1778*

PROTECTION OF SUGARCANE FARMERS  
FROM HIGH TRANSPORT CHARGES

**Mr. Washiali** asked the Minister Agriculture:-

(a) what the formula of determining sugar cane transportation charges for all sugar factories is;

(b) what the reasons for the variation in the cost of cane transport are; and,

(c) what measures he is taking to protect the cane farmers from unfair high transport charges.

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

(a) There is no determined formula to establish sugar cane transportation charges in the sugar industry.

(b) Variation in the cost of transportation could be due to differences in zonings, state of road infrastructure, availability and means of transport, differences in pay lot, weather conditions, type of terrain, human factors such as bribery and fuel theft. However, since that is private sector matter, I am not in a position to give this answer with a better certainty than anybody else.

(c) The Ministry, through Kenya Sugar Board, has provided grants to both sugar factories and cane outgrower organization to improve on quality of roads. The Ministry has also provided loans to factories and outgrowers' organizations to purchase tractors for cane transportation with a view to reduce the cost to farmers.

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I would like to take this opportunity to thank the Assistant Minister for the answer. However, I am shocked that he can come up with this kind of an answer because when I was putting up this Question, I knew that under the Ministry of Agriculture, there is a cane pricing committee. This is a committee that looks at the ultimate benefit of a farmer. If the committee only does the preparation of the formula of the price of cane, then I do not think it is doing enough. It is after they have set the price of the cane that the deductions come and transport is a key deduction. I am sure he is aware that different companies have different rates. Would it be fair for the Ministry to come up and say that there is no transport pricing formula when there is a committee that is supposed to be looking at the cane prices, which determines what a farmer gets at the end of the day?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the committee we have is for determining cane prices, but not transport. If I could be allowed to read what the Ministry has given, especially for roads in those areas, it shows that if the money given is used properly and the roads are done, I can assure you that the cost of transportation would go down. Again, we have also given factories money to buy tractors so that they can transport cane cheaply and reduce the

cost to the farmers. Finally, we have also given money for rehabilitation of the transport system. With your permission, I can give an example.

*(A mobile phone rung)*

**Mr. Deputy Speaker:** Is there somebody who has his phone near the microphone? It must be you, Mr. Ndambuki. Please switch off your phone.

Proceed.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, I just want to pick one example. We have given South Nyanza Sugar Company (Sony) Kshs64 million to buy transport fleet. So, the issue of this cost should not arise if the roads are properly done and properly maintained.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, this Question touches mainly on Kakamega County that produces 80 per cent of the sugar consumed in this country. There are three major factories; Mumias Sugar Company, Butali Sugar Company and West Kenya Sugar Company. The shocking thing in the Assistant Minister's response is that the terrain for all those companies is the same and Mumias Sugar Company has zoned. As you correctly said, the cane planting areas where the more you move away from the factory, the more you are charged for transport. Is he aware that whereas Mumias in zone one charges up to Kshs800 per tonne to transport sugar cane, Butali and West Kenya Sugar Company charge only Kshs390 for cane delivered from as far away as 60 kilometres, that is from Butali to Ikolomani? Could he harmonize this or justify? I wonder whether he is aware the terrain and roads are the same. Could he also undertake to familiarize himself with these facts on the ground, so that we save the farmers?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, I totally agree, but about Mumias Sugar Company charging Kshs800 per tonne, I was not aware. But I can check and come back to the House so that it can be rectified to be in the range of Butali Sugar Company who are charging Kshs190 or West Kenya who are charging Kshs150 while others are charging up to Kshs300. I am going to investigate whether that allegation is true. If so, action will be taken so that the company does not continue ripping off farmers.

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

**Mr. Deputy Speaker:** I can see you have asked for a point of order, just relax.

**Mr. Pesa:** Mr. Deputy Speaker, Sir, farmers lose a lot of money through deductions on transport charges. The Assistant Minister has said that he gave Kshs64 million to South Nyanza Sugar Factory to purchase tractors, which is good, though he needs to tell us how many have been bought. When will he ensure that we have mobile weighbridges, so that this transport cost does not go to the farmers in order for them to reap maximum from their fields?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the Kenya Sugar Board is working on that and even some of the factories have already installed them very close to the farms. Now that we passed the Sugar (Amendment) Bill, the Kenya Sugar Board is working to ensure that these weighbridges are at the point of purchase of cane during harvesting.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I just want to thank you and request that since the Assistant Minister has been so kind to say that he wants to go on the ground and establish the facts--- It is important because under our Standing Orders, Questions are supposed to press for action, could you kindly push him to tell the House when he will report back, so that we have an opportunity to help farmers to get the price go down?

**Mr. Deputy Speaker:** Mr. Ndambuki, the variations in transport costs are a bit shocking. Why would you have charges by sugar companies going to about Kshs800 per tonne when others

are charging Kshs150, Kshs180 or Kshs190, respectively? How soon would you want to report back to the House whether you have actually done something to protect farmers?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, I could come back with a Ministerial Statement on this issue of transport of cane. I could do so next week.

**Mr. Deputy Speaker:** Thursday, next week will be fine for you?

**Mr. Ndambuki:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** The Chair directs that you avail that Ministerial Statement on Thursday, next week.

In the circumstances, Mr. Washiali, would you still want to ask a final Question or are you satisfied?

**Mr. Washiali:** Mr. Deputy Speaker, Sir, I am satisfied, but I could just add that he also needs to ask the Kenya Sugar Board which regulates the sugar sector to be a bit more proactive because this is something that they should have regulated.

**Mr. Deputy Speaker:** I am sure the Assistant Minister has taken that.  
Next Question, Mr. Kabogo.

### *Question No.1816*

#### CONSTRUCTION OF FOOTBRIDGE AT WITEITHIE CENTRE

**Mr. Kabogo** asked the Minister for Roads:-

(a) why the contractor, Ms Shengli Construction Ltd. constructing the Thika super highway erected a foot bridge at Castle area near Thika town, which is an unsettled area instead of constructing the same at Witeithie Centre, which is densely populated, thereby causing several deaths as pedestrians attempt to cross the road; and,

(b) whether he could consider asking the contractor to shift the foot bridge to Witeithie Centre in order to avert more deaths.

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

(a) The footbridge erected at Castle area was placed at that location due to the large population of pedestrians crossing from one side to the other side. The area has been provided with an underpass pedestrian crossing.

(b) My Ministry has noted that majority of pedestrians are not utilizing the safe pedestrian crossing provided including the underpass in Witeithie. The footbridge at the Castle Brewery cannot be relocated since this will deny a large population at this location a safe crossing given the nearest pedestrian crossing will be at the Thika overpass. However, my Ministry, through the Kenya National Highways Authority (KeNHA), is considering erecting an extra footbridge at Witeithie to ensure that we cater for this population that cannot utilize the underpass.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, sometimes it is very difficult to understand how Ministries answer questions because in my mind, I imagine that they think we are inhumane or devoid of intelligence. I say so because the answer here reads: "The footbridge erected at the Castle area was placed at that location due to the large population," and yet there is no population there at all. I have photographs that I invite the Chair to look at.

**Mr. Deputy Speaker:** Table the photographs.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, I will lay them on the Table.

*(Mr. Kabogo laid the photographs on the Table)*

Mr. Deputy Speaker, Sir, from those photographs, it is clear that there is no population at all. However, never mind. When will the Ministry put up this bridge at Witeithie Centre because since the road was opened, we have lost 27 lives at this centre? The Assistant Minister has said that the Ministry is considering this. Could he tell us within what timeframe?

*(Loud consultations)*

Mr. Deputy Speaker, Sir, please, protect me from the Members who are consulting loudly.

**Mr. Deputy Speaker:** Order, hon. Wetangula, hon. Okemo and hon. Washiali! I can understand you are excited for very good reasons. However, could you allow hon. Kabogo to have a bit of silence?

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, it is the excitement of coalitions. Could the Assistant Minister tell the House what the Ministry has done to educate Kenyans not to cross highways at any place? We have bridges all over but they are not being utilized. What will the Ministry do and when will it put up a bridge at Witeithie Centre?

**Mr. Deputy Speaker:** Mr. Assistant Minister, we are losing Kenyan lives. Can you answer the Question taking into consideration the gravity of the matter because lives are irreplaceable?

Proceed!

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the hon. Member has shared the photos with me and, indeed, immediately, next to the road, there is a population that is visible. However, we are not talking about the people who live right next to the road. We are talking about populations across the road on the other side. Therefore, to say that the plot immediately after the bridge is empty and, therefore, it is an indication that there is no population is inaccurate.

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! The issue is not the situation we have on the ground where the bridge is but the issue is the loss of lives where there is massive population or where it is densely populated. You could still have that bridge in that area to save lives and not necessarily dismantle it because it serves a purpose as population increases. We have not had populations decreasing in Kenya for a very long time. So, could you answer the Question given the gravity of the matter?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the reason I said that is because of section "b" of the Question where the Member had asked us to shift that bridge to Witeithie area. That is not what we want to do because as we construct roads, we do not just construct them for now. We appreciate the future developments within that area. There was an oversight because where we have an underpass, where people currently cross - the bus stop for the public service vehicles is about 200 meters away--- Therefore, when people alight, they find it difficult to walk 200 meters, across and then cover 200 meters back. We have ensured that we get another footbridge near the Witeithie Centre. However, our great concern is that even in areas where we have built footbridges right next to populations like in Githurai and other places, the public does not use the footbridges. I think we need to have a massive awareness campaign so that we can save lives. But more importantly, we noted that previously, when we did the underpasses where pedestrians

would cross, the challenge was mugging and people feared that if they crossed in those areas at night or even during the day, they would be attacked. We have now placed them over the road and that is why we are calling them overpass footbridges and more importantly to make them transparent. This means that if there is somebody waylaying someone there, we will definitely see him or her. But in spite this, we want to say that the utility of these bridges has been very low. This includes a bridge at Nyayo Stadium on Mombasa Road. Over 60 per cent of the population crossing the road walks across the road and yet the footbridge is there.

We are in the process of coming up with a massive awareness campaign and to urge Kenyans that as the Government tries to save their lives, they must be at the forefront to ensure that they assist the Government. Once we have done the footbridges, there is very little we can do to punish people so that they can use them. I want to agree with the hon. Member that there is an urgency to ensure that a footbridge at Witeithie is constructed. This is largely because when we talk about a three lane road and a pedestrian calculating the speed of three moving cars in order to cross, it could be a bit of a task. Some of them could be elderly people, disabled or children and we do not want to continue losing lives. We undertake to do that footbridge within this financial year.

**Mr. Njuguna:** Mr. Deputy Speaker, Sir, I will start by thanking the Assistant Minister for being considerate on the plight of the community at Witeithie. Aware that he has given that commitment, how much money will he allocate for this very urgent project?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, we are already doing the estimates. However, it is good to remember that this road was recently completed and it is currently under what we call the “defect liability period”. So, we do not need to set any money aside because the vote for this project is still on. All we need to do is to utilize it within the existing vote. I do not think that this is a project by itself as it were. It is within the larger Thika Road Project and, therefore, it will be done.

*(Mr. Kabogo consulted with Mr. Linturi)*

**Mr. Deputy Speaker:** Are you happy, hon. Kabogo? Mr. Kabogo, you want to go into animated discussion with hon. Linturi and at the same time prosecute the question. You cannot do both at the same time!

**Mr. Kabogo:** Mr. Deputy Speaker, Sir I was waiting for the microphone. You have heard a long story from the Assistant Minister. It was a good story but my question was simple. When will the bridge be put up at Witeithie Centre? He has talked about the financial year and yet people are dying.

**Mr. Deputy Speaker:** Hon. Assistant Minister, this is important. It is the lives of Kenyans that we are talking about. You must give a provisional timeframe on this.

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I am not able to give the exact time, day or hour. But I want to undertake that within this financial year, we will ensure we are able to do that because as I said, the contract is already ongoing. But even more critically, as we wait for that to be done, we want to urge the residents of Witeithie Centre and all other areas not to continue dying as we wait for the bridge. They can still use the underpass that is there, so as to save the lives of Kenyans.

**Mr. Balala:** Mr. Deputy Speaker, Sir, I want to congratulate the Ministry for a good job on the superhighway and the footbridges; also there are other areas such as the Uhuru Highway, just opposite Parliament and Uhuru Park, where there have been several accidents---

**Mr. Deputy Speaker:** Order, hon. Balala! I think you have been in the Cabinet long enough as to have a problem in prosecuting Questions. We a Question on a specific road and a specific footbridge and two locations; do not take this debate to other areas; talk about this particular issue.

*(Dr. Khalwale stood up in his place)*

Yes, hon. Khalwale, what is your point of order?

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to tell us that he is waiting for the next financial year before he acts, when at the same time he has told us that the road is still under the defects liability period, which means the 10 per cent of the money that is set aside to correct any areas that were not very well worked on? If there is a missing flyover bridge, it is a defect in the construction of the road. Why can he not use part of the 10 per cent money to do the bridge at Witeithie? Is he in order?

**Mr. Deputy Speaker:** In any case, Assistant Minister, you admitted that there was a design issue; there was a miss out in the design. So, then, how do you say that we still have the resources, when in the original design the money allocated did not take into consideration the possibility of putting up a footbridge at Witeithie? When you say you will construct the footbridge in this financial year, the financial year ends next year in June. Next year June, you will either be a Governor in Nakuru or you will be an ordinary citizen out there doing your own business. So, it is too long a period for you to give an undertaking!

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I did not say that we will do it in the next financial year; I said we will do it within this financial year.

**Mr. Deputy Speaker:** This financial year ends in June next year.

**Mr. Kinjanjui:** Secondly, this is not a defect. A defect means that something has been constructed and is inappropriate. So, this is not within the 10 per cent that the hon. Member is talking about.

I think this must be taken very seriously. If it takes me to walk a 100 metres to be able to be safe and to be there tomorrow and not to be at the Spinal Injury Hospital, I would rather walk the 100 metres. We are saying this because even in areas, where we have already constructed structures, the number of accidents is extremely high. So, I think it would be---

**Mr. Deputy Speaker:** Whose responsibility is it to sensitize Kenyans on the need to use foot bridges? This has not been a common thing in the past. It is very new to Kenyans. Whose responsibility? It is your Ministry's.

**Mr. Kinyanjui:** The responsibility is ours and we have put a signage of all over, and hope that will not be taken away any time soon. Even more importantly, we have campaigns that are already going on; I am sure you have been able to see it in the media. Even more importantly, I think the responsibility lies with all of us. I do not think there is one single institution that is responsible. So, we all need to be out there in the schools, especially those that are next to the main highway to sensitize them and ensure that road safety belongs to all of us.

Mr. Deputy Speaker, Sir, lastly, we have already began a campaign to ensure that as we approach Christmas, that is when we experience the highest number of cases, we have a high level of awareness for Kenyans to observe traffic rules. We want to ensure that those who drink and drive do not do so within this particular period.

**Mr. Deputy Speaker:** The final point of by hon. Kabogo, and then we proceed.

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, the Assistant Minister is not being very helpful to the Kenyan public. You have seen those photographs. There is no one on both sides of the road where that bridge is. So, really, if he has budgetary constraints, these bridges are movable. He only needs to ask the contractor to move the bridge, if they have a financial problem. If there is no financial issue, as he intimated before, then he should say that within the next 90 days, they should be able to start working on that bridge. He wants to take us to next year when he will not be in the Ministry, and we do not even know what is going to happen. If we have lost 27 people in the last four months, we are going to lose another 27 people in the next four months. So, really, this is an important matter. Could he tell the House whether they will move the bridge or he will erect a new bridge and within what span of time? It is as simple as that.

**Mr. Deputy Speaker:** That is the question the Assistant Minister is avoiding---

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, I think I have already said it all. I want to emphasize here that it is not just a question of moving a bridge from point "A" to point "B". You first need to design because specifications are very different. If there is any land to be acquired on either side to ensure there is footage that can be done. But if the hon. Member is concerned about road accidents, I want to assure him that we are even more concerned about road accidents than he is. All I have said is that within this financial year, which includes the 90 days he has mentioned, we will have started the work. But in the meantime, we have said that we want to sensitize the people of Witeithie and all other areas, so that even as we wait for the bridge, we do not continue to lose Kenyans every other day. Also, as I have said, in my opinion, this is due to the population that is constantly shifting from place to place. I think the footbridge that is already at the Castle Brewery area, should remain there.

For this other one, we have an underpass of 200 metres; all we want to do is to build another one, right where the bus-stop is; we can do that. I have assured the hon. Member that we will do that within reasonable time, but more importantly, within this financial year.

**Mr. Deputy Speaker:** Fair enough; it is slightly less than six months to the end of this financial year. So you better start moving if you have to do something within this financial year. Next Order!

## POINTS OF ORDER

**Mr. Deputy Speaker:** Nobody is seeking a Statement and nobody is issuing a Statement.

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

Mr. Deputy Speaker, Sir, on Tuesday, 27<sup>th</sup>, I rose on a point of order asking the Chair's intervention on the misreporting by newspapers, and a number of Members gave their input to that point of order.

Mr. Deputy Speaker, Sir, the Temporary Deputy Speaker then, Prof. Kaloki, intimated that the Chair would issue a Statement on the matter sometime this week.

**Mr. Deputy Speaker:** Could you again repeat what you said? You said that you did seek a Ministerial Statement. When did you seek it from the Chair?

**Mr. Kabogo:** Mr. Deputy Speaker, Sir, I rose on a point of order on misreporting by newspapers in a matter that was in the House; and a number of Members also did give their input to that point of order. The Chair then promised to give a statement sometime this week. I was just seeking the guidance of the Chair as to when we should expect that communication.

**Mr. Deputy Speaker:** I am clearly not in the know on that one. I have to consult the Clerks-at-the Table.



*(Mr. Deputy Speaker consulted  
the Clerks-at-the Table)*

**Mr. Deputy Speaker:** Hon. Kabogo, I may not be able to help you at this moment. The Clerk-at-the-Table is equally not able to help but I promise you that you will get the rightful response in line with the undertaking that was made. We will refer to the HANSARD.

Hon. Members, it is the presumption of the Chair that hon. Nyammo will be proceeding with his Bill on micro and small enterprises in the Committee of the whole House. Hon. Wilbur Otichilo is not with us today. So, he will not be able to move the business under Order No.8(ii). Therefore, after we are done with Order No.8(i), we will proceed to Order No.8(iii), which is the Bill by Dr. Eseli.

Next Order!

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*(Mr. Deputy Speaker left the Chair)*

### IN THE COMMITTEE

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

#### THE MICRO AND SMALL ENTERPRISES BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,  
13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,  
24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45,  
46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56,  
57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67,  
68, 69, 70, 71, 72, 73, 74 and 75 agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Title agreed to)*

*(Clause 1 agreed)*

**The Temporary Deputy Chairman (Mr. Imanyara):** Yes, hon. F.T. Nyammo!

**Mr. Nyammo:** Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Micro and Small Enterprises Bill (Bill No.54 of 2012) and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Hon. Members, we will move straight to The Human Resource Management Professionals Bill (Bill No.51 of 2012).

#### THE HUMAN RESOURCE MANAGEMENT PROFESSIONALS BILL

*(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,  
12, 13, 14, 15, 16, 17, 18, 19, 20, 21,  
22, 23, 24, 25, 26, 27, 28, 29, 30, 31,  
32, 33, 34, 35, 36, 37, 38, 39, 40, 41,  
42, 43, 44 and 45 agreed to)*

*(Schedule agreed to)*

*(Title agreed to)*

*Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Mr. Imanyara): Dr. Simiyu Eseli, can you move?

**Dr. Eseli:** Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of The Human Resource Management Professionals Bill and its approval thereof without amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

#### REPORTS AND THIRD READINGS

#### THE MICRO AND SMALL ENTERPRISES BILL

**Mr. Imanyara:** Madam Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Micro and Small Enterprises Bill and approved the same without amendment.

**Mr. Nyammo:** Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee on the said Report.

**Mr. Kioni** seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

**Mr. Kioni** seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

#### THE HUMAN RESOURCE MANAGEMENT PROFESSIONALS BILL

**Mr. Imanyara:** Madam Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Human Resource Management Professionals Bill and approved the same without amendments.

**Dr. Eseli:** Madam Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee on the said Report.

**Mr. Kioni** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**Dr. Eseli:** Madam Temporary Deputy Speaker, I beg to move that The Micro and Small Enterprises Bill be now read the Third Time.

**Mr. Kioni** seconded.

*(Question proposed)*

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Mrs. Odhiambo-Mabona): Next Order!

#### BILLS

##### *Second Reading*

#### THE CUSTOMS AND EXCISE (AMENDMENT) BILL

I am informed that the Member is not in and so the Bill will be deferred to Wednesday next week or to the House Business Committee (HBC) to give a date.

*(Bill deferred)*

Next Order!

## THE PYRETHRUM BILL

### *Second Reading*

**Mr. Kioni:** Madam Temporary Deputy Speaker, I beg to move that The Pyrethrum Bill (Bill No.57 of 2011) be read a Second Time.

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

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

Mr. Temporary Deputy Speaker, Sir, the Bill relates to the pyrethrum industry. May I start by saying that the importance of pyrethrum dates back to 1850s. It was brought to Kenya in 1928 by Captain Gilbert Walker from London. The growing of the crop was started in Njoro in 1929 and it has continued expanding. It is important to note that sometime back in 1930 or up to 1930, Japan was the leading producer of pyrethrum in the world. This position was taken by Kenya after the Second World War. The growing of pyrethrum has spread in the highlands of the Rift Valley, the Aberdares and Mt. Kenya. It also spread to small farmers starting from 1954.

As I stand here, it is important to note that 90 per cent of the pyrethrum grown in this country is grown by small-scale farmers who are spread across the country. Pyrethrum is grown in 19 counties. The counties are; Kiambu, Nyandarua, Nyeri, Meru, Kisii, Koibatek, Keiyo, Marakwet, Londiani, Laikipia, Nakuru, Nandi, Narok, Trans Nzoia, Uasin Gishu, Pokot, Mt. Elgon, Nyamira and Bomet.

Back in the 1990s, pyrethrum was grown by over 250,000 farmers. I want to repeat that in the 1990s, we had over 250,000 farmers in Kenya who were engaged in this industry. This was a source of income to more than 1 million people directly or indirectly.

Mr. Temporary Deputy Speaker, Sir, it is also important to note that pyrethrum has been a major foreign exchange earner for this country almost occupying number five after tea, horticulture, tourism and coffee. It has earned this country a lot of foreign exchange in the past. We have 234 co-operative societies involved in the production of pyrethrum, 780 self-help growers, 5,016 individually licensed growers and 94 collection centres in the country to date. Nakuru County has been leading in the growing of pyrethrum for the last 20 years having taken over from Kisii in the recent past.

This Bill is useful in many ways. One, given the number of farmers who are involved in it, you can immediately see that it helps in the aspect of poverty eradication or poverty reduction in this country. You can reflect this against the Poverty Reduction Strategy Paper of 2001. There is also the Paper that was done in 1997 which deals with Industrial Transformation to the Year

2020. This aims at expanding and promoting sectors and enterprises in which Kenya already has experience and comparative advantage. Having grown pyrethrum since 1929, Kenya has expansive knowledge and expertise in this sector and this is one of the areas that would benefit the country substantially if we liberalize the market. It helps in the creation of employment and also in the issue of, as I have said earlier, foreign exchange. Also, more importantly, it also helps in restoring Kenya to where it has always been.

In 2003, Kenya supplied 11,000 tonnes of dried flower to the Pyrethrum Board of Kenya (PBK). From 2005, we dropped to less than 1,000 tonnes per annum. In 2011, only 470 tonnes was supplied. This year, which is coming to an end, perhaps we may not even get to the target or to the level that we attained last year. Again, in the early and mid 1990s, Kenya supplied 92 per cent of the world's pyrethrum. Today, we only account for just 2 per cent of the pyrethrum production. In the 1990s, we dominated the market and actually, the world considered Kenya as the sole source. Today, we trail Australia, Rwanda, Tanzania and China. It is also worth noting that in the 1990s, Australia did not produce pyrethrum at all, but today it is accounting for 65 per cent of the world production. It attributes this growth to our failure as Kenyans to do anything to help the industry. They are aiming at growing and controlling the market and essentially taking it over completely from Kenya.

There is still a shortage of pyrethrum worldwide. There is a gap that the world or the global industry expects to be filled within the coming 18 to 24 months. The countries that are being encouraged to do this are Australia, Tanzania and Uganda. You will notice that, again, we have been left out because the message that we have sent to the world market is that we have been reluctant to move with the times, as it is the case the world over. We have continued having unnecessary bottlenecks mainly because we have maintained a monopoly of the PBK. This is what has made the world to turn to other countries. We can actually see that even some of the pyrethrum grown in Kenya is being illegally processed in our neighboring countries like Uganda.

Mr. Temporary Deputy Speaker, Sir, the timing of this liberalization is ideal. It is timely. If we are able to do it, we will most likely regain the market that we have lost. It is important to know that the pyrethrum industry in Kenya is controlled by the Pyrethrum Act, which was enacted in 1964. While we have maintained legislation since 1964, Australia has zero regulation. The Government of Australia has actively encouraged the growth of pyrethrum with grants, loans, tax advantages and even Government funded research. So, it is important that we look at this liberalization as a way of going back into the market and claiming our role, which came to us in 1929 through the colonialists. We have lost this role over the years because of that regulation and more so, because of mismanagement and inefficiency in the way that we have handled this industry. Currently, the board has been unable to pay farmers on time. Even the employees and managers have difficulties receiving their salaries. Even where the board has been paid for products in advance, it has not delivered. Literally, the PBK has no source of revenue and they have got to a point where they sometimes have resorted to selling assets.

The benefits of liberalization to farmers are many. One of them is that farmers will have the ability to sell flowers to whoever they think has the ability to pay. There will be prompt and full payments. There will be investments in the latest farming technology and also, there will be continued research in the development and growth of farming. This industry is very important to the small-scale farmers. This is because we have an excellent crop. This was evidenced back during the Second World War when all other crops failed, but farmers found it easy and quick to resort to pyrethrum growing because it required very little input and it was also a hard crop that could resist the difficulties then.

When the great depression was there, it helped improve the pyrethrum industry because many farmers resorted to it.

A crop like pyrethrum is actually harvested throughout the year unlike some other crops. It allows the flow of money into the farmers' pockets throughout the year. It is not quite affected by extreme climatic conditions and has very low input. It is also very easy for farmers to engage in pyrethrum farming because from the point of planting seedlings one is able to harvest within three months.

Mr. Temporary Deputy Speaker, Sir, there are many things that we can say about this industry, but I think because of the time constraints that we have and also the number of Bills that are pending on the Order Paper, I want to say that as I ask my colleagues to support this Bill, let them bear in mind that we are dealing with farmers in 19 counties. We are dealing with farmers who have little money in terms of capital investment and this pyrethrum product does not require a lot. The fact that you are able to start benefitting from the crop within three months, that is also something that we need to look at favourably as Members of Parliament.

When we had discussions with the stakeholders, there were areas that they wanted amended and they will be amended during the third stage. I know there has been a major controversy on Section 4 of the Bill where there was a suggestion that the headquarters be in Nairobi. Let me clarify that while---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! It is Clause 4 in the Bill not Section 4.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, in Clause 4 it was proposed that the headquarters be in Nairobi. We have since had discussions with the stakeholders and we have agreed that that clause will be deleted during the Third Reading so that the headquarters be retained in Nakuru. There was no intention of moving the factory to Nakuru; it was just the office. But even the office can still remain in Nakuru and I think we have come to that agreement.

There is also the issue of royalties. The rights belong to the PBK; we do not want to take that from them. But we want the farmers to be able to grow and sell this product just like it is happening in other industries so that they can benefit maximally from their sweat. That needs to be done so that farmers are also paid by those who are coming to invest in the industry because we do not want the farmers exploited any further. Those are things that will come during the Third Reading because we have had those discussions. I also want to thank the hon. Members who have also been very keen in what is provided in this Bill.

Mr. Temporary Deputy Speaker, Sir, as I conclude, let me say that during the Third Reading - and hon. Members are certainly aware of this - I want to repeat for the benefit of the Stakeholders, the concerns that they have had that perhaps called for a bit of resistance at the beginning will be addressed and amendments will be made to ensure that, that is done.

With those remarks, I move and ask Mr. Njuguna to second.

**Mr. Njuguna:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this brief moment to support this very crucial Bill in the life of our country.

Let me start by thanking the Mover of this Motion, Mr. Kioni who found time to compile and compose this Bill. This Bill is very important because I recall that when I was a headmaster way back in the 1970s, I used to grow pyrethrum in my school. My pupils would learn farming skills and even the impact of this product. We would realize a lot of cash from this crop and inject the money to developing my school.

Mr. Temporary Deputy Speaker, Sir, pyrethrum is a crop that has benefitted largely people from my constituency, Lari. I recall the semi-arid area of the escarpment, Gitithia and even Mbao-ini; these areas heavily benefitted from this crop. Therefore, this Bill is very important and more cash should be injected into this sector. If this is done, more employment will be created for our youth and security will be enhanced in this country. You realize that recently there have been a lot of kidnappings in this country and you do not see old people kidnapping fellow Kenyans. These kidnappings are done by young people who are hopeless and have no jobs. Therefore, revitalizing this sector will be of great help to the security of this country and again to the small-scale farmers in this country.

It is important therefore, that the farmers of this country must be empowered by the Government, the way the Government has restored certain sectors of our economy. We have seen our Government restore the Kenya Meat Commission, the National Bank of Kenya and Kenya Commercial Bank. Therefore, it is important and prudent that more resources be injected by the Government to the PBK so that the accumulated debts and the farmers, who have not benefitted from this pyrethrum crop over the years, will be paid.

Mr. Temporary Deputy Speaker, Sir, farmers in this country are known to be very productive and they will be empowered if more capital is injected. Therefore, it will also be necessary to release more seeds and fertilizers to the farmers so that they can improve crop productivity and our exports.

In the 1970s and 1980s, this crop earned a lot of income for farmers in the whole of Central Province and the area was quite vibrant. Limuru Constituency is also known to be a pyrethrum growing area. This Bill is calling for that revitalization and more capital into the production of pyrethrum. Concerning the performance of the Kenya Pyrethrum Board, it has left a lot to be desired. The management and supervision of this board needs to be overhauled.

Concerning the fines already proposed in this Bill, I find that they are punitive and I will be calling upon the Mover to address the issue of fines. Suggesting that one pays a fine of Kshs100,000 is a very high penalty. I would, perhaps, request the Mover to consider lowering the amount to Kshs50,000. Also, the issue of imprisonment to one year should be reduced to six months. This is the time that this House should rise to the occasion. This is the time that the Government should pay more attention to bringing back this very important agricultural centre.

With those few remarks, I fully support the desire and spirit in this Bill. I therefore, second the Bill.

*(Question proposed)*

**Mr. Cheruiyot:** Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to contribute to this very important Bill. I would like to congratulate hon. Kioni for bringing this very important Bill at a time when farmers have seen so many false starts on the issue of pyrethrum in Kenya.

Mr. Temporary Deputy Speaker, Sir, pyrethrum has been very useful in combating poverty, particularly among small-scale farmers in Nakuru and parts of Kericho and Bomet counties. For sometime now we have seen increasing levels of poverty in these areas, owing to the mismanagement of this particular crop. I am, with a bit of pessimism, supporting what the hon. Member is bringing. This is because we are concerned that the Government has continued to come in with its regulatory role to assist farmers, but ended up interfering. They have always

advanced loans to this sector, which end up being misused by the same civil servants that they have sent to help farmers. Their regulation has become pernicious to the welfare of farmers.

Mr. Temporary Deputy Speaker, Sir, this Bill seeks to kind of give farmers more control. Farmers must be allowed to influence the decisions of pyrethrum management because, in any case, it is the intellectual property of the farmers. But we must also get a board which must be regulated. It should also be able to protect farmers and ensure that they get benefits from their labour. I am concerned that as of now, we are not really getting to enjoy the benefits of a liberalized economy. As it is, even in areas like Kuresoi, Molo, Nakuru and Subukia farmers with small-scale farms do not have any regular income. They have ended up being dependant. So many youths would have actually benefited from employment in the pyrethrum sector no matter how low it is in those areas. My concern is: How are we going to ensure that farmers' rights are protected, so that they get benefits from this crop?

Mr. Temporary Deputy Speaker, Sir, even as we discuss this issue, I would like to urge that the headquarters of the Pyrethrum Board remains in Nakuru where there is already an established factory with equipment. We do not need to re-invent the wheel by moving it elsewhere. It is in the interest of the farmers that it remains there.

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

**Mr. Mureithi:** Mr. Temporary Deputy Speaker, Sir, I would like to commend my colleague, hon. Kioni, for coming up with this very important Bill concerning pyrethrum.

Mr. Temporary Deputy Speaker, Sir, I was educated with money from pyrethrum. As I speak today, in Nyandarua where we are supposed to have some form of cash crop, the crop has gone. As a result, people are really depending on potatoes and many young people are not being gainfully engaged. At one time, Kenya was contributing 60 per cent of the total world production of pyrethrum. Today, we are producing less than 5 per cent in the world, yet our soils produce the best crop with the highest pyrethrin content. That is why people even had to come from China to get some of our crop here to do research on increasing their pyrethrin content. This resulted into us losing.

Mr. Temporary Deputy Speaker, Sir, I think it is high time we relooked at the way we appoint boards. If you turn to Clause 7 and look at the way the board is being appointed, it is skewed towards the Government. We have the Permanent Secretary and five persons appointed by the Minister. Since this is a people's body, we should give opportunity to the pyrethrum growers in those 19 counties to actually elect their own representatives, so that they have a say.

Mr. Temporary Deputy Speaker, Sir, in the transition period, because we have a lot of investment that has been done by the farmers, we should not allow what happened to the Kenya Co-operative Creameries (KCC) 2000, where all the assets were taken by a few individuals and the farmers never benefitted at all. Even when it was later on made the New KCC, the same farmers lost. Therefore, we should look at those areas so that we give back to the farmers the responsibility to run their institutions, rather than making it completely the responsibility of the Government.

Mr. Temporary Deputy Speaker, Sir, I am glad to hear that we should not always be centralizing institutions in Nairobi. When you go and see the investments that the farmers have done in Nakuru, it would be a tragedy to move even the regulatory body from Nakuru to Nairobi, yet the investment has been contributed by the farmers.

Mr. Temporary Deputy Speaker, Sir, it is good that we are liberalizing a crop, but we should avoid a situation where cartels are going to be formed in order to make sure that other people do not enter into this market.



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

**Mr. Ruteere:** Mr. Temporary Deputy Speaker, Sir, I want to start by thanking hon. Kioni for introducing this very important Bill.

Mr. Temporary Deputy Speaker, Sir, there was a time when all the agricultural products, including coffee, tea and pyrethrum were doing so well in Kenya. But a time came when all the institutions which were running these very important agricultural products were run down. Among the institutions which were run down was the one in charge of pyrethrum. This is because almost all the property belonging to the Pyrethrum Board of Kenya was actually vandalized and taken. Farmers delivered their products and for years were never paid, yet the people who were in charge were walking on the streets with a lot of money in their pockets. This Bill will bring sanity in the production of pyrethrum and the way things are run. It will also bring confidence to the farmers. The Authority will assure the farmers of payment for their products. This kind of guarantee to the farmers is what is lacking. If we have this guarantee, then we can be sure that our agricultural economic activities will be enhanced and people will go back to where there is land available.

Mr. Temporary Deputy Speaker, Sir, this Bill should have been there yesterday. This House should pass it with immediate effect, so that pyrethrum can be grown, harvested and sold. We know that we can be a world exporter of pyrethrum, because the pyrethrum products from Kenya are of the best quality, just like we have the best quality coffee and tea. We are endowed with very good soils for the production of the best quality agricultural products.

Mr. Temporary Deputy Speaker, Sir, I want to join my colleagues in supporting this Bill.

**Mr. Kigen:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. I want to start by thanking hon. Kioni for introducing this Bill at this time.

Mr. Temporary Deputy Speaker, Sir, this particular crop was one of the most important crops, particularly in the early days of our independent Kenya. This crop was ranked together with coffee in terms of the foreign currency that it brought into the country and also as a major employer of the farmers. I remember the days when we used to be taught in school and told that the backbone of our economy was agriculture. This was informed by contributions made by crops such as coffee and pyrethrum.

As you have been told, this crop was introduced in this country in 1928. It was tested and found to do very well in the highlands of our country. From that time, this crop continued to flourish and tonnage went up so that between 1960 and 1970 the crop registered an average of about 15,000 metric tonnes. This was about 75 per cent of the world's requirement. The crop had become an important foreign exchange earner for the country. Production of the pyrethrum flowers and sales to overseas customers brought in up to Kshs2 billion.

Mr. Temporary Deputy Speaker, Sir, soon after that the Executive made major mistakes. It is during that time that businesses were being Africanized. In the quest to Africanize the pyrethrum production in this country, the Executive started pumping in employees who were not qualified or trained to manage the production and processing of this crop. This contributed to many mistakes that were made. The crops were not properly managed and stealing came in. Poor management and lack of training made the industry to collapse.

The second mistake was the enactment of the State Corporations Act, Cap. 446 of the Laws of Kenya in 1985. This brought the governance of pyrethrum under two set of laws. Whereas the Pyrethrum Act, Cap. 340 was business friendly, the State Corporation Act, Cap.446 was oppressive in that its objective was to control rather than empower those running the parastatal to do what the pyrethrum growers and the industry wanted and demanded. The Act

succeeded only in stifling business. The State Corporation Act, Cap.446, for once, allowed the Executive arm of the Government to influence the employment of many unqualified personnel in the Pyrethrum Board creating a bloated work force that ended up draining its resources. The Act also permitted the Executive to later convert the extremely vibrant industry into a cash cow thus depriving growers of their hard-earned income.

The third mistake the Executive made happened in 2003 soon after there was change of administration. It removed very experienced and world renowned scientist who had done a lot not only to revive the pyrethrum industry, but also initiated programmes which had succeeded in making the Kenyan industry a lucrative concern and the envy of many pyrethrum producers the world over.

The years 1995/1996 and 2002/2003 was a period of renewal and revival. The deceleration in the production of pyrethrum was successfully altered following a concerted development strategy which saw production stabilize at 11,000 metric tonnes representing about between 75 per cent and 80 per cent of the world requirement. Sales of pyrethrum brought in about Kshs1.5 billion annually of which over Kshs1 billion went to the growers.

Of urgent need, therefore, is to enforce the findings of a task force that was set up to look into how to improve the production and management of the crop. Areas that we need to look at are mainly the departments within the board. They lost bearing soon after this interference. We need to look at areas such as poor extension services. When the Pyrethrum Board of Kenya (PBK) was robust, its extension staff covered all the growing areas of North Rift, South Rift, Central Province, Eastern Province and Kisii District. Essential services such as establishment of growers' nurseries, providing planting materials and technical information, and payments were done promptly.

Mr. Temporary Deputy Speaker, Sir, what we are looking at is to have a liberalized situation. The Pyrethrum Act, Cap.340 is unfriendly to the production and management of this crop. We need to look at Section 6 of the Act, particularly Section 6(1) and (2) (a), (b) and (c). These provisions of the law up to Section 6(k) have given monopolistic functions to the board which have rendered this particular crop not to progress. If we repeal these sections, we will make this industry vibrant just like the dairy industry, the cotton industry and the coffee industry.

With those few remarks, I beg to support and welcome this Bill. It will assist in boosting the production of the crop and the confidence of farmers.

**Mr. Mututho:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill and congratulate my brother, hon. Kioni. I want to be very brief and to the point.

The problem in pyrethrum production has been the Government itself, particularly during the Ninth Parliament when the then Minister for Agriculture found it prudent to hire a Chief Executive Officer who lost Kshs3.4 billion during his tenure. My Committee found out that fact. The money disappeared between him and the Ministry. That is in a Report that we laid on the Table which was debated and adopted by this House. The investigative bodies, including the CID and others are still dancing around that investigation and yet it is a very straightforward matter. Huge quantity of poison worth Kshs3 billion was stolen from the stores and sold. Where do we go from here?

The story is like this. There are three basic levels of engagement in pyrethrum production. The first one is the farmers' level. There are about 60,000 pyrethrum farmers. The next level is the processing one. This level is domineered by the PBK as the sole processor. The final level is marketing. Again, this is the domain of the PBK. What we are supporting as a Committee and I am glad that the hon. Member is in agreement, is that because of the

international good practice where you respect people's patents and we pay royalties at the marketing level--- This means that anybody can grow pyrethrum, but on a contract with a particular factory so that when the factory sells the poison it has, again, to pay royalty at the rate of five per cent to the owners of the patent or the people holding it. This will protect both the farmer and the PBK.

On the issue of creating the authority, it is well thought, but since the Ministry of Agriculture, in their rightful thinking have now formed an apex body with full regulatory functions, I believe that any additional authority put here is just a burden to the farmers.

The PBK is a farmer's outfit and should be left that way. It is owned by the farmers 100 per cent. The Government has not invested a penny in it as a shareholder and that should be left that way so that the regulatory mechanisms are left to the Agriculture, Livestock, Fisheries and Food Authority or whatever they want to call it and then the matter ends there. What is urgent is to repeal Cap.320, Sections 16, 17, 18 and 19 so that this now can be effected and the farmers can go to production. It is a four months crop. It does not require very many months and if we pass the law today, within four months it can be in the market.

Mr. Temporary Deputy Speaker, Sir, people who want to sell raw pyrethrum abroad should appreciate one fact; that every time you are selling a raw product anywhere in the world, you look funny in a way. You are clinging on what the colonialists did to us, that we could not be able to produce and process to acceptable standards. So that we envisage all that we are dreaming which is value addition, let that pyrethrum be produced here and when it is produced here they must pay. This is critical, hon. Kioni. They must pay within 48 hours. This is poison and you cannot store pyrethrum for long and on condition that they export, if there is too much humidity or poor storage, that is a problem. So, they must pay within 48 hours and that should be the hallmark of the agreement between the factory and the farmers.

Mr. Temporary Deputy Speaker, Sir, I want to caution the House that when we liberalized the coffee industry, we made several mistakes and one among them was to try and liberalise such that the Kenya Planters and Co-operative Union (KPCU) went under. How did it go under? The KPCU had already engaged farmers and borrowed on their behalf so much money such that by the time the other players came to the market, they started harvesting where they had not reaped. We cannot again do the same by coming in here and liberalising to an extent that those people who have never invested in these 1,000 patents and those people who do not have a market come overnight, take over and then the poor farmer is again oppressed, compressed and then drawn out of the market. I support and at the committee stage I believe all of us will be accommodative enough and see this Pyrethrum Bill form the basis for improved pyrethrum growing.

Mr. Temporary Deputy Speaker, Sir, finally, I want to confirm that the principles I am talking about here, and I can see some of my committee members here, have been held in the Crops Bill that is coming here for the Third Reading maybe tomorrow. The same principles have been held so that there is consistency and we do not lose the good work that hon. Kioni has put in.

I support.

**Mrs. Noor:** Mr. Temporary Deputy Speaker, Sir, I want to also add my voice in supporting this very crucial and important Bill and I congratulate my brother, hon. Kioni for bringing it. This Bill is meant to increase the growth of this country. When we increase the growth of this country, we open opportunities for our young Kenyans to get jobs and increasing growth means increasing livelihoods for the families in this country.

With those few remarks, I support this Bill. Thank you so much.

**The Assistant Minister for Agriculture** (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, at the very outset, I want to take the opportunity to thank my brother, hon. Jeremiah Kioni and the Departmental Committee on Agriculture, Livestock and Cooperatives for spearheading this particular Bill. I want to state that the pyrethrum sector has gone through very many challenges from the 1990s to date when this very vibrant crop went downhill. As a Ministry, we have tried the best we can to revitalize the crop by really pumping in a lot of money to ensure we are able to support the farmers. The PBK was run down during the previous regime and when the National Rainbow Coalition (NARC) Government took over, its first step was to try to revitalize the PBK. It pumped in a lot of money to the tune of Kshs1.2 billion but unfortunately the farmer abandoned the crop. Through the Bills which the Minister for Agriculture has brought in this House, the ALFFA Bill and the Crops Bill, their intention is basically to try to cure some of the issues which the hon. Member has brought to the House. Since the purpose of the ALFFA Bill which is in this House is to repeal majority of all the laws which are under the Ministry of Agriculture, then it goes to say that even what we are trying to do today through the Private Members' Bill is also being repealed at the same time.

Mr. Temporary Deputy Speaker, Sir, so, as the Ministry of Agriculture, we beg to oppose this Bill despite its good intentions. Thank you.

**Mr. Mututho:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to announce here and mislead this House that he is opposing this Bill having known that we have borrowed all the good principles and everything in the previous Bills that have been consolidated in the Crops Bill? Is he trying to negate all the good things that are being proposed by this hon. House and confirm, which is factually not true, that these principles have been held by the Crops Bill (2012)?

**The Temporary Deputy Speaker** (Mr. Imanyara): I understood him to be saying that these principles are being incorporated in one comprehensive legislation that addresses all the issues. Mr. Assistant Minister, maybe you can explain.

**The Assistant Minister for Agriculture** (Mr. Mbiuki): Mr. Temporary Deputy Speaker, Sir, what I was saying was that all the issues which are being addressed by this Bill by hon. Kioni are all being taken care of by the Crops Bill. That is why we are saying that we do not want to have quite a number of Bills which are regulating the same sector at the same time. That is why as a Ministry we are supporting the Crops Bill which will be coming on the Floor of this House, unlike all these other fragmental Bills which we are trying to amalgamate and bring together.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kioni, you may continue. It is the responsibility of the House to debate and pass or to refuse to pass the Bill. So, you can oppose if you have the numbers.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I want to thank you for that opportunity and I also want to thank hon. Members who have contributed to this Bill. I want to thank hon. Njuguna of Lari, hon. Cheruiyot of Kuresoi, hon. Mureithi of Ol Kalou, hon. Ruteere, hon. Kigen who had a lot of interest in this Bill, hon. Mututho, the chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives who has been very instrumental, useful and resourceful in the whole of this process and Mrs. Noor for the support that they have given. I also want to thank hon. Millie for having sat through and as I say this, let me say that---

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kioni, are you suggesting that hon. Millie was the hon. Member of Parliament who sat through during this debate?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I have said that she was among the others who were sitting through this and I want to appreciate everybody who was with us in this House.

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for other hon. Members to feel jealous when I have been especially recognized because I was giving moral authority when they were not offering moral authority? Like Mr. Balala has nothing to offer as moral support and authority.

**The Temporary Deputy Speaker** (Mr. Imanyara): As far as the Chair is concerned, he did not utter a word during the entire debate. So Mr. Kioni, you are certainly not being fair to hon. Members who have sat through and supported you even though they did not contribute.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I thank all of those who have sat through, including Mr. Lesrima who has just walked in a little bit late. But as I do this, I also want to say that we have been in consultation with the Ministry. I have talked to the Minister who is the boss of Mr. Mbiuki. I also talked with his colleague, the Assistant Minister, Mr. Ndambuki.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Kioni, you know there is only one definition of “Ministers” in our Standing Orders and the Minister in the House right now is Mr. Mbiuki speaking on behalf of the Ministry.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I want to say that while in that engagement there was full support for the Bill. I understand and appreciate that there is the Crops Bill; I have gone through it. We were here and when the Minister was not here, we went through it, supported it and we agree that the principles are very useful to the whole of the industry. But it is also comforting for pyrethrum farmers to know that their concerns have been taken on board and that is why this Bill is on the Floor. We will be engaging with the Departmental Committee on Agriculture, Livestock and Cooperatives and the recommendations and amendments they will propose will be taken on because all this is meant to benefit the farmers in this country.

I also want to thank the Assistant Minister in the House because he has also been very clear minded when he was answering questions on pyrethrum. He was very candid and very supportive of the difficulties in the pyrethrum industry. I also want to encourage him to come on board and help the pyrethrum industry without any hesitation because in so doing, he will be creating more than one million jobs. He will be engaging more than 300,000 families in this sector and there is a lot of foreign exchange that we will earn in the coming days.

With those few remarks, I want to thank hon. Members and beg to move.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Lesrima, you are late because he was replying, but you can still speak during the Third Reading. You will get an opportunity to speak to the Bill at that moment.

*(Question put and agreed to)*

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

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, before the next Order is read, a request has been made by Dr. Kones that we restore the Customs and Excise (Amendment) Bill. Dr. Kones, if you will make sure that the hon. Members who may have

walked out when the Bill was deferred are, indeed, around and would like to speak, the Chair will be prepared to restore this after the next Order.

### *Second Reading*

#### THE PUBLIC BENEFIT ORGANIZATIONS BILL

**Mrs. Noor:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me this time to move that The Public Benefit Organizations Bill be read a Second Time.

This Bill seeks to provide a legislative framework to govern the establishment and operation of public benefit organizations (PBOs). It is borne out of realization that the law as it currently stands is inadequate for that purpose. This Bill, therefore, seeks to fill in the gap that is in the current legal framework.

The Bill takes into account the important role that civil society organizations and PBOs play in serving the public good. The PBOs support development. They do social cohesion and tolerance within the society. They promote democracy and the respect for rule of law and providing accountability mechanisms that contribute to improved governance. From the outset, I want to declare my interest in this because I have been in the civil society organizations for over 20 years. I have worked in the sector and I know there are many hon. Members in this House who have worked in the sector for many years. This is a sector that has contributed in a big way in supplementing Government efforts. I also sat in the NGO Council as one of the first founder members of the NGO Council. I have been an official of the NGO Coordination Board too. I am a person who has worked in totality in the sector and I know what kind of issues are in the NGO and the PBOs

Mr. Temporary Deputy Speaker, Sir, having said that, this Bill wants to provide regulations, establishment and operations of PBOs. The PBOs Bill is as a result of excessive discussions and consultations within the NGOs and civil society organizations over the past three years. There have been lots of consultations around this Bill through the country. There have been regional consultations forums; there have been consultations within the civil society organization with the Government, the NGO Coordination Board and the NGO Council. There have been a lot of consultations with community based organizations in this country. There have also been consultations with the foundation and trust of this country.

As I had mentioned earlier, the existing gap is a gap that the civil society organizations and the PBOs felt that they needed to be addressed. These are gaps that made us look into them and this Bill gives that opportunity to look at all the gaps that exist. It provides for regulation of PBOs. If you look at Clause 5, it provides that the only organization registered under this Act is entitled to benefits under this Act. Clause 5 defines the benefits which any organization registered under this Bill will get. The objective of this Bill is very clear. If you look at part II of this Bill, the purpose and objects are to encourage and support PBOs in their contribution to meeting the diverse needs of the people of Kenya by creating an enabling environment in which the PBOs can operate without undue interference or obstruction. It establishes an administrative and regulatory framework within which the PBOs can conduct their affairs without being harassed or without getting fear from any organ of the Government.

It is encouraging the PBOs to maintain high standards of governance, transparency and accountability to improve their standards. This is very important for PBOs to maintain high standards of governance so that, being the watchdog of this country, they can look at themselves

and see that there is good governance within the PBOs. This is so that they can be transparent and accountable to both the public of this country and to the Government. We have always had an opportunity of people saying that there are pretext NGOs. This Bill will create an environment where the PBOs themselves will look at each other, monitor each other and have the opportunity of them telling Kenyans what they are doing. They will be very accountable and very transparent to everybody and this is very crucial. The other purpose of this Bill is to create an environment within which the public may have access to information concerning registered PBOs so that if any PBO is doing something, the public has a right to look, ask, check and give information that is required by these regulations so that the PBOs do not just do what they feel like without involving stakeholders. It will promote co-operation and shared responsibility within the Government and among other interested persons in dealing with public benefit organizations.

Mr. Temporary Deputy Speaker, Sir, giving meaningful protection to internationally recognized freedoms of expression, association and peaceful assembly--- This Bill is going to give an opportunity to individuals and groups who come together to form an organization in the interest of the public. If you look at our Constitution, it allows freedom of assembly, freedom of association and freedom of peaceful assembly. These are in line with the Constitution which gives that freedom for people to come together, assemble and work together in the interest of public good.

The other purpose of this Bill is to promote the development of self-regulation among public benefits organizations.

Mr. Temporary Deputy Speaker, Sir, the scope of the sector is big. I want to be very brief on this. We have approximately 350,000 civil society organizations working in this country. It is not possible to determine the number of public benefit organizations---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mrs. Noor! Are you comfortable to continue with this debate without a single Member from the Government in view of the very serious issues you are addressing, particularly the Attorney-General's Office or the Ministry of Justice, National Cohesion and Constitutional Affairs?

**Mrs. Noor:** Mr. Temporary Deputy Speaker, Sir, being here is their responsibility because the Bill is on the Order Paper. They are supposed to come here. The Minister concerned came before the Departmental Committee on Labour and Social Welfare and he was in support. I do not know why they are not here today; but they appeared before the Committee and gave their contribution. So, they were involved from the beginning. I think I am comfortable going on with the debate.

**The Temporary Deputy Speaker** (Mr. Imanyara): Okay; continue.

**Mrs. Noor:** Thank you, Mr. Temporary Deputy Speaker, Sir. It is not possible to determine the number of public benefit organizations in the country due to---

**Mrs. Odhiambo-Mabona:** On a point of order, Mr. Temporary Deputy Speaker, Sir. I want to thank you for raising that issue. I just want to thank you for raising that issue. I want to raise the concerns I have after looking through this Bill. It raises very fundamental issues in the Non-governmental organizations (NGO) sector. I am also aware that many organizations have been complaining about this Bill; it would have been really fair for the Ministry to be here to give us the opportunity--- I would encourage that we continue because it is their responsibility and if they are not here they cannot hold us to ransom. I would wish that the Leader of Government Business, who, unfortunately, is also not here would be here. He could have requested a responsible Minister to come by the time we complete these very fundamental issues.

**The Temporary Deputy Speaker** (Mr. Imanyara): It is for the same reasons that I raised that; having gone quickly through it, and having also looked at the Constitution extensively, there are a number of serious issues that the Government ought to respond to; I am raising them so as to be captured in the HANSARD; when they come to respond, they should address the issues. We may continue.

**Mrs. Noor:** Mr. Temporary Deputy Speaker, Sir, thank you very much for raising those issues because they are crucial. I think we have worked together with the Minister and the Permanent Secretary in many forums. The Minister also gave us some of the amendments that he thought are important for us to move and we are ready with them.

As I was saying earlier, we have approximately 350,000 civil society organizations operating in this country. It is important for us to look at a way of getting a framework that will provide them an enabling environment in which to operate. We know that there are many challenges facing the sector, particularly in the current legal and regulatory framework for public benefit organizations. These challenges include: overlapping legal and regulatory framework for public benefits organizations, which presents the Government with difficulties in designing and harmonizing plans for the sector. This is crucial and it is why we have brought this Bill to the House. There have been several legislation regimes in this country; the NGOs were registered under the NGO Council; we also have the NGO bureau; we also had the Community Based Organizations (CBO) which were registered under the Department of Social Services in the Ministry of Gender, Children and Social Development. We had the trusts and foundations of this country that were registered under the Ministry of Lands. That is why the Government cannot harmonize and monitor what the civil society organizations are doing in this country.

The other challenge is difficulties in ensuring accountability by public benefits organizations in this country. It is very difficult for any organ of this country to have the capacity that the NGO Board has to undertake accountability or monitor properly the civil society organizations and public benefits organizations in this country.

Mr. Temporary Deputy Speaker, Sir, inadequate mechanisms and self-regulation of public benefits organizations in Kenya is another big challenge. Absence of an independent body to provide checks and balances in cases where self-regulatory mechanisms fail is also not there. Leadership and integrity problems in the sector are also crucial. We are a country that has given itself a Constitution in which there is a whole chapter that talks about integrity and leadership. Civil society organizations and public benefits organizations have a role to abide by that chapter. Looking into integrity and leadership within the public benefits organizations is very key. This Bill is addressing legal issues pertaining to leadership and integrity in the public benefits organization.

The other thing that is absent from the current legislation is effective complaints and dispute resolution mechanisms. We do not have a clear way of addressing disputes within the sector. This Bill addresses issues like disputes; it also provides a mechanism on how to resolve disputes. In every sector, there will be a dispute; if you do not have a way of addressing disputes then it can be a problem.

The other thing that is lacking in the sector is the general framework to guide collaboration between the Government and public benefits organizations. Public benefits organizations bring to this country over Kshs300 billion every year, but we do not have a way of looking after that money. The Government of Kenya and the public benefits organizations should come together and co-operate with regard to such funds. These are huge funds that come to the sector; it is important that there is a way in which public benefits organizations collaborate



with the Government, so that we understand how the public benefits organizations work within their areas, their targets and stakeholders.

Mr. Temporary Deputy Speaker, Sir, this Bill seeks to provide conducive environment for co-operation and operation of the public benefits organizations. It is going to give them the environment under which they will grow, co-operate and operate without fear. When people operate within a legal framework then it gives them the opportunity to work well.

The other thing is that it will promote real value within the sector. This will add value so that when they are questioning another person, they will look and address themselves. That value is appreciated in our Constitution. It is a value that the PBOs will get out of this Bill.

The other issue that the Bill seeks to address is to establish an effective legal and institutional framework for PBOs through the establishment of an independent regulatory body which is the Public Benefit Regulatory Authority (PBRA). This will be established in a transparent manner. This body will be independent. It will register and regulate the PBOs. It will be established in a very transparent manner that will give confidence to every stakeholder in the sector. It will also provide a clear procedure on the regulations of the PBOs.

This Bill outlines very clear steps to be followed or grounds for refusal to register PBOs. If you look at the Bill, you will see that the grounds are very clear. If an organization does not meet certain qualifications, then there will be a mechanism to refuse its registration. But still within the Bill, there is an appeal procedure. If an organization does not meet the qualifications and it feels that it was not given a fair hearing, then there is an appeal mechanism for it to be registered.

I want to conclude by saying that high integrity, good leadership and accountability from PBOs are key in the PBRA. This is in line with Chapter Six of the Constitution. This will give an opportunity for the sector to clearly be a good watchdog within the society. When I was in the PBOs, I invested in more than 50 schools in my constituency. I know that I may not come back to this House. However, I know 100 per cent that I will go back to the civil society. I will work for this country and the people of this country.

I know hon. Millie Odhiambo has done a lot for the civil society organizations. There are also other Members who have done a lot in this respect. I want every hon. Member in this House to support this Bill.

With those few remarks, I beg to move and request hon. Nyamai to second this Bill.

**Mr. Nyamai:** Thank you, Mr. Temporary Deputy Speaker, Sir. Let me second the Mover of this Bill. I will start by congratulating her for this Bill which is very timely. I congratulate her for the time she has put in this Bill and her passion for it. This is reflected in her words as she moved it.

The importance of this sector which is being covered by this Bill is very familiar to all of us. It is a sector which in terms of value controls about Kshs300 billion every year. This is a sector, if the provisions of this Bill are put in place, its contribution will easily rise to a trillion which is about the budget of this country. When we talk about the PBOs in this country, many of us remember the areas they operate in. These are areas that have been neglected for many years since Independence. You will remember the good work that the Red Cross and such organizations have done in areas like Turkana and the eastern part of this country.

The importance of this Bill, among others, will be the sanity it will bring into the operations of these organizations. All of us know how many times we have seen drama on our televisions when these organizations fight for offices. We believe that the regulation framework that will be put in place through this Bill will bring sanity to the industry. It will bring sanity by

doing away with the so-called briefcase NGOs which have been a nightmare in this country. It will also do away with the cartels which have given this industry a bad name. There are many issues in this Bill which have been touched by the Mover. However, I will touch on a few.

Sanity will be brought, not only in the registration and management, but also in the dispute resolution mechanism in the industry. I wish to refer to some Chapters. The registration of the PBOs in this country has been a nightmare, but the Bill provides for a clear cut mechanism, including timelines on when one can apply and when to expect a licence. That, in itself, will be the first step in bringing sanity to this industry. The Bill also provides for a mechanism on which the PBOs will raise funds which will be used for the benefit of this country. It will, not only raise funds, but also be accountable for the funds. The many issues we have with these organizations have to do with the fact that many times, as much as they raise funds, we do not know what is done with the money. The Bill provides for that.

Section 56 of the Bill clearly provides how the PBOs will raise funds. If this is followed and the organizations account for the funds, one thing we believe firmly on is that we will see many donors who have been funding these organizations put in a lot of money into this and the sector will grow tremendously.

This Bill is timely and should be supported by all, including the Government sector. As much as we have seen a lot of participation in party issues, we hope that the absence of Government Ministers in the House this morning is not an indication that it does not support what we are doing. What the PBOs are doing is to supplement Government effort where the Government has not reached in terms of resource distribution. As we support this Bill, as Members of the Back Bench, I urge the Government---

**The Assistant Minister for Co-operatives and Marketing** (Mrs. Kilimo): On a point of order, Mr. Temporary Deputy Speaker. Is the Member in order to say that the Government is not represented here? I am here and hon Kabando is also here. We are from the Government side.

**The Temporary Deputy Speaker** (Mr. Imanyara): Order! The two of you were not here when the Chair raised the issue. It is a valid issue given the important messages. The very intention of this Bill is to repeal a very substantive law on NGOs and it is being debated in the complete absence of two key Ministries. This is the issue that has been raised. The belated attempt by you, Madam Assistant Minister, does not address the issue which is that the substantive Ministries that are supposed to respond to the issues here are not in the House.

You may continue hon. Nyamai.

**Mr. Nyamai:** Thank you, Mr. Temporary Deputy Speaker, Sir, for that intervention.

Mr. Temporary Deputy Speaker, Sir, I would wish to conclude by thanking the PBOs which are operating in this country. I request many more to come in and assist our people. I would like to thank, in particular, the World Vision which has done a lot in Lower Yatta District. I also take this opportunity to request other PBOs to come and support Government efforts in development of Kitui rural areas, in particular, Kisasi and Mbitini areas.

With those few remarks, I beg to support.

*(Question proposed)*

**Mr. Balala:** Mr. Temporary Deputy Speaker, Sir, I want to congratulate Madam Noor for the wonderful job she has done. I know she comes from the NGO world. She has the experience and now she is a legislator. The calibre of Mrs. Noor and Mrs. Odhiambo-Mabona is heroism for

the country. So, the good work these two hon. Members have done is wonderful. I want to congratulate her for the good work.

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

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

Madam Temporary Deputy Speaker, we definitely appreciate the good work the NGO world is doing in complementing Government work. Also we know there are a lot of problems within the NGO world, because of a legal framework that does not address their issues. I am glad that this Bill will address their issues in terms of regulation and registrations. This Bill also facilitates registration and a transparent way of undertaking it. Before it was at the discretion of the Director-General of the NGO Co-ordination Board, but today, there is clear timeline. It says that within specific time, registration has to be done. So, an application is processed in good time.

Madam Temporary Deputy Speaker, we have always had a problem of too many NGOs. Some of them we refer to them as “briefcase NGOs”. We want to regulate the good NGOs, support them and encourage them. Yes, we have bad elements within society. Through this Bill, we want to control those “briefcase NGOs”. We all know some NGOs have done a good job in this country.

As an African nation and a young democracy, we appreciate the advocacy role that NGOs play. Also, we want NGOs to truly give support in the infrastructure sector, education and health, so that we are able to get goods results in these sectors; these sectors are key to humanity.

Madam Temporary Deputy Speaker, the way the appointment of the Commission will be done will be transparent and I appreciate it. I know that the Cabinet Secretary will have the power to appoint at least three members to the Commission. We should make sure that those three members are not also members of other registered NGOs, so that they do not come in and advocate their own partisan interests. They should be people of integrity and who will stand firm. They should be able to serve the bigger interest of the country rather than the interest of specific NGOs.

Madam Temporary Deputy Speaker, I want to appreciate that we need to complementarily between Government regulation as well as the wishes of private stakeholders who are out there.

Self-regulation is very important. We know there is the NGO Council. Of late, we have found it to be very problematic. It has been fighting with the NGO Co-ordination Board as well as within itself. We need to see discipline and order with the Independent Regulatory Council that is proposed in this Bill.

Madam Temporary Deputy Speaker, it is very important to raise the issues of transparency, integrity and accountability. I think within this law, we should have a new clause so as to get the Commission table, not only the annual report of what it will have done, but also on who will be registered, who will be compliant, how much they will have received from where and for what purpose. If we have that clause in place, we will have transparency. We will have the Commission tabling reports here, so that there will be no competition and also there will be no undermining of NGOs by the Government. I think there is a good partnership being

created. But the issue of accountability is lacking. The issue of source of resources is lacking. The issue of effectiveness of NGOs is lacking. Those are the issues that we have.

Madam Temporary Deputy Speaker, it is important to note that we have local NGOs and International NGOs. I think we should have a clear regulatory framework that categorizes the two. We should also encourage local NGOs to partner with international NGOs, rather than kill our local talent and capacity by replacing the local NGOs with foreign NGOs in our country. Personally, I have seen somebody who retired in Europe coming here to establish a small orphanage that became an NGO. He was able to create a job for himself and call to his home country and get funding because he had links and citizenship of that nation. So, I want to say that we are creating NGOs to create jobs for Kenyans; or do we create NGOs to create jobs for foreigners, or retirees who want to run from the cold in Europe and enjoy the best weather in Africa or in the tropics? Those are the issues we want to raise.

Madam Temporary Deputy Speaker, this is a very fundamental Bill. I had the privilege in the Committee to witness the interaction and interrogation between the stakeholders, regulatory authority and the co-ordinating board and the Government through the Minister. We had fantastic interaction. Most of the issues raised by the stakeholders are already incorporated in the amendments and we will be able to support it here. This is complementary framework that will help the growth of NGOs.

With those remarks, I want to, once again, congratulate Mrs. Noor for the great job and I support.

**Mrs. Odhiambo-Mabona:** Madam Temporary Deputy Speaker, first of all, I want to congratulate Mrs. Noor for bringing this Bill. I want to say that from the outset that I support it with a bit of reservation. I would support with a reservation because of two reasons; one, this is an extremely important Bill that is raising fundamental issues. It seeks to abolish a Government institution and set up another in its place. Indeed, that was why the Chair was saying that we did not have the relevant Ministry to tell us whether they are comfortable with that and the reasons for the abolition of the existing entity.

Madam Temporary Deputy Speaker, I have not had the opportunity to engage myself with the civil society sector. But I have seen a lot of resistance to this Bill. I want to take hon. Noor's words that they engaged the persons who were protesting and they have heard their views. But the Bill raises fundamental issues, and completely alters the way the NGO sector works in this country. Some of which I support and some of which I do not support. I will seek Mrs. Noor to convince me otherwise. Therefore, I would want to say that it is really regrettable and embarrassing for the relevant Government Ministry not to be here. One day I may just wake up and decide to abolish the Ministry of Agriculture. I will just come here and abolish it in the absence of the Government. I might as well just abolish the whole Government one day, as Ministers sleep.

Madam Temporary Deputy Speaker, I want to indicate that just like Mrs. Noor, I have worked in the public service sector for most of my life. Indeed, I did a Master's Degree in Public Service Law in New York University. So, this is really my area of expertise and work. I just want to laud Mrs. Noor because she has incorporated a lot of principles of public service in this Bill. In terms of intentions and principles, the Bill is very good.

There is one thing I would like Mrs. Noor to clarify. I can see that this Bill is abolishing the NGO coordinating body. I would want to know what the fate of the NGO Council is. I know that the Bill is actually seeking to repeal the NGO Act, but I have looked through the Bill and I have not seen where you are repealing the NGO Council. Again, I want to say that the NGO

Council has had a lot of problems. I am not very enthusiastic about it, but if you look at the law that set up the NGO Council, you will appreciate that it is a really good law. Unfortunately, as usual, we have not done a very good piece of it.

Madam Temporary Deputy Speaker, there have been ethnic interests whenever there were elections. Unfortunately, that mirrors the whole of the country. Whenever we go into elections, people move by blocks of ethnicity. So, if we were to abolish an institution because of ethnicity and partisan interests, then we should actually start by abolishing the whole country. Therefore, for me, if they are having problems, as the NGO Council, I would have hoped to see how we improve the current framework instead of abolishing the whole body that gives some semblance of order in that sector.

So, for me, I would want to encourage, instead of abolishing the council; that we retain it by this law and look at ways of improving it. Otherwise, I love some of the provisions of this Bill. For instance, the objectives that have been given for this law include provision of framework even for self regulation for proper and enhanced governance of the sector. So, I really love that bit. The only other issue I find of concern is that whereas the Bill provides for an umbrella body for all public benefit organisations, which would be voluntary and thematic based, when you leave it that loose then there will be no self regulation.

Mrs. Noor and I have been in that sector. We know that many organisations are very well meaning, but there are so many organisations which will not be subjected to the proposed self regulating mechanism, if it is not done by law. If you ask me, I think the intention of this Bill is very good in the sense that you have many organisations which are registered under different legal frameworks. We have an organisation like the Cradle which I found and which is registered as a trust. We have others which are registered as NGOs. We have some which are registered as companies.

Madam Temporary Deputy Speaker, these organisations are registered under many different frameworks. So, one of the things I would have hoped to see this Bill do is providing one legal framework of registering all the organisations to make their registration efficient and effective; having done so, to ensure that there is a body for self regulation. If we think that the issue of elections is problematic, then we would not need to have elections, but rather appoint those members, through Parliament and ensure that organisations adhere to self governance rules. This is because there are a few organisations which give that sector a bad name.

I know that there is a very strong love-hate relationship between Parliament and NGOs, which stemmed primarily from a misunderstanding of the role of NGOs. Before I came to Parliament, many people used to tell me: "The only thing you do is to run in the streets so that your donors can see you and give you money." They do not know that when I worked in the NGO sector, I worked harder than in Parliament. I would go to my house shortly before 4.00 a.m. every day because of the amount of work that I had to do. I used to deal with children who were raped daily. We would deal with women who had been chased out of their homes. Sometimes you would have to take them to your own home. You deal with children who have no school fees. You deal with a myriad of problems.

Madam Temporary Deputy Speaker, the civil society entity is actually the body that has been providing the social security network that the Government should provide. There are some civil society organisations which are in the development sector. Such organisations have been responsible for provision of roads in areas which have no roads like Northern Kenya. In a place like Mbita, where I come from, if it were not for NGOs, it would be a forgotten area in this

world. For instance, Mbita Constituency is the epicentre of the HIV/AIDS pandemic. Almost 95 per cent of the resources there have been put by NGOs.

If you look at child protection in Mbita, which I would like to cite as an example because I come from there; we have no justice system. If it were not for the Cradle, all the children who were abused and thrown out of school would have no hope, but for NGOs. Therefore, I want to encourage hon. Mrs. Noor. It is a good Bill, but we need to look into some, which we need to improve. One of those issues is that this Bill could be even a little shorter. Some of the principles could be collapsed together into shorter and tighter principles, so that we do not have a long list of principles which mean the same thing.

There is a lot of undue wording in this Bill, but we could collapse it. “Equity” and “equality” cover whole lots of wording that have been put in this Bill. So, I would want us to make it shorter. There is a bit of repetition because, maybe, the Bill was done in a hurry. So, we need to clean it up, so that it can be shorter.

Madam Temporary Deputy Speaker, another thing that I find good is that organisations which will be registered under this Bill will get certain benefits, including tax exemption and none payment of legal fee. I can tell this House for a fact that most of the clients that are represented in the NGO sector are very poor. I was indeed one of the persons who pushed even into the Constitution provisions for access to justice. I am very happy that this aspect has been provided in this Bill because most of the people we support are very poor. For instance, we dealt with children who had been disinherited.

We have a lot of young people whose parents have died. The deceased persons have left their relatives to take care of the children and their property. People living with HIV/AIDS, especially, who knew their status and knew that they may be dying, would leave their property under the care of their relatives. However, after those people, their relatives would take away the properties from their children. When you go to court, the amount of legal fees that needs to be paid is exorbitant and those poor people cannot afford it. So, I am glad that the Bill exempts NGOs from paying taxes and legal fees.

Madam Temporary Deputy Speaker, I also want Mrs. Noor to deal with the issue of double registration, because that is one of the issues she is seeking to address. Even though she and hon. Balala have spoken to this issue, she has not legally managed to provide for it. The room she is living will enable us, as Cradle, to still be registered as a trust and, by option; we can register through this Bill. If we do not like it, it means that we can still pull out and operate as a trust. You will not have cured what you are trying to do. You are still leaving us within the same framework. I can still choose to ignore you all together. If we really want to bring sanity in that sector, we should find one framework for registering all those organizations.

Madam Temporary Deputy Speaker, one of the issues that I want to also take issues with is the international Non-Governmental Organizations (NGOs). I have seen that you are providing by definition of international NGOs. By enabling them to be registered in this Act, you are by legal inference stating that they will be able to access the public coffers of the Government of Kenya. I will want to tell you that we love those international NGOs, but the public funds of Kenya should be limited to NGOs that are Kenyan based. They should not be accessed by international organizations that also have access to funds from their own countries. In most of these organizations, people do not understand how we struggle to set up organizations. Most of it is based on a person’s interest; if you consider it a vocation like I have done which is an issue of public service. When I founded the Cradle, I founded it with Kshs1,000. I ran that office for one year with my own money. At one point, my desk was actually a carton and many people say,

“You, people, have a lot of money”, and all that. You get a lot of money having sacrificed a lot. When you get that money as Mrs. Noor will tell you, the donors are more stringent about their own funds. All NGOs that are serious are audited every year. No donor will give you a drop of their money if you are not audited by a proper auditing firm. Therefore, with the struggle that NGOs in this country go through that money should be limited to NGOs in Kenya and not international NGOs.

Madam Temporary Deputy Speaker, another thing is that I know the provisions here for the preamble are very good. But if we could make reference to our drafting office yet again, it is a legislative style that is more common with the drafting of conventions and not Acts of Parliament. If you can look at it, they are very good, but I am not too sure this is the place for them. I have many specific suggestions which I will not go into, but which I will give the Committee for purposes of amendments. I have a lot of issues that I want to raise.

Madam Temporary Deputy Speaker, finally, I just want the hon. Member to clarify for us the role of the NGO Council because it is not very clear in this Bill.

With those few remarks, I support.

**Mr. Mureithi:** Madam Temporary Deputy Speaker, first of all, I would like to support this Bill as brought to the House by Mrs. Noor.

This Bill is good because of what we have witnessed in the NGO world. The NGO world has done a commendable job and most of us who are based in the rural areas have seen what both international and local NGOs have done.

Madam Temporary Deputy Speaker, as Mrs. Millie Odhiambo-Mabona has said, this Bill requires a lot of cleaning up, so that we are able to bring some sense in the NGO world without creating conflict. We have had situations where local Kenyans start NGOs, particularly dealing with children living with HIV/AIDS. Some people then come from overseas, bring funds and they legislate something different. Finally, the local Kenyans lose that institution.

When I look at the preliminaries, I am truly grateful for the Mover of this Bill. I wish she listens because in the clause 2(b), she has brought in a very important aspect of grassroots organizations. We have had a lot of problems because of those *wazee wa mitaa* or the local *wazees* who actually resolve some disputes at the local level. What I am missing is a schedule indicating what the Mover says is called other traditional groups. One of them is those *wazees wa mitaa* and the community policing groups, so that we put them in the law. In this case, when they do dispute resolution at the local level or deal with criminals at the local level, they are accepted by the Government and are given some resources by the Government.

Madam Temporary Deputy Speaker, when you turn to the body that is going to oversee this organization, it is, once again, skewed towards the Government. The body will be appointed by the Minister in charge and then brought to Parliament for vetting. There is no room for stakeholders electing their own members. All the people there are Government-based as is contained in Clause 28 of this Bill. Why not allow stakeholders to also elect their own people? They can be subjected to the National Assembly, but unfortunately, what we have seen in almost all these Bills, including the one we had this morning is that we are basing them on the Government.

My biggest concern is what we saw this morning. When we were passing the Pyrethrum Bill, the Minister for Agriculture moved in for a few seconds and opposed it which we had debated for more than one hour-and-a-half. The absence of the two Ministers who are responsible for this gives us a lot of concern because they, probably, might come in spite of the fact that they have sat in the Committee with the Mover, opposed it.

Therefore, I find this Bill very important and that it will bring more sense into the NGO world and bring cohesion, so that there is no infighting both from the local institutions and the international institutions. We shall also see a situation where by our young people are not employed by the international body for a short while to give credence for them to be registered here and then they are taken away and the institution ends with foreigners.

I agree that this Bill, as most Members have said, is a good Bill, but it requires cleaning up, so that at the end of it all, we do not see the drama we normally see when chairmen are changing positions. They fight to an extent that one chairlady had to remain within the house for several months because other people wanted to take it by force when she had been elected to that position.

With those remarks, I beg to support.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, I rise to support this Motion. The Civil Society all over the world has done a lot of work, particularly in ensuring that there is an alternative view and that there is also checking and balancing of governance, including of public affairs where Governments have been intransigent or not very democratic. At this juncture, I would like to laud the role that the Civil Society has played in ensuring provision of services in areas where they have been inaccessible, particularly basic need issues on education. Many citizens have benefitted from scholarships that have been founded and sustained by the civil society. This particularly targets the destitute, the very poor and vulnerable. This impact may not be so loud, but is celebrated in the evidence of those individuals who have benefitted through the elementary high school and colleges and have been produced as productive citizens.

Also in terms of education, awareness and perpetration of issues to enable the vulnerable sections of the society to access information which otherwise would not be delivered by the Government, is an important achievement. In the political world, we know all that the civil society has done. Hon. Mrs. Odhiambo-Mabona and others, we have been there together many times, submitting proposals and petitions. I recall a day that we had to put a very strong proposal to the Attorney-General in the late 1990s with Mrs. Odhiambo-Mabona at the forefront at Sheria House. They have played a very key role.

The following issues, that have been highlighted in this Motion and which I mention, are issues that today bring out the importance of either redress or improvement on the way the civil society is conducting its affairs. The question of integrity is covered here. It is very loud. If there is any chapter that people are talking about from the kindergarten all the way to universities, is Chapter Six of the Constitution on the need to have integrity benchmarked on leadership everywhere. The civil society organizations are playing a key role. We have seen many cases in court and many petitions before this House from the civil society asking that this matter be looked at differently or such an issue be reviewed. It is important that this question of integrity is anchored very strongly. We can say that there is accountability and there is vetting of money through the annual audits. But how many times do we hear of any NGO or a civil society organization for that matter, being arraigned in a court of law or an issue being raised by the NGO Co-ordination Act? There is some impunity that needs to be reigned upon. How many reports have been documented in this country and have been consumed in the public domain and have implicated private citizens and public officials? Reports done by NGOs which have no benchmark in law, but which implicate individuals adversely. It is important that integrity is anchored seriously and permanently, so that there is correspondence between---



*(Mr. Midiwo stood up in his place)*

**The Temporary Deputy Speaker** (Dr. Laboso): What is your point of order, Mr. Midiwo?

**Mr. Midiwo:** On a point of order, Madam Temporary Deputy Speaker. Would I be in order to request that the Mover be called upon to reply?

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, I am a Government Minister and I do not think the backbencher can speak for me.

**The Temporary Deputy Speaker** (Dr. Laboso): It is not for you, hon. Kabando. I am sure you are aware that Wednesday morning is the time for Private Members' business. With regard to the comment that you have made about being a Cabinet Minister, unfortunately, the Members would have wished us to complete this debate. It is only that nobody mentioned that we reduce the time. So, we are just asking you to, please, conclude, so that we can finish up.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, I want to conclude with the point that the issue of the Government's presence has been raised from the Chair this morning. We are here two very important Ministers and also a graduate of the civil society is speaking now.

Financial disclosures, the source, utilization and allocation of money obtained internationally or locally are very important. At a time when we are very serious about national security given the complexities of roles that organizations play in our national leadership and in the political context, I support the clause that calls for financial disclosures on sources of funding. We know that nations have collapsed and can collapse where there is manipulation and perpetration by financial muscle which is not legitimate.

Thirdly is the question of accountability. The disclosures should hedge on national reports, whether money is obtained from overseas or from donors who have not been disclosed. It is important that civil society organizations print like the publicly quoted companies where shareholders, no matter the worth of their shares in those companies, the financial disclosures, including the remuneration of the managers and directors of these public trusts is very important.

Finally, it is the question of legitimacy, that in a certain area, the co-ordination of the civil society needs to be such that there is no duplication and even the mandate of the politically leaning NGOs is not to the extent that they can actually---

**Mr. Midiwo:** On a point of order, Madam Temporary Deputy Speaker. I rise to ask you to use your discretion for the convenience of the House to extend the sitting this morning for an extra 15 minutes, so that we can complete the Business on the Order Paper.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, yes, I have used my discretion and we shall extend by 15 minutes. But now that you have concluded, hon. Kabando, the 15 minutes is not being extended for you. It is for the other Members.

*(Laughter)*

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando): Madam Temporary Deputy Speaker, let me finish since the Motion has not been put to the time limit.

I was talking about correspondence. We have institutions that are now very strong under the Political Parties Act. We have a Judiciary that is very strong. We have the Executive with Motions being passed here daily and laws that now have been approved to implement the

Constitution. We need to demarcate---

**The Temporary Deputy Speaker** (Dr. Laboso): Order, hon. Kabando!

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, I am very concerned about this impatience to my contribution and I think as a legislator, I have an entitlement to give my views. That is why I came all the way from Mukurwe-ini this morning to speak powerfully about this Bill.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Kilimo, could you take a few minutes, so that we can call the Mover to reply?

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, I welcome my niece. Welcome!

*(Laughter)*

**The Assistant Minister for Co-operative Development and Marketing** (Mrs. Kilimo): Thank you, Madam Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. I support and appreciate the work of hon. Noor. Both of us come from the civil society background. Indeed, some of us would not have gained the courage we have in politics were it not for the training from the civil society. I congratulate all the civil society organizations who look out for women and train them in areas of decision-making, politics and many other areas.

Madam Temporary Deputy Speaker, I also want to thank and appreciate the work done by the civil society. More so, for the efforts they have made to assist the girl child, especially those girls who have run away from that monster which we disclosed last year called Female Genital Mutilation (FGM). Most of those girls would not have accessed education or had shelter were it not for the civil society who go out into those remote parts of the country to tell people what is harmful to them and inform other members of society about the effects of harmful cultural practices. We, in this House, having been informed, can pass laws to deter that. So, they do a lot of work.

Madam Temporary Deputy Speaker, I come from an area where initially there was a lot of unrest. Thanks to the civil society and the NGOs who go out to talk to members to embrace one another and find other mechanisms of conflict resolution.

The civil society and the NGOs have done a lot to complement the Government's work. So, the establishment of a regulatory body is welcome to check the conduct of NGOs. We know not all of them are angels. There are those who do not do the right thing like those ones who do a lot of child trafficking and engage in other things in order to get money. The issue of integrity comes in. So, this Bill will go a long way in checking that. So, I support the establishment of the regulatory board.

I have an issue with Article 10, Part III on resumption of registration where it says that upon the expiry of 60 days from the date, a public benefit organisation made an application for registration under Section 8(1) and no decision has been made by the Commission. The public benefit organisation shall be deemed to have been automatically registered under this Act and may apply to the tribunal for an order requiring the Commission to issue to it a certificate of registration.

I oppose this part because knowing the bureaucracy involved. Since we would not know the effectiveness of the desk officer at that particular time, it might take longer than 60 days. So, what happens? Somebody can collude with a person who has bad intentions and wants an NGO to be registered, then in that manner they will use delaying tactics.

With those few remarks, I support this Bill and congratulate Mrs. Noor.

**The Temporary Deputy Speaker** (Dr. Laboso): I am calling upon the Mover to respond. But, at the same time, I am informing her that Mr. Namwamba and Mr. I. Muoki wanted to contribute also. It will be at her discretion if she wants to give them a minute each.

**Mrs. Noor:** Madam Temporary Deputy Speaker, I will give Mr. Namwamba a minute because I know he has contributed in a big way in civil society organisations. So, I will also give a minute to Mr. I. Muoki.

**The Minister for Youth Affairs and Sports** (Mr. Namwamba): Bi Naibu Spika wa Muda, kwanza nataka kumshukuru Mhe. Sophia Noor kwa kuleta Mswada huu hapa Bungeni. Pia ninamshukuru kwa kunipa dakika moja ili nitoa machango wangu juu ya Mswada huu.

Kwanza ningependa kutoa hongera zangu kwa mashirika yote yasiyo ya kiserikali (NGOs) kwa mchango wao was maendeleo katika sekta mbalimbali hapa nchini. Hii ni dhihirisho kuwa Wakenya wakipewa nafasi katika viwango mbalimbali watachangia maendeleo ya nchi hii vilivyo.

Ningependa kusesitiza swala la uajibikaji katika mashirika haya. Kila mara Wakenya na mashirika haya yanataka kuona Serikali ikiajibika katika matumizi yake ya pesa za umma. Hili ni wazo nzuri kwa sababu tukizitumia pesa zetu vizuri tutakuwa na maendeleo mengi hapa nchini. Vile vile tungependa kuona mashirika haya yakiajibika katika matumizi ya pesa wanazopata kutoka nje ya nchi kuambatana na mwamko mpya wa nchi hii. Kwa hivyo, tunengependa wote tuajibike kama Serikali na kama mashirika haya yasiyo ya kiserikali.

Kwa hayo machache, ninaunga mkono.

**Dr. Munyaka:** Madam Temporary Deputy Speaker, I would like to start by thanking hon. Noor for this very important Bill.

Madam Temporary Deputy Speaker, the NGOs have done a commendable job in this country. I would like to particularly appreciate those NGOs which have partnered with us in Kitui County, especially in Kitui South. The NGOs like the World Vision International, among others, have done a lot in terms of provision of water. It is very good that we have a body that can really co-ordinate and kind of regulate these bodies, so that we have good work in this country. I would also like to urge these organizations to spread everywhere in the country, so that their support can be felt in every corner. This will ensure that as they supplement the Government's efforts, we will be moving together.

Thank you, Madam Temporary Deputy Speaker.

**Ms. Noor:** Madam Temporary Deputy Speaker, I want to take this chance to honestly appreciate and thank all the hon. Members who have contributed to this Bill all those who wanted to contribute, but because of time, they did not get that chance.

Madam Temporary Deputy Speaker, this House passed Sessional Paper No.1 of 2006 on NGOs, seeking to repeal or review the NGO Co-ordination Act of 1999. So, this is what the Act is doing. All the contributions that the hon. Members have made are very enriching. Some of those issues that hon. Members have raised will be carried in our amendments.

Madam Temporary Deputy Speaker, I would like to thank the hon. Members for their contributions. This is a good way of taking this country to the next level.

Madam Temporary Deputy Speaker, I beg to move.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed)*

*to a Committee of the whole House tomorrow)*

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, we will now go back to Order No.9; The Customs and Excise (Amendment) Bill (Bill No.15 of 2011.)

THE CUSTOMS AND EXCISE (AMENDMENT) BILL

**Dr. Kones:** Madam Temporary Deputy Speaker, I beg to move that The Customs and Excise (Amendment) Bill be now read a Second Time.

Madam Temporary Deputy Speaker, the Bill is fairly straightforward and simple. It is just seeking to make one amendment to The Customs and Excise Act. Section 91(A) of the Act talks about the capacity and containers for packaging of alcoholic beverages, but it does not specifically say what type of packaging is used. So, this Bill is trying to say that we can package alcoholic beverages either in a glass or a plastic.

Madam Temporary Deputy Speaker, maybe to allay any fears that some few people had, we have already even talked to hon. Mututho and agreed that, in the Committee stage, we will specify the qualities and specifications for this BET, so that they meet the international standards that are required.

Madam Temporary Deputy Speaker, the Bill is fairly straightforward and has been agreed upon by the industry and players.

Madam Temporary Deputy Speaker, I beg to move and ask hon. Midiwo to second.

**Mr. Midiwo:** Thank you, Madam Temporary Deputy Speaker. This Bill has been lying here for almost one year and looking at it, it is self explanatory. That is why we request you to extend time a bit. We want to do as much business as possible, so that as we go home we leave nothing that organizes our business and social structures undone.

I second.

*(Question proposed)*

**Mrs. Noor:** Thank you, Madam Temporary Deputy Speaker for giving me this chance. I want to congratulate hon. Kones for bringing this amendment Bill and I support.

**The Minister for Youth Affairs and Sports** (Mr. Namwamba): Bi Naibu Spika wa Muda ningependa kumshukuru Mbunge wa Konoin, Gavana mtarajiwa wa Bomet County, mhe. Julius Kones kwa kuleta Mswada huu hapa Bungeni. Kitendo hiki kinadhihirisha kuwa yeye kweli anajali siyo tu maslahi ya Wakenya lakini vile vile maendeleo katika sekta yetu ya viwanda.

Imani yangu ni kuwa Mswada huu ukipitishwa na kuwa sheria na kuutekeleza, basi tutaweza kuimarisha hali ya utenda kazi katika viwanda hivi ambavyo hutumia aina hii ya bidhaa.

Bi Naibu Spika wa Muda, kwa hayo machache, ninaunga mkono.

**Mr. Lagat:** Madam Temporary Deputy Speaker, I want to take this opportunity to thank Dr. Kones for bringing this Bill.

I stand to support it.

**Mr. Mututho:** Madam Temporary Deputy Speaker, I support, but I will be bringing an amendment at the Committee Stage to improve on the quality of the plastic.

**The Assistant Minister for Youth Affairs and Sports** (Mr. Kabando wa Kabando): Madam Temporary Deputy Speaker, I also rise to congratulate Dr. Kones for this Bill.

I support this Bill and wish him well in his pursuits to serve his county as a Governor.

**The Temporary Deputy Speaker** (Dr. Laboso): Hon. Members, could we ask the Mover to reply?

**Dr. Kones:** Thank you, Madam Temporary Deputy Speaker. I want to thank all hon. Members who have contributed and supported this Bill. As hon. Mututho said, we will beef it up in the Committee Stage.

Madam Temporary Deputy Speaker, I beg to move.

*(Question put and agreed to)*

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

#### THE KENYA NATIONAL AIDS COMMISSION BILL

**The Temporary Deputy Speaker** (Dr. Laboso): Is Dr. Monda not here? He is not here.

#### ADJOURNMENT

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

The House rose at 12.45 p.m.