

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 20th November, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

PRESIDENTIAL MEMORANDUM ON THE FINANCE BILL, 2012

Mr. Speaker: Hon. Members, I have a number of communications to make. First, you will recall that on Thursday, 4th October, 2012, the House passed the Finance Bill (Bill No. 26 of 2012). However, His Excellency the President has returned the Bill and submitted a Memorandum on the Bill in a letter dated 12th October, 2012, indicating that the House reconsiders amendments proposed under New Clause 28 of the Bill.

The President's Memorandum reads as follows and I quote:

“And whereas The Finance Bill 2012 was presented to me for assent in accordance with the provisions of the Constitution on the 12th October, 2012; now, therefore, in exercise of the powers conferred on me by Section 46(3) and (4) of the former Constitution, I refuse to assent to the Finance Bill, 2012, for the reasons set out hereunder.

Clause 28: Amendment of the Second Schedule to the National Assembly Remuneration Act (Cap 5).

The amendment seeks to amend the Second Schedule to the National Assembly Remuneration Act (Cap 5) which provides for the payment of severance allowance to Members of Parliament as follows *in extenso*:-

“Section 28: The Second Schedule to the National Assembly Remuneration Act is amended by deleting the second column of item 5 and substituting therefor the following-

A severance allowance at the rate of thirty per centum of the gross taxable remuneration payable to a Member of Parliament each month under this Act, including the salary, constituency allowance, nominated member's allowance, *ex-officio* member's allowance, house allowance, extraneous allowance, transport allowance, entertainment allowance and vehicle fixed cost allowance:

Provided that in respect of the Tenth Parliament, severance allowance shall be paid-

(a) at the rate of thirty-one per centum of the salary specified in the second column of the First Schedule for every year in service, in respect of the period up to 26th August, 2010; and,

(b) at the rate specified in this item for the period commencing on 27th August, 2010 and thereafter.”

The effect of the amendment is to increase the amount of severance allowance payable to a Member of Parliament upon leaving office. This amendment was proposed by the Members

during the Committee Stage. This proposal contravenes Article 230 of the Constitution which creates the Salaries and Remuneration Commission and confers upon it the mandate to, *inter alia*, “set and regularly review the remuneration and benefits of all state officers”.

“State Officer” includes Members of Parliament as defined in Article 260 of the Constitution. In the premise, the Members of Parliament by proposing the above amendment to the Finance Bill, 2012, are in effect usurping the constitutional powers of the Salaries and Remuneration Commission. The proposal to review the remuneration and benefits of Members of Parliament as suggested should only emanate from the Salaries and Remuneration Commission as provided in the Constitution and the Salaries and Remuneration Act, 2011, and not unilaterally by the Members of Parliament from the privileged floor of the House.

Recommendation: In view of the foregoing, I recommend that Clause 28 be deleted from the Bill.”

Hon. Members, Standing Order No.125(6) provides that:-

“When the President submits a Memorandum on a Bill to the Speaker pursuant to Section 46 of the Constitution, the House shall deliberate on such a memorandum within twenty-one days of the date when the House next meets.”

I, therefore, direct that the Presidential Memorandum be circulated to all Members of Parliament and ask that the House Business Committee to programme it for consideration by the House on or before Thursday 6th December, 2012.

Thank you.

ASSENT TO BILLS

Hon. Members, the second Communication is with respect to returns on Bills received from the hon. Attorney-General, pursuant to the Standing Orders. Standing Order No.125 requires him to present to the President within 14 days of receipt from the Clerk every Bill passed by this House.

Thereafter, at the expiry of 14 days, the Attorney-General is required to file a return to the Speaker indicating the time and the date that the Bill was presented to the President. The returns I received indicate that the following six Bills which were all passed by the National Assembly on various dates, were presented by the Attorney-General to His Excellency the President for assent and were all duly assented to as hereunder.

(1) The Elections (Amendment) Bill of 2012, passed by the National Assembly on 5th September, 2012, and duly assented to on 11th October, 2012.

(2) The Breast Milk Substitutes (Regulation and Control) Bill, 2012, passed by the National Assembly on 20th September, 2012, and duly assented to on 11th October, 2012.

(3) The National Transport and Safety Authority Bill, 2012, passed by the National Assembly on 25th September, 2012, and duly assented to on 12th October, 2012.

(4) The Prevention of Terrorism Bill, 2012, passed by the National Assembly on 27th September, 2012, and duly assented to on 12th October, 2012.

(5) The Elections (Amendment No.2) Bill of 2012, passed by the National Assembly on 4th October, 2012, and duly assented to on 11th October, 2012.

(6) The Kenya National Examinations Council Bill, 2012, passed by the National Assembly on 9th October, 2012, and duly assented to on 12th October, 2012.

INVITATION TO MEMBERS TO ATTEND SPEAKER’S ROUND

TABLE/ KEPSA CONFERENCE IN MOMBASA

Hon. Members, the next Communication is that; I wish to bring to your attention that the Kenya National Assembly in partnership with the Kenya Private Sector Alliance (KEPSA) and as part of the Speaker's Round Table, will be holding a two-day Conference at Leisure Lodge Resort, Mombasa on Friday, 23rd to Sunday, 25th November, 2012, for all Members of Parliament, representatives from the private sector, and the public sector mainly the Office of the President, the Judiciary, Commissions and Kenya Defense Forces.

The purpose of the conference is to review progress since the inception of the Speaker's Round Table in 2009 and evaluate the implementation of Agenda 4 issues.

Registration for the hon. Members wishing to participate in the Conference has been on-going during the recess.

Hon. Members are expected to depart from Nairobi on Thursday, 22nd November, 2012, and to return on Sunday, the 25th of November, 2012.

Hon. Members who are interested and have not confirmed their participation are kindly requested to do so by registering at the Main Reception, Main Parliament Building or contact that reception over extension 32062 or 32057, latest by Wednesday, 21st November, 2012, for onward transmission to KEPSA for travel and other logistical arrangements.

I thank you.

REPORT ON THE DEPLOYMENT OF KDF IN EMERGENCY/DISASTER SITUATIONS

In the final Communication, hon. Members, I have today, 20th November, 2012, received correspondence from the Minister of State for Provincial Administration and Internal Security to the effect that in accordance with the provisions of Article 241(3)(b) of the Constitution, a report contemplated under that Article of the Constitution is to be made to the House. Article 241(3)(b) provides that:

“The Defence Forces: (b) Shall assist and co-operate with other authorities in situations of emergency or disaster and report to the National Assembly whenever deployed in such circumstances.”

I have accordingly directed that the Minister makes a report to the House by way of a statement tomorrow, Wednesday, 21st November, 2012, during the afternoon sitting.

I thank you.

Hon. Members, in light of that Communication, I wish to draw to your attention that this afternoon I received a request to approve a Motion of Adjournment pursuant to Standing Order No.23 from the Member for Ikolomani, hon. Dr. Khalwale. However, that request arrived at my office at 1.30 p.m. So, it would be outside the permitted timeline under Standing Order No.23, which provides that any Member wishing to move a Motion of Adjournment under Standing Order No.23 should draw the attention of the Speaker to that intention to move that Motion, at least, two hours before the sitting.

So, that Motion is obviously out of time, but that, notwithstanding the communication I have made, which is that the Minister intends to make a report to the House pursuant to Article 241(3)(b) actually overtakes that Motion for the time being. If after the Statement as would be issued by the Minister and clarifications as maybe sought by hon. Members, Members are still not satisfied that the matter has been adequately addressed or ventilated, then I may have to deal

with the Motion by the Member for Ikolomani and allocate it time immediately as the Standing Orders provide.

COMMENCEMENT OF THE FOURTH SESSION

My final Communication, Hon. Members, I wish to take this opportunity to welcome you back to the Fourth Session of the Tenth Parliament. This is very likely to be our ultimate sitting. So, I wish you the very best and, please, succeed in your endeavors, undertakings, deliberations, and transactions.

I thank you.

POINT OF ORDER

EXTENSION OF SITTING DAYS BY *AD HOC* COMMITTEE ON BANITA SETTLEMENT SCHEME

Dr. Khalwale: Mr. Speaker, Sir, before we went on recess you had given us a two weeks period to look at the troubles bedeviling Banita Settlement Scheme. The two weeks have expired and we have made a lot of progress. We are unable to table the report and so we are requesting that you give us two more weeks. This is because we have not talked to the Provincial Commissioner (PC), the Permanent Secretary and a few more witnesses.

Mr. Speaker: Fair enough! Member for Ikolomani, but bear in mind my last communication this afternoon that this is very likely to be our ultimate sitting during the Fourth Session. We have just about or exactly one month between now and the time it is proposed that we will adjourn. We have computed the number of sittings that we have and we have found that they are 18. So, if you want to live within time then you must use those two weeks very strictly.

I, therefore, direct that your time is extended by another 14 days from today.

QUESTIONS BY PRIVATE NOTICE

REPATRIATION OF Ms. LILIAN NYAMBURA FROM SAUDI ARABIA

Mr. Wambugu: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Is the Minister aware that the remains of Ms. Eshter Muthoni Ngarega (Passport No.A1746327) who died in Saudi Arabia three months ago have not been transported to the country for burial?

(b) Is the Minister also aware that Ms. Lilian Nyambura, a sister to the deceased and working in Saudi Arabia is not allowed to communicate with her parents by her employer?

(c) What urgent measures is the Minister taking to ensure that Ms. Lilian is repatriated to the country and post mortem on the deceased is carried out and her remains brought back to the country?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply.

(a) I would like to inform the House that the parents of the deceased, Mr. Patrick Mwiga and Mrs. Mary Gichuhi wrote a letter on 15th June, 2012 authorizing for a post mortem to be conducted once they got wind of the loss of their daughter.

The information that came to the Kenyan Mission as to the death of our beloved was that; around 10th June, 2012 a Mr. Mohamed Mahamud, an employer to Mrs. Esther Muthoni Ngarega informed the Kenyan Embassy in Jeddah that Mrs. Ngarega had drowned on 4th June, 2012 in his residence swimming pool and that it was an accident. Mr. Mahamud had reported to the Daran Police Station in Saudi Arabia and informed the embassy that the body of the deceased was at the Damam Central Hospital.

On 6th June, 2012 the Mission sent two Kenyan nationals who were living in Damam to go and check at the Daran Police Station as to whether this accident had actually taken place. Subsequently, on 10th June, 2012 the embassy informed the Ministry of Foreign Affairs, Nairobi of this death in order for the information to be conveyed to the lady's parents.

Mr. Speaker, Sir, after the information was relayed to her parents, there was then correspondence from the lady's mother who had requested by writing that she wanted her daughter to be transported immediately to Nairobi at which point it was not allowed for the simple reason that due process had to be followed. As a result, the Kenyan Embassy made a recommendation with a suggestion that we needed to have this post mortem conducted before the body could be transported to Kenya for burial.

The post mortem was done in November, 2012 and the cause of death was indicated in the post mortem that, indeed, our Kenyan sister had actually drowned. After that a report was sent to Nairobi and it looks like there was a mix up because the report that came was written in Arabic. The parents were not able to interpret this report and so it was returned to the Ministry of Foreign Affairs where interpretation was made. Thereafter the final report was issued to the parents. Since this report was handed over to Mr. Patrick Mwiga and Mrs. Mary Gichuhi, we have been waiting at the Ministry of Foreign Affairs for the parents to issue a letter of no objection for the body of the deceased to be transported to Kenya for burial.

(b) I am not aware that Ms. Lilian Nyambura, the sister to the deceased, who is also working in Saudi Arabia is not allowed to communicate with her parents by her employer. No such information has been conveyed to the Mission in Riyadh and, therefore, I cannot comment about it.

(c) For us to repatriate Ms. Lilian Nyambura back to Kenya I would like the hon. Member to provide the Ministry with the name and telephone contacts where she lives in Saudi Arabia; the name and telephone contacts of her employer; the physical address of the employer's residence and office; the names and telephone contacts of the agents both in Kenya and Saudi Arabia who recruited her to work in Saudi Arabia; and a copy of Ms. Lilian Nyambura's passport and the dates when she left Kenya so that we trace her. That way, we will make sure that she is repatriated to Nairobi.

Mr. Wambugu: Mr. Speaker, Sir, I wish to thank the Assistant Minister for giving that comprehensive answer. From it, the post mortem was done sometime this month. The same report has been communicated to the parents of the deceased. Could he provide documentary evidence that this has been done? He needs to lay a copy of the report before the House for perusal. This is because we normally get a lot of information that something has been done, but in effect it has not been done. Could he, please, lay the same report before the House?

Mr. Onyonka: Mr. Speaker, Sir, if I am given an opportunity, tomorrow morning, I will bring the report because it has been done.

Mr. Speaker: Fair enough! If you will adequately deal with this matter, then you will just table the report and the Member for Mathioya among other Members can have access to it. That is all you will do tomorrow.

Mr. Njuguna: Mr. Speaker, Sir, the issue of Kenyans being mistreated and mishandled in the Arab world is of serious concern to this House. What is the Ministry doing to make sure that all the suffering Kenyans are repatriated home?

Mr. Onyonka: Mr. Speaker, Sir, as I have stated in this House, the number of Kenyans who are working in Saudi Arabia are not less than 80,000. The cases of Kenyans who have had incidents and Kenyans who have suffered and some who have died has not been such a significant number that would make it impossible for us not to put interventions in place to make sure that these very few events and occasions which tarnish the relationship between Saudi Arabia and Kenya are sorted out.

Mr. Speaker, Sir, the truth is that the Saudi Arabia Government has been a friendly State. They have provided employment for our people. They have treated our people very well most of the time. But the incidents that have occurred which have been negative are the ones which we have been working on.

One, the Ministry of Foreign Affairs has set up an *ad hoc* committee which has been meeting and has met with the stakeholders. We have agreed now to have a one-stop shop where we can discuss and agree with the agents when they are recruiting Kenyans for them to tell us where the Kenyan will work, who the employer will be and to inform the Kenyan ambassador who is in Jeddah.

Finally, the Kenyan Government has deliberately made it known that since last week, any Kenyan who is travelling to Saudi Arabia or anywhere in the Middle East to go and work must now provide information on who the employer will be and must inform the Kenyan ambassador in any of the Arab States so that we can follow up and make sure that there is no negative incident coming out of there.

Mr. Mwangi: Mr. Speaker, Sir, since the death of Esther in June this year and now we are in November, I have not heard the Assistant Minister confirm that the Ministry is taking any action to transport the body to Kenya for burial. Could the Assistant Minister confirm that the Ministry is making adequate arrangements to get the body back to Kenya since the death occurred six months ago?

Mr. Onyonka: Mr. Speaker, Sir, any time that we have had a death in Saudi Arabia or any of the Arab countries, usually these governments have helped us to repatriate these Kenyans back. The Kenyan embassies have always participated in their own small way to also raise funds to make sure that any Kenyan who has passed on is brought back to Kenya.

Mr. Speaker, Sir, I cannot make a commitment here today on whether the Government through our ambassador in Saudi Arabia will be able to raise funds. Unless I call him and find out then I give this House the report, I cannot commit myself. But I know for sure that once the repatriation is ordered, the body will most probably come back home because Kenyans who are in the diaspora plus our ambassador will make sure that that body is repatriated back home.

Mr. Speaker: Assistant Minister, as you table the report tomorrow, could you please come with that indication as to whether or not the body will be brought back home?

(Mr. Shakeel consulted loudly)

Member for Kisumu Town East, that will not be permitted. This is the ultimate sitting and we must have ultimate discipline.

Proceed, Mrs. Odhiambo-Mabona!

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, could the Assistant Minister clarify whether he is aware of the existence of a law called Counter-Trafficking in Persons Act that gives him a framework to do what he is seeking to do outside the legal framework? I have raised this issue in the past and whenever people hear the word “trafficking” they become jittery but it actually gives a proper and very good legal framework for the Minister to do what he is trying to do and which is actually not his mandate. It lies in another Ministry. So, is the Minister aware of such a law?

Mr. Speaker: Assistant Minister, simple question; are you aware of the Human Trafficking Act?

Mr. Onyonka: Mr. Speaker, Sir, I am aware of the Human Trafficking Act. I know that it falls under the three different Ministries; the Ministry of Labour, the Ministry of Gender, Children and Social Development and the Ministry of State for Provincial Administration and Internal Security. But the Ministry of Foreign Affairs has been acting as the interlink in trying to sort out and solve the problem of human trafficking. I can assure you that we are doing something to make sure that that Act is implemented and these events on Kenyans are stopped.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to inform the House that the body will be brought back soon when he is aware that there is an overriding law in the Islamic Republic of Saudi Arabia where bodies not claimed within three months are buried in accordance with the law of Saudi Arabia? Can the Assistant confirm to us that he is aware that the bodies---

Mr. Speaker: Order! If you move to that part “can the Assistant Minister confirm to us” then you will be asking a question. But the first part is fine. It will pass for a point of order.

Mr. Onyonka: Mr. Speaker, Sir, we are aware of that law and the Kenyan embassy made a special request through the employer who had informed the Dharam Police Station to make this special case. That is why he was saying that what he requires is for the family of Mr. Patrick Muiga and Mrs. Mary Gichuhi to issue a letter of no objection for them to release the body to Kenya.

Mr. Wambugu: Mr. Speaker, Sir, when the Assistant Minister was replying to the Question that I had asked he said that the Minister is not aware and does not have any information about the sister to the deceased, Lillian Nyambura Ngarega. Let me bring to your attention that the Ministry through the Permanent Secretary was informed about the issue of Lillian Nyambura on 15th June, 2012 and about the agent who was doing the recruitment, Al Melkaras Agencies in Nairobi, P.O. Box 57908 and also the agent in Saudi Arabia, Al Mogan recruiting office. I think they have all the information. I do not know why the Assistant Minister has to say that they do not have any information.

May I lay this document on the Table?

(Mr. Wambugu laid the document on the Table)

Mr. Onyonka: Mr. Speaker, Sir, if I had that information, I would have made sure that I had a substantive answer to this matter. But if he can table the information then I will be able to retrieve it and make sure that tomorrow morning, I come with a very substantive answer as to the

truth of this case. Otherwise, the Ministry was not aware and it looks like there was some mis-communication and I am not aware where we lost each other.

Mr. Speaker: Fair enough! Assistant Minister, this Question will appear on the Order Paper tomorrow morning for you to do three things: First, to table the report, two, to indicate if arrangements are in place to return the body and when it will be returned and, finally, to speak to the information that has been tabled by the Member for Mathioya. So, it will appear for that purpose only. There will be no other supplementary questions beyond that except by the Member for Mathioya on a need basis.

(Question deferred)

SHOOTING OF MR. TOM OPIYO BONYO
AT KOMAROCK ESTATE

Eng. Rege: Mr. Speaker, Sir, I beg to ask the Minister of State for Provincial Administration the following Question by Private Notice.

(a) Under what circumstances was Mr. Tom Opiyo Bonyo, a former Director of Agricultural Services in the Ministry of Agriculture shot dead near his residence in Komarock Estate on 17th September, 2012?

(b) Has any suspect(s) in relation with the incident been arrested and charged in court?

(c) What is the status of the investigations on the matter?

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

(a) On 17th September, 2012, at around 9.00 p.m. Mr. Tom Opiyo Bonyo arrived at his residence in Komarock Phase 5 Estate from his place of work. After the caretaker opened the gate for him and he was reversing to park his car, two men, one armed with an AK 47 rifle and another armed with a pistol forced their way into the compound while two others remained outside.

The one armed with a pistol ordered the caretaker to lie down which he complied while the other went straight to where Mr. Tom Opiyo was parking his car. Mr. Opiyo pleaded with him to spare his life and even offered to give them Kshs50, 000. However, the assailants refused to take the money and instead shot him three times before leaving. The caretaker then called Mr. Opiyo's sons who took him to Mama Lucy Hospital where he was pronounced dead on arrival.

(b) So far no arrests have been made. I wish, therefore, to call upon anyone who has information that can lead to the arrest of the culprits to volunteer the same to the nearest authority.

(c) Investigations are still ongoing and Case File No.CR135/418/2012 has been opened and is under investigations.

Eng. Rege: Mr. Speaker, Sir, we have been on recess for the past one month, plus the other month that the Ministry should have been conducting investigations. This response was given to this House more than a month ago. Could the Assistant Minister give us the status as of now, because I am sure that they must have been conducting some investigations?

Mr. Khang'ati: Mr. Speaker, Sir, it is true that since Mr. Opiyo was murdered, there has been an intervening period of two months. As I have indicated, investigations have been ongoing. As at today we have not apprehended the culprits and, therefore, we will continue with the investigations. The file will remain open until we make progress.

Mr. Mututho: Mr. Speaker, Sir, listening to the Assistant Minister, it is clear that, that was an assassin either hired or something must have happened. How many such cases is he currently investigating in Nairobi to prove the point that we are either safe or very unsafe in this City?

Mr. Khang'ati: Mr. Speaker, Sir, I do not have the number of cases of murder or assassination that are under investigation at the moment. I will be able to table in this House the correct position if I am given time.

Mr. Olago: Mr. Speaker, Sir, clearly, looking at the circumstances of the murder, this was not a robbery but an assassination. Under those circumstances, would it not be prudent for the police officers to look at the circumstances of Mr. Opiyo's work? This was a very hardworking senior officer of the Ministry of Agriculture and the suspicion is that his assassination was as a result of envy at work. Has the Assistant Minister looked at that angle; that his assassination could have been from the people he was working with?

Mr. Khang'ati: Mr. Speaker, Sir, as I said before, we are inviting anybody who has information that could help us bring this case to conclusion, to come and give us that information. From what the hon. Member is saying, it appears that he has an idea. Therefore, he is welcome to come and give us that information.

Mr. Ochieng: Mr. Speaker, Sir, whenever there is a crime of this nature, the police have always managed to arrest the culprits. In this case, it has taken more than a month. Could the Assistant Minister, therefore, confirm whether the police are on a go-slow and that is why they are not able to perform their duties as required?

Mr. Khang'ati: Mr. Speaker, Sir, I beg that the question be repeated because there is a bit of background noise that has made me miss certain statements that the hon. Member has made.

Mr. Speaker: The Member for Nyakach has asked you to confirm whether the result of the slowness in investigation is a consequence of the police being on a go-slow.

Mr. Khang'ati: Mr. Speaker, Sir, the two are not related. It just happens that so far we have not been able to zero in on any indication as to who was involved and what motivated that assassination.

Mr. Speaker: Last question, the Member for Karachuonyo!

Eng. Rege: Mr. Speaker, Sir, I do appreciate that the Assistant Minister is trying to carry out further investigations. However, I am disturbed when he says that they do not have any other cases pending regarding such murders when Rachuonyo North District has had three daylight murders in the past three years and so far, no report has been brought back to the police station in the district. Could the Assistant Minister kindly go back and do a better job than what he has done right now?

Mr. Khangati: Mr. Speaker, Sir, if I recall very well, the Question relating to the number of cases was specific to Nairobi and it did not mention Karachuonyo. To that Question, I said that I was not at that point in time aware how many cases were out there. I promised to go, verify, come and report to this House.

Secondly, I want to assure Eng. Rege that we are taking this investigation seriously, not because the person involved was a senior Government officer, but because we do not want cases where civilians or any other person is murdered and the culprits involved go scot-free.

ORAL ANSWERS TO QUESTIONS

Question No.912

GOVERNMENT EXPENDITURE ON ADVERTISEMENTS

Mr. Mututho asked the Minister for Information and Communications:-

- (a) whether he could provide a breakdown of Government expenditure on advertisements in each media house per year and cumulatively from 2005 to-date;
- (b) whether he could provide the list of top 20 Ministries in spending in each of the media entities in descending order; and,
- (c) whether he could also table all the contracts that were used in procuring those advertisements and/or promotions.

The Assistant Minister for Information and Communications (Mr. Khaniri): Mr. Speaker, Sir, I beg to reply.

(a) My Ministry has no authority to control, regulate or monitor Government expenditure on advertisements in media houses. In my view, this Question should have been directed to the Office of the Prime Minister, which coordinates all Ministries. However, I have managed to gather expenditures on advertisements from 23 out of the 42 Ministries, which I believe broadly reflect the Government expenditure on advertisement. Although we wrote to all Ministries to provide this information, as you may note, not all the Ministries responded. The total advertisement expenditure for the 23 Ministries since 2005 amounts to Kshs974,224,134. I will table the breakdown as requested by the hon. Member in Schedule 1 of this document immediately I finish answering this Question.

It is important to note that the trend on advertisement expenditure for the 2005/2006 and 2010/2011 financial years by the 23 Ministries varies from one year to another, depending on the number of activities to be implemented in a given financial year. The activities that require advertisement include tendering, recruitments, public awareness campaigns, launching of public programmes and call for public or stakeholders' fora, among others. The expansion of Government to 42 Ministries has also contributed to the increase in advertisement expenditure.

(b) I hereby also table in Schedule II the list of top 20 Ministries in spending for the financial years under review based on the 23 responsive Ministries. The Office of the President's list in the Government expenditure is about Kshs207 million while the Ministry of State for Special Programmes spending list is Kshs1.8 million.

(c) As stated earlier, the Ministry of Information and Communications has no control over advertisement expenditures in other Ministries, departments and agencies. The Ministry is, therefore, not able to table the contractual documents as requested since other Ministries are not mandated to report or request any clearance from my Ministry. However, all Ministries are expected to follow Government guidelines in procuring advertisement services in the media houses.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. The Assistant Minister is saying that he is not able to table the contracts. These are contracts worth Kshs1 billion. Therefore, if he does not table the contracts before Parliament, it means that he is not ready to answer the Question. We must push him to come back when he has these contracts because that is the gist of the matter. We want to see how Kshs1 billion was appropriated.

Mr. Speaker: Order! That does not pass for a valid point of order, Member for Ikolomani. You will want to revisit the HANSARD and you will want to see that it does not. Go and look at all the words you have uttered this afternoon as you raised that point.

Mr. Mututho: Mr. Speaker, Sir, I am shocked by the response by the Assistant Minister. To say the least, first and foremost, there are over 40 Ministries and the response is on 23 Ministries. This means that there is a whole lot of Ministries that are not covered. In part (b), he has talked of responsive Ministries. That means that some could be of a lesser importance and others are supposed to report. We have not bothered with that. This Question has been with the Assistant Minister for over nine months and he had all the time. I am not satisfied because---

Mr. Speaker: Order, Member for Naivasha! You can do better than that. Honestly, it is Question Time. You are not satisfied with the answer; prosecute your concern, so that it is responded to by the Assistant Minister.

Mr. Mututho: Mr. Speaker, Sir, I am guided. I am not satisfied with the answer in its entirety. It is just a joke. There are no contracts attached and well over 18 Ministries are not covered. Last year alone, about Kshs41 billion was spent in advertisements.

Mr. Speaker: Order, Member for Naivasha! It is Question Time. If you look at the relevant Standing Order, it tells you that you should not use Question Time to debate, nor give opinions. It is all there in the red book. Member of Naivasha, you can do better than that. I am still saying so.

Mr. Mututho: Mr. Speaker, Sir, I seek your indulgence because I have waited for a year to get an answer only to get this shoddy answer. I stand guided.

Mr. Speaker: I read the rules for you?

Mr. Mututho: No, Mr. Speaker, Sir. I stand guided. I am not satisfied with this answer because no contracts are attached and over 18 Ministries are not covered. More importantly, the figures mentioned here are just a skeleton of the actual story.

Mr. Speaker: Assistant Minister, you have no question. Maybe there is another one.

Mr. Ogindo: Mr. Speaker, Sir, could the Assistant Minister confirm to this House whether, indeed, there are contracts or not? If there are contracts, were they competitively procured?

Mr. Khaniri: Mr. Speaker, Sir, I cannot confirm that, but according to the Government procurement guidelines, there must be contracts. As I stated in my reply, I have no powers from where I sit to extract these contracts from other Ministries. It is only the Office of the Prime Minister that can do that for us.

Mr. Mututho: On a point of order, Mr. Speaker, Sir. The Assistant Minister has said that definitely there are contracts in these transactions. Am I in order to request that this Question be deferred until such a time that he tables the contracts that he is referring to?

Mr. Speaker: Assistant Minister, what is your reaction? You want the Question deferred, so that you have time to table the balance of the contracts?

Mr. Khaniri: Mr. Speaker, Sir, I have not tabled any contracts because I could not access them. I can only get the contracts for my Ministry. However, I stand guided by you. I stated earlier on that it is only the Office of the Prime Minister that can extract these contracts from the various Ministries. So, given time, probably we could consult with the Office of the Prime Minister and maybe the Question can be answered at a later date.

Mr. Speaker: I think that is more practical; we can defer this Question, you consult with the Office of the Prime Minister and then this Question will be back on the Order Paper seven days from today; that puts it to next Tuesday, unless you want more time, in which case, you should indicate it. Is seven days good for you?

Mr. Khaniri: Mr. Speaker, Sir, I believe seven days are sufficient.

Mr. Speaker: That is okay. So, we will leave the rest of the concerns until Tuesday next week at 2.30 p.m. Member for Naivasha, that is the way you should have gone from the very beginning. In fact, the Member for Mosop is so amused. If you turned back to him, he would have assisted you.

(Question deferred)

Question No.1768

IMPLEMENTATION OF SESSIONAL PAPER NO.1 OF 1996

Mr. Speaker: Member for Wajir West! I did see the Member for Wajir West in the precincts of Parliament earlier on today.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. I would like to intercede. The Member for Wajir West is presently occupied on the issue of Garissa and the fall out. He is trying to organize something. He may be in the precincts of Parliament, but I think he may not have made it to here. I plead with you to allow this Question to be deferred.

Mr. Speaker: Order, Member for Kisumu Town East! Yes, you have made your point. I appreciate and really will commend you on the effort that you have made, but I am afraid that that cannot be a ground for deferment of a Question. So, the Question is dropped.

(Question dropped)

Question No.1818

SUSPENSION OF PENSION FOR MR. JONES M. MUKAMBA BY TSC

Mr. K. Kilonzo asked the Minister for Education:-

(a) whether he is aware that Mr. Jones Muvengei Mukamba (TSC No. 26438) was released by the Teachers Service Commission (TSC) to the Department of Defence with effect from 3rd September, 1979 and that upon his release the TSC suspended his pension in respect to his teaching service and undertook to pay him upon his retirement from the Armed Forces;

(b) whether he is also aware that the said person has not been paid the pension since his retirement from the Armed Forces on 28th September, 2007; and,

(c) how much his pension will be and when he will be paid.

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

(a) I am aware that Mr. Jones Muvengei Mukamba (TSC No.26438) was released by the Teachers Service Commission to the Department of Defence with effect from 3rd September, 1979, and that upon his release the TSC suspended his pension in respect to his teaching service and undertook to pay him upon his retirement from the Armed Forces.

(b) I am aware that he has not been paid the pension since his retirement from the Armed Forces on 28th September, 2007. This is because he is yet to forward the documents asked for in a letter reference TSC/26438 dated 5th March, 2012, which are necessary for processing his pension.

(c) The amount to be paid will be known after the TSC processes the pension documents and submits them to the Director of Pensions, Ministry of Finance, who will work out the final pension Mr. Mukamba will be paid after he has submitted the required documents.

Mr. K. Kilonzo: Mr. Speaker, Sir, I am sure the Assistant Minister is lucky because we are in Parliament. I do not know what action you would have taken if we were in a classroom. I am saying that because this Question was prosecuted by the substantive Minister who asked that it be deferred so that he can bring a proper answer; a wish that you granted. Today, the Assistant Minister is reading the same answer which I was given at that time. I have a copy of the HANSARD which was signed on 3rd of October 2012. The same answer has been brought again today. He is reading the same answer. Under such circumstances, what do we do?

Mr. Speaker: Fair enough. Mr. Assistant Minister, do you want to react to your colleague? In fact, the substantive Minister had asked for time to bring a more substantive answer. But you are giving us an answer which is otherwise said to be inadequate?

Prof. Olweny: Mr. Speaker, Sir, the substantive Minister is the one who has signed the same copy that I have. That means he has verified that the documents that we want have not been submitted. All we want are the documents so that we can process the pension. We are not holding the money. All we want are the documents and then the gentleman will get his money.

Mr. Speaker: Fair enough. In those circumstances, before I give any further directions, I will want to acquaint myself with the record of the HANSARD and I will give directions on Thursday. So, the Question will appear on the Order Paper on Thursday this week at 2.30 p.m. Mr. Assistant Minister, please be in the House in the event that we have to proceed with supplementary questions from the answer that you have given. Hon. K. Kilonzo, please be available also in the event that you have to prosecute the Question beyond there.

(Question deferred)

Next Question by hon. Baiya.

Question No.1719

NON-COMPLETION OF KIRIGITI-KIBICHOI ROAD

Mr. Speaker: Is Mr. Baiya not here? His Question is dropped!

(Question dropped)

Mr. Speaker: Next Question by hon. Duale.

Question No.1604

IRREGULAR ALLOCATION OF KMC LAND
TO PRIVATE DEVELOPERS

Mr. Speaker: Is Mr. Duale also not here?

(Dr. Nuh stood up in his place)

Mr. Speaker: What is it Dr. Nuh?

Dr. Nuh: Mr. Speaker, Sir, I sincerely want to apologise because I was to approach your Chair on the issue of hon. Duale who contacted me earlier in the morning because of the issues that are happening in his constituency. We are all aware of them but, unfortunately, I forgot to contact your office. I wish that this Question be deferred on the strength of that commitment.

Mr. Speaker: Order! The second part cannot hold; that you wish that this Question be deferred. We do not do our business that way. An hon. Member does not stand on the Floor and request that the Question be deferred on behalf of another hon. Member. The first part is okay and I understand it. It is human that you forgot to approach me well in time before we got to this Question. So, in those circumstances - and they are very special circumstances - I will defer the Question to Wednesday morning next week. Please communicate to the hon. Member.

(Question deferred)

Mr. Speaker: Next Question by hon. Dr. Nuh.

Question No.1730

LIST OF ROADS TENDERED FOR UNDER BURA
CONSTITUENCY KERRA

Dr. Nuh asked the Minister for Roads:-

(a) which roads were tendered for under Bura Constituency KERRA in the 2011/2012 financial year;

(b) whether he could provide the names and addresses of the companies which bid for each of the roads and provide the evaluation report showing the scores of each of the companies under each road; and,

(c) what is the status of works on each road.

The Assistant Minister for Roads (Dr. Machage): Mr. Speaker, Sir, I beg to reply.

(a) The following 15 roads were tendered for under the Bura Constituency Roads Committee in the Financial Year 2011/2012:

1. Madogo-Mbalambala
2. Mlanjo
3. Junction B8
4. Junction B8 Bura-Bura Bridge
5. Junction B8 Bura – Bangale
6. Nanighi-Sala
7. Matangala-Subu
8. Bura-Chwele
9. Malka Mansa
10. Junction B8 Bilbil-Waldesa
11. Junction URP6 – Mitiboma
12. Junction B8 – Jajavo
13. Junction B8 Chardede-Kabba
14. Junction URP 6 Boka

15. Junction A3 Bangale-Kaniki.

(b) Mr. Speaker, Sir, I wish to clarify that the procedure for evaluation of road works tenders does not involve award of scores. The evaluation procedure is divided into three stages.

- (i) Preliminary Evaluation
- (ii) Detailed Evaluation
- (ii) Financial Evaluation.

And as such, I wish to table the list providing names and addresses of the companies which bid for each of the roads in Appendix A, and the list of evaluated contractor's tender sum for each tendered road as compared to the engineer's estimates in Appendix B. It should be noted that the above mentioned processes are undertaken by the Constituency Roads Committee where the hon. Member of Parliament is also a member.

(b) Out of the 15 roads tendered for, 14 of them have been completed and only one is still ongoing. The ongoing remaining works are the installation of culverts on Junction B8 Bura Bangale (URA 3) road and it is expected to be completed by the end of November 2012. So, I table the documents.

(Dr. Machage laid the documents on the Table)

Dr. Nuh: Mr. Speaker, Sir, I am unable to proceed to prosecute the Question because the information the Assistant Minister has just tabled should have been part of the answer which I do not have. I would request for some more time as I look at the appendices before I can be able to interrogate the Question, maybe, tomorrow or on Thursday.

Mr. Speaker: Mr. Assistant Minister, is Thursday good for you so that the hon. Member has time to look at the information you have tabled?

Dr. Machage: Yes, Mr. Speaker, Sir.

Mr. Speaker: Very well. It is so directed.

(Question deferred)

Mr. Speaker: Next Question by hon. Mwaita.

Question No.1806

FRUSTRATIONS FACED BY KENYANS FROM UK
CHARTERED INSTITUTE OF ARBITRATORS

Mr. Mwaita asked the Attorney-General:-

(a) whether he is aware that the new Constitution advocates for the use of Alternative Dispute Resolution in settlement of disputes and if he could clarify whether the accreditation of the mediators and arbitrators is done in the United Kingdom through the Chartered Institute of Arbitrators (Kenya Branch);

(b) whether he is also aware that the UK Chartered Institute of Arbitrators is frustrating Kenyans who want to be mediators and arbitrators since only less than 500 persons have been approved as members of the United Kingdom Chartered Institute of Arbitrators since 1984;

(c) why the United Kingdom Chartered Institute of Arbitrators has to approve the courses and mark examinations taken locally and yet, there are qualified and competent scholars and tutors in the country to examine and mark examinations; and,

(d) what steps the Government is taking to introduce a local curriculum on mediation and arbitration in order to free Kenyans from foreign domination, frustration and the unwarranted delays.

Mr. Mwaita: Mr. Speaker, Sir, I do not have a written answer.

Mr. Speaker: Is the Attorney-General here? The Attorney-General does not seem to be in the House. Minister for Justice, National Cohesion and Constitutional Affairs, can you hold brief for the Attorney-General on Question No.1806?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, with your permission, may I request him to answer this Question tomorrow afternoon?

Mr. Speaker: Very well. Hon. Mwaita, unfortunately, the Attorney-General is not here although the circumstances are understandable. But tomorrow afternoon is not too far. It is so ordered.

(Question deferred)

Mr. Speaker: Next Question by hon. Mohammed Hussein Ali.

Question No.1801

NON-PROVISION OF ELECTRICITY TO LAFEY TOWN BY REA

Well, it would appear the hon. Mohammed Hussein Ali is not in the House and the Question is dropped.

(Question dropped)

Mr. Speaker: That brings us to the end of Question Time. Next Order! From the Front Bench, do we have any statements which are due for delivery this afternoon? Any statements from the Front Bench? In the absence of statements, we will then get requests for statements, beginning with the Member for Lagdera.

POINTS OF ORDER

REASONS OF DEPLOYMENT OF KDF TO GARISSA TOWN

Mr. Farah: On a point of order, Mr. Speaker, Sir. I am seeking a Ministerial Statement from the Minister for Defence regarding the deployment of Kenya Defence Forces (KDF) in Garissa Town. In the Statement, the Minister should clarify the following:-

(i) The reasons for the deployment and whether the Government had exhausted the capacity of the Kenya Police Service which has the constitutional mandate under the law to maintain law and order within our borders.

(ii) Whether in deploying the KDF in that area, the Government followed and respected the provisions of Article 241(3)(c) of the Constitution which expressly states that the only way KDF can be involved in a normal maintenance of law and order in the country is with the approval of Parliament.

(iii) Who gave the orders for the operation in Garissa?

(iv) In addition to the three Kenya Defence Forces (KDF) officers who were gunned down by terrorists, how many other Kenyans were killed and how many other Kenyans were injured?

(v) How many business premises were robbed?

(vi) Will the Government compensate the amount in excess of Kshs1.5 billion to Kshs2 billion which was robbed from the citizens of Garissa? Today, in excess of 40 per cent of the residents of Garissa do not have a livelihood because their businesses have been robbed, torched and destroyed. They qualify for assistance.

(vii) When will the culprits responsible for the carnage be brought to book to face the court of this country?

Mr. Speaker: Mr. Farah, you may resume your seat for a moment. There is only one part which I do not approve in the Statement. There is a part where you say “how many businesses were robbed by the KDF”. That you cannot say here. Just leave it at: How many businesses were robbed? So we must expunge the part which says “by KDF” because that you can only do that when we have had evidence. The rest should be fine.

Mr. Farah: Mr. Speaker, Sir, whereas I want to agree with you in conforming to the provisions of the Standing Orders, indeed, nobody else was in Garissa Town when all the operation was being carried out. The town was dead; people were in their houses. The only people who were raining this carnage in the town were members of the KDF. Nonetheless, I agree with you.

Mr. Speaker: Very well; it is just that part. That part has to be expunged; it has to go!

(The part of Mr. Farah’s point referring to KDF was expunged as ordered by Mr. Speaker)

Mr. Farah: Mr. Speaker, Sir, how many businesses were robbed and, subsequently, torched?

Mr. Speaker: Yes, that will be fine. Mr. Musila, when will this Statement be forthcoming?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, I have listened to the Deputy Speaker very carefully. As you can appreciate, the information that he seeks requires some time to gather. I, therefore, ask for the indulgence of the House that I give this Statement on Tuesday, next week.

Mr. Speaker: Mr. Farah, is that convenient for you?

Mr. Farah: Mr. Speaker, Sir, as we are sitting here in Parliament today, Mr. Duale was almost shot dead yesterday. Mr. Duale is the Member of Parliament for Garissa Town. The town is now a battle ground; it looks like a scene from Syria. So, to say we wait for one week, it is not fair. Could the Assistant Minister give this Statement tomorrow afternoon? I am sure there is a lot that he could do between now and tomorrow afternoon. This is an Information Technology (IT) age.

Mr. Speaker: Order! Mr. Farah believes because of the gravity of the matter and the urgency of it, Tuesday, next week, will be too far. Mr. Musila, could you reduce that time to earlier?

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Speaker, Sir, I will attempt to do so on Thursday afternoon.

Mr. Speaker: Fair enough! I think that will be a reasonable compromise. Mr. Farah, extend that indulgence very kindly.

Mr. Farah: I am obliged, Mr. Speaker, Sir.

Mr. Speaker: Thank you.

DENIAL OF OPPORTUNITY TO REGISTER AS A VOTER
DUE TO RELIGIOUS DRESS / LACK OF ID CARDS

Dr. Khalwale: Mr. Speaker, Sir, I rise to request for a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs regarding the ongoing registration of voters by the Independent Electoral and Boundaries Commission (IEBC). Could he clarify if he is aware that thousands of youth currently holding waiting cards, otherwise called *nusu kipande*, are unable to be listed as voters in the forthcoming General Elections? Is he also aware that many elderly voters who have the old generation identity cards are being denied an opportunity to register as voters?

Could he also clarify if he is aware that a section of Christians, for example, the *Akorinos*, members of the African Church of Holy Spirit, otherwise called *Avakambuli* in my community and nuns of the Catholic Church are being denied registration unless they agree to strip their heads bare for photo sessions? Could he clarify if he is aware of these three issues? What is he doing to ensure that all these Kenyans are not denied their constitutional right to vote?

(Mr. Ogindo stood up in his place)

Mr. Speaker: What is it Mr. Ogindo? I see you want to rise on a point of order.

Mr. Ogindo: Yes, Mr. Speaker, Sir. I want to make a supplementary request on Dr. Khalwale's request.

Mr. Speaker: Proceed!

Mr. Ogindo: Mr. Speaker, Sir, in the same Statement, could the Minister clarify whether it is the policy of the IEBC to have polling stations share the registration kits and whether this is the practice all over the country or it is in some parts of this country alone?

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir. I also wish to seek a supplementary request in relation to the same Statement. Could the Minister, please, clarify what they will do in relation to places that are far like Remba Island, Ringiti Island, Tawawiri/Mfangano Island where our people are not able to get their IDs because there are no facilities? There are no boats and the officials there like chiefs do not have fuel. Indeed. Quite a number of people from Remba and Ringiti Islands have been calling me saying they need assistance to get the IDs because the Government has not provided them. What is the Ministry doing to ensure that we do not disenfranchise young people as a consequence of lack of IDs and subsequently, therefore, voter registration?

Dr. Nuh: Mr. Speaker, Sir, I would also like to have further requests on Dr. Khalwale Statement; to ask whether the Minister is aware that, for instance, in Bura Constituency, many registration centres are opening for the first day today and that the whole of yesterday is lost. Many centres are again receiving the kits today which means that they might be beginning to work on the registration process as from tomorrow. If that happened in the whole country, is the IEBC in a position to compensate for the lost days and for the registration centres which are sharing the BVR kits, whether because they will only be having either 14 or 15 days or even 12 days of registration, are there mechanisms to ensure that they also go for the full length of 30 days so that people from those centers are not disenfranchised? Lastly, if there is any breakdown or malfunction of any of the kits, are there extra BVR kits in store for the IEBC to make the necessary replacements?

Mr. Shakeel: Mr. Speaker, Sir, mine is a further clarification in respect of women of Islamic faith who are also required to cover their heads. Could the Minister clarify in the same vein as he has for the nuns, whether they will be required to strip off their headgear because a number of them have been turned away?

Mr. Chanzu: Mr. Speaker, Sir, I also want to request an additional supplementary point. We now have universities and a number of them will be closing after the registration. I do not know what the Minister is going to do to make sure that those students who are above 18 years get an opportunity to register as voters. *Mheshimiwa* has talked about women of Islamic faith. My wife was denied registration yesterday in Vihiga because of wearing a headgear.

Mr. Ochieng: Mr. Speaker, Sir, I would also want some supplementary answers on whether the Minister is aware that some declaration forms are being issued to some members who have gone to register in my constituency and others are denied. Is this the practice? Is he aware that passwords for those computers have already expired even before the machines are put into use and when will they be put into use so that the staff using those machines can start registering my constituents?

Lastly, is the 30-day period announced by the Independent Electoral and Boundaries Commission (IEBC) founded on any fact or law?

Prof. Kaloki: Mr. Speaker, Sir, mine is to make a follow up of the Ministerial Statement that I had sought pertaining to the diaspora voters. Since the Minister is here, he can give the undertaking as to when he will issue the Statement demonstrating the centres where the diaspora Kenyans will be able to vote.

Mr. Olago: Mr. Speaker, Sir, there is the issue of waiting cards and also the Chairman of IEBC announced that the programme is in such a way that the voter need not go to a place where he or she needs to vote. They can register wherever they are and this could save Kenyans costs. But out there in the country, clerks are telling Kenyans that you have to register where you are going to vote. Could you clarify that?

Mr. Ethuro: Mr. Speaker, Sir, I would like the Minister for Justice, National Cohesion and Constitutional Affairs to clarify the following: There are those areas under security operation like the Samburu, Turkana and Garissa counties and even Eastleigh, where people have been displaced. What measures is the Minister going to take to ensure that he sets up mobile registration centres? Could he also confirm that he suspended his rallies in Turkana over the same and maybe even registration may be suspended as well?

Mr. Speaker: Minister, just take notes.

Eng. Gumbo: Mr. Speaker, Sir, mine is to seek a further clarification from the Minister on what action he is going to take on the confusion that has come up in Rarieda Constituency due

to registration centres being taken from locations outside the wards. What action is he going to take against the former Constituency Election Coordinator in Rarieda, a Mr. Orwa, who unilaterally and against the law decided without consultation to create polling centres where it is impractical to do so? He has also moved polling centres outside the wards, in particular my own polling station which has been moved from West Asembo to East Asembo and Masala Polling Centre which has been moved from North Uyoma to West Uyoma.

Mr. Wambugu: Mr. Speaker, Sir, while the Minister will be issuing his Ministerial Statement on the registration of voters, could he also clarify under which law the members of the Akorino sect are being denied registration in this country? By yesterday, I was in the constituency and all the members of the Akorino sect were turned away because they could not remove their turbans. It is very worrying and creating a lot of tension.

Mr. Pesa: Mr. Speaker, Sir, I also want to ask for a further clarification regarding what is happening in Migori. In Migori, we have 56 polling stations and the number of kits we have are 37. It appears they will have to share and, therefore, there are some polling stations which will be sharing one kit. We need the Minister to clarify to the people of Migori and elsewhere that these people are going to draw up a programme where when they start from one centre, then the following day they should go to the other centre so that people can know that they have not been left out.

Mr. Koech: Mr. Speaker, Sir, I want the Minister to clarify to this House whether Kenyans in diaspora are actually going to vote and why they chose to have different dates for registration as opposed to the date in Kenya.

Mr. Speaker: Minister, you may now indicate when the Ministerial Statement would come.

The Assistant Minister, Minister of State for Defence (Mr. Musila): On a point of order, Mr. Speaker, Sir. I appreciate that I am a Minister but this is a matter of voters and I plead with you that you allow, me on behalf of my voters, to air to the Minister what is very important because many of them are being disenfranchised by the exercise. Would you let me ask the Minister to include whatever I have in the Ministerial Statement that he is going to make?

Mr. Speaker: Order! Mr. Musila, I quite understand your difficulty. I can imagine the extent of your tribulations but as long as you are a Member of the Cabinet, you will not request for clarification from a Minister who is your colleague but you could do so through a proxy. So, you are right.

Proceed, Minister!

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, because of the urgency of the matter raised by hon. Members, may I issue this Ministerial Statement on Thursday afternoon. Due to a number of questions and certain new aspects that have arisen that even as a House, we did not address when we were making the rules including the issue of dress code particularly for Muslim women, the Akorinos and Catholic nuns. I will be ready by Thursday afternoon.

Mr. Speaker, Sir, I just want to ask hon. Members, that since this is a new system that is developing, there are issues that will develop as we go along. Please let us know about them as we progress with registration.

Mr. Speaker: Fair enough! Thursday at 2.30 p.m. Mr. Musila, you may work through proxy like I have directed.

ESTIMATED AMOUNT OF 2012 MAIZE HARVEST

Mr. Kutuny: Bw. Spika ningependa kuitisha taarifa kutoka kwa Wizara ya Kilimo. Katika Taarifa yake, ningependa Waziri aeleze mambo yafuatayo:-

(i) Serikali inatarajia kiasi gani cha mahindi kuvunwa mwaka huu?

(ii) Serikali imetenga pesa ngapi katika makadirio ya Bajeti mwaka huu kwa ununuzi wa mahindi kupitia halimashauri ya nafaka ya taifa?

(iii) Serikali itanunua kwa pesa ngapi gunia moja ya kilo tisini ya mahindi kupitia kwa halimashauri ya nafaka ya taifa.

(iv) Je, Waziri ana habari kwamba kuna mvua ya *El Nino* ambayo imeongeza unyevu na baridi kwa mahindi? Ni hatua gani Serikali imeweka kupunguzia wakulima hasara kwa hali hii mbaya ya anga wakati huu wa mavuno?

Mr. Speaker: Mr. Assistant Minister, when will this Statement come?

The Assistant Minister for Agriculture (Mr. Ndambuki): On Tuesday, next week, Mr. Speaker, Sir.

Mr. Speaker: Member for Mosop, do you want to supplement what the Member for Cherangany has asked?

Mr. Koeh: Yes, Mr. Speaker, Sir. I want to supplement by asking the Assistant Minister whether he is aware that the maize bought by the Ministry of State for Special Programme two years ago is still in some National Cereals and Produce Board depots especially Mosoriot, Kipkaren and Uasin Gishu? What has he done to ensure that the maize is removed so that farmers' maize can be kept by those depots?

Mr. Speaker: Mr. Assistant Minister, when you come on Tuesday, please, include that concern in the Statement. Come with all the information.

The Assistant Minister for Agriculture (Mr. Ndambuki): Yes, indeed, Mr. Speaker, Sir.

Mr. Muthama: On a point of order, Mr. Speaker, Sir. I sought a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs. The Statement was to be delivered today. I came late and I request for the indulgence of the Chair to ask the Minister to state the position of the Ministerial Statement.

Mr. Speaker: The Member for Kangundo, I have heard you. However, I am afraid that as at the point where we are, we cannot go back to deliver your Statement because we passed that phase. The best we can do is to get the Minister to indicate when he can deliver that Statement.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I can deliver it next Tuesday.

Mr. Speaker: Next Tuesday? I thought you were ready to deliver it this afternoon.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, there were some developments because of the Statute Law Miscellaneous (Amendment) Bill. That was one of the amendments we were considering. So, I will be able to issue a good Statement by next week.

Mr. Speaker: So, there have been some changes that you want to accommodate in the Statement?

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): That is correct, Mr. Speaker, Sir.

Mr. Speaker: The Member for Kangundo, I think that is understandable.

Mr. Muthama: I oblige, Mr. Speaker, Sir.

Mr. Speaker: Very well. So, we will have that Statement on Tuesday next week at 2.30 p.m. Hon. Members, before we move on to the next Order, I wish to communicate as follows.

COMMUNICATION FROM THE CHAIR

ADHERENCE TO STANDING ORDERS WHEN REQUESTING FOR STATEMENTS

With respect to Statements, our Standing Orders provide that those Members who want to seek a Ministerial Statement must give notice to the Speaker, at least, one hour before the sitting of the House. A trend is emerging where hon. Members approach Mr. Speaker or any other Presiding Officer a few minutes before they raise the Statement. That is not allowed in our Standing Orders. Therefore, hon. Members are now discouraged after this communication to refrain from this habit.

Secondly, a Member who will raise a request is obligated to give the substance of the Statement to the Speaker. This is the substance of the request. Again, there is an emerging trend where hon. Members vary requests on the Floor. This has emerged, more so, this afternoon. The Member for Ikolomani, for instance, had filed a request with me where he was going, in the substance of his request, to ask for three areas of clarification. However, this afternoon, he took the liberty when he had the Floor to ask for nine areas of clarification including issues which are completely strange from the original request. So, please, note and be guided accordingly. This is just for good practice.

Next Order!

BILLS

First Readings

THE FISHERIES BILL

THE KENYA INSTITUTE OF CURRICULUM DEVELOPMENT BILL

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

Second Readings

THE SPORTS BILL

Mr. Speaker: Order, hon. Members! With respect to Order No.10 which is the Sports Bill, Bill No.43 of the year 2012, the prevailing position is that the Minister in charge of Youth Affairs and Sports was in the process of moving this Bill when time ran out. Therefore, debate was interrupted and he has to complete moving the Bill. Under those circumstances, because the Minister is away on official business out of the country, I am obligated to defer Order No.10 until the week beginning 28th November, 2012 when the Minister is expected to be back in the country.

(The Sports Bill deferred)

So, we will take the next Order.

THE TRUTH, JUSTICE AND RECONCILIATION (AMENDMENT) BILL

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, I beg to move that the Truth, Justice and Reconciliation (Amendment) Bill, Bill No.56 of 2012 be now read a Second Time.

This Bill basically seeks for an amendment to the Truth, Justice and Reconciliation Commission (TJRC) Act to allow for an extension of the term of the current Commission to enable them conclude their work. We appreciate that this House has been very generous in granting an earlier extension after the term of the TJRC lapsed the first time. We were granted an extension of six months. We also appreciate the further three months extension granted to this Commission by the House. However, as it is, the Commission is yet to complete its work. We know that Members and, indeed, Kenyans have been quite unhappy with the period taken by this Commission to conclude its work. However, I wish to plead with the House that because of the amount of work that has gone into this Commission and the resources that Kenyans have invested in it, it is very important that we allow them more time to conclude this Report.

However unhappy we may be with the Chairman and his Commission, I beseech Members not to throw out the baby with the bath water, because really it will be a waste of all the resources that have been put in so far.

(Mr. Speaker left the Chair)

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

Mr. Temporary Deputy Speaker, Sir, it will be a denial of the rights of many Kenyans, many of whom lined up for many days to give their statements and testimonies to this Commission. This Commission has set a record for having received the highest number of statements and testimonies in the world. So far, this Commission has gathered from various parts of this country over 42,000 statements. They have held many sittings in different parts of the country and their mandate was so huge that they could not discharge it within the period given. Due to time constraints, we would urge Members to consider allowing them a little more time.

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

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

Madam Temporary Deputy Speaker, it is not the only Commission that has sought an extension of time. Other Commissions have had similar problems. In South Africa, the Truth and Reconciliation Commission had been granted three years from 1995 when it was established. It was supposed to hand in its report in 1998, three years later. This was not done until 2002. It

took a period of about seven years. The South African Commission had a mandate to investigate crimes against the people of South Africa, political crimes committed between the period 1960 and 1993. This was just a period of 33 years. Over 22,000 victims of human right violations made statements compared to what our Commission has gathered, 42,000 statements.

Madam Temporary Deputy Speaker, because of what happened, the South Africans found it necessary to have an extension of the Commission's period to almost seven years, and eventually it made its report. In addition to what they did, which is similar to our situation, there were challenges of amnesty to those who had committed political atrocities against the people of South Africa throughout the apartheid period. There were issues of reparations, rehabilitation and reconciliation that required them to give their Commission a little bit more time than had been initially given.

Madam Temporary Deputy Speaker, when you go to Timor--- In Timor also, they had their Commission set up in 2001 and it functioned. It was supposed to deliver its report in 2002 but it did not discharge its mandate until 2005, after several time extensions. But their mandate was much smaller than both in the South African and in our case. The Timor one was to investigate atrocities committed between 1975 and 1999, a period of about 25 years.

Madam Temporary Deputy Speaker, when we look at what happened in this country--- When we look at the mandate given to this Commission, we are asking, Kiplagat and his Commission to investigate the atrocities committed between 1963 and 2008. This is a period of 45 years. It is our entire independence history. We have asked them to look into atrocities committed, including the political assassinations right from that of Tom Mboya, Robert Ouko and all those who were assassinated during this period. We have also given them the task of looking at the sensitive land issues. All these matters have to be part of the report that they will be making to this House. We did table before the House a progress report showing what they have done both in the original period and the extended period. We are, therefore, asking for just a little more time; the team has made a lot of progress, which we have shared with the House. Members did ask for the progress report, which I tabled before this House. I hope Members, who are present in the House will be able to look at that progress report. They will see that the Commission is now at the report writing stage. They should be able, with time, to complete their report.

However, what is really a challenge to the Commission is the issue of the adversely mentioned persons. In the course of receiving over 42,000 statements from Kenyans all over this country, many names have been mentioned, in the previous Governments and in this Government; people in high places have been mentioned and also sensitive matters touching on land that have created tensions in this country. Rules of natural justice require that they must be afforded an opportunity. They must be given notice of the adverse mentioning. They must be given the opportunity to come and clear their names before this Commission before actually the report is made public.

Madam Temporary Deputy Speaker, if this report, was, perhaps, to be released without those adversely mentioned being given due notice and the opportunity to clear their names, it would do great injustice to those who have been mentioned because it will go into the record of this country. It will form part of our history right from Independence. It will be handed over from generation to generation. When the children of Kenya read this report and look at what happened over the last 50 years, they will know that so-and-so, this community or that official in this Government did this or that. Before that happens, the accuracy of that information must be ascertained and the opportunity for Kenyans to clear their names must also be afforded.

Madam Temporary Deputy Speaker, in receiving the request from the Commission, we also looked at the issues of reparations. In the absence of a clear policy on how matters of reparations could be handled, and on how matters of amnesty will be handed, it will be a great injustice to Kenyans, if we were to go ahead and say whatever happens, your time has run out, you must hand in the report as it is. That possibility is not even there, because as we speak, the time for handing over this report was supposed to have been in May. The Act required the Commission to hand over the Report to the President by May. This was not done because of the incomplete state of the report. Now that time has run out, an extension is absolutely necessary to, first of all, regularise what has happened and secondly to allow for the handing over this Report to the President. The law requires that immediately this report is handed over to the President, it must simultaneously be published for Kenyans to know exactly what happened. This is where the challenge lies. We are saying that because of the importance of this report and magnitude of the mandate given to this Commission more time is required for them to effectively discharge their mandate. The report that we expect from the Truth, Justice and Reconciliation Commission (TJRC) will provide a road map that we are all expecting as a country. When this report is finally presented to the President and to Kenyans, it will have a roadmap through which we can have reconciliation in this country, we can have justice done to the victims. This is a Commission of a different kind from all those others that had been formed. That of the South Africa was only about the truth and reconciliation.

Madam Temporary Deputy Speaker, our commission has an extra mandate to deal with the question of justice. Talking of justice to thousands of Kenyans over 45 years and doing it within a limited period of two years, perhaps we underestimated the period and the magnitude of the mandate that we had given them.

For this reason, we are asking that we be allowed to extend this period as prayed. This would only require the amendment of Section 20 which will allow for completion of the report and afford adversely mentioned persons the opportunity to reply to the allegations. It would afford individuals the opportunity to apply for amnesty and process applications for reparations in order to prepare a reparation policy for now and the future of this country.

With those few remarks, I wish to thank hon. Members for their continued support. I want to ask that we yet again require their support and accommodation for this Commission to complete its work; for it to hand over the report. We are going into an election period now. Voter registration started just yesterday.

We are juggling with so many balls as a nation at the same time. We need to also ask ourselves as a House, that we only have about 18 days before we go home, if we were to let this Commission to die a natural death whether we would have done justice to the victims starting with those of the Wagalla Massacre who appeared in their hundreds to give their evidence. There were many massacres in this country that are documented and this dark chapter of our history needs to be properly documented, researched and archived for future generations. This is the importance of this report.

I plead with hon. Members to allow for this extension and I humbly ask Mr. Musila to second.

I beg to move.

The Assistant Minister of State for Defence (Mr. Musila): Madam Temporary Deputy Speaker, this Commission started with a lot of problems. Hon. Members are aware that there were issues with the chairing of the Commission and a lot of time was wasted in the process.

Therefore, this is probably one of the reasons why this Commission has been unable to finish its work on time.

Having said that, the Commission has strived to try and recover the lost time and they have, as we already know, through the progress report that they submitted, collected a lot of information in order to complete their report.

Madam Temporary Deputy Speaker, there is no doubt that the Kenyans are eagerly waiting for this report. It would be a waste of huge public resources if this Commission was not given a chance to complete its work and submit its report.

The Bill seeks to extend the period of submission of the report for a further period of nine months with effect from 4th August, this year. This means already two months are already gone and we are asking that from now on another seven months and then the report will be ready. I think this is a reasonable request. I want to appeal to my colleagues to extend this period one last time. By doing so, we will be meeting the expectations of Kenyans by giving them the report that they are so eagerly waiting; meeting the expectations of victims who want justice to be done.

Therefore, I beg to support and request hon. Members to do the right thing and that is to pass the Bill and extend the term of this Commission.

I beg to second.

(Question proposed)

Mr. Midiwo: Madam Temporary Deputy Speaker, I rise to support this extension. I want to agree with the Minister that this report and process is very important for this country.

I have always believed since the post-election violence that a process that seeks to investigate the truth is the only one that shall heal this country. Even though we said we go that route after the elections last time, we were opposed. I want to say here today that unless this country shall elect to go the truth, justice and reconciliation way, much like it was done in South Africa, we will keep fighting amongst ourselves and keep being in denial.

Madam Temporary Deputy Speaker, let me say that this report will save us the day it is published. We will reconcile with the truth. Let me say what I have said publicly and I have said to my colleagues that whether you jail The Hague four, you will not have sorted out the problems of this country. Whatever you do, it is the wrong thing to do. This is the right way to go. Because we fear the truth so much as a people, we think concealing the truth or refusing to investigate will cure our pitfalls, inadequacies as a people.

Kenyans have been maimed, not only recently from the time we were being ruled by the white man. Kenyans have been wronged. The issues of land are real. Issues of massacres such as the Wagalla one that has been mentioned by the Minister are real. There are so many things that happen in this country. The massacre in Kisumu in 1969 is one which keeps inflaming tribal feelings amongst Kenyans. We want to reconcile.

Having said that, this country must desist from repeating the same old things that are making us debate this extension today. It is wrong without this kind of discussion to deploy the army to go and fight ordinary citizens. The work of the army is to deter external aggression. We will be raising issues tomorrow that the Minister will say they have deployed the army and use a section of the Constitution, just an Article and ignore section "C" of that Article which says Parliament must approve. The reason why Parliament must approve is because it is Parliament with the feelings, message and aspirations of the people of Kenya.

We said that we wanted to take the military to the Tana Delta to stop the upheavals there, but this Parliament in its wisdom said it was not necessary. Why is it necessary for the Executive now to take the military to Pokot, Turkana or Garissa without consulting this Parliament?

Is somebody trying to stop people from registering as voters? What is somebody trying to do only a few days before an election? It is important that the Executive and people who run the security forces of this country know that we cannot stomach as a country what we went through in 2007. We do not want to be ruled by the power of the barrel.

Madam Temporary Deputy Speaker, I saw *Citizen Television* reporting from the bush in Baragoi where they sent the Army. If Evelyn Wambui can be in the bush and record those people, what will the military do? Even arising from that, a Member of the Cabinet was arrested for a misdemeanor and stayed in the cell from Friday to Monday. I even spoke to the Prime Minister of this country. Is it that there are two governments? He spoke to Kimemia and we spoke to the Minister, and they are helpless. It means that this country is being ruled by some crooks who do not want to adhere to the rule of law. That is what we are discussing. That is why it is important to know the truth or the genesis of constant deaths of innocent Kenyans. We must confront this thing and give confidence to our people as we approach the 4th March deadline.

Lastly, we must extend the period for this Commission. This is because whatever is in that report is lethal. They need to look at it because it cannot be released haphazardly. It cannot be left out there without a Commission. Right now, it is dangerous. That report can find its way on the streets and Kenyans will be fighting. This is because it has truth which is inflammatory. It needs to be done when people are sober and debated in this House when it is full and not with a handful of Members. We can only do that next year. Right now, like the Speaker had alluded to earlier this afternoon, we are at the tail-end of it. Even the Minister has said that it is just a couple of weeks. Let us keep this Commission. In fact, I would have asked the Minister even to extend their term for another one year so that the report is presented when the country is calm.

Madam Temporary Deputy Speaker, I beg to support.

Mr. Affey: Thank you very much, Madam Temporary Deputy Speaker, for giving me this opportunity to support this Bill.

Madam Temporary Deputy Speaker, the intention of the Bill is to extend the period within which the Truth, Justice and Reconciliation Commission (TJRC) should have concluded its report. It would have been quite fair to all of us if the Commission had done its responsibilities within the time given. We know the challenges that the Commission was confronted with at the beginning, but most of us were in great anticipation to conclude the report, table it and go to the elections. For some of us who had truly invested emotionally and believed in the TJRC's outcome, we find that it is a betrayal of sort that this report will now be discussed at a time when, as the Chief Whip has said, perhaps, when we are more sober. It would have been more useful for us now, so that during the campaigns, no institution of Government or any personality in Government ever again misbehaves using State resources. This is because most of what we are dealing with in the TJRC are atrocities committed by the Government against its citizens who expected respect, trust and support from those Government institutions.

Madam Temporary Deputy Speaker, I was on this Floor and with your support and that of other Members of Parliament, we managed to repeal the Indemnity Bill. That Bill was used to destroy the hopes and aspirations of generations of Kenyans who live in six counties. In its own wisdom, Parliament decided that, that Bill was unconstitutional, but the President refused to assent to it. Up to now, that Bill is in limbo. We expected that by now the TJRC to have concluded its report and told us exactly what happened in the counties of Lamu, Wajir, Garissa,

Mandera, Marsabit and Moyale between 1963 and 1967. This is because the Bill said that the Commission should tell us what happened from Independence. It is with great pain that those of us who expected the truth to come out--- Today, an extension is being sought and because we are really in need of this report, we will support this extension. But, Mr. Minister, let the truth come out. We want to know who was responsible and why thousands of Kenyans died in Wagalla in Wajir County. We want to know why in 1966 very many young Kenyans were killed in Garissa Primary School and Malkamari in Mandera and in a mosque in Isiolo. An Imam was killed right in a mosque when he was leading a prayer session in Isiolo in 1967/1968. These are the things that we wanted the Commission to tell us.

Madam Temporary Deputy Speaker, on top of that, those counties that we are speaking about have lagged behind in development because we have been criminalized. Today, when a crime is committed in northern Kenya, the whole community suffers for it. It has happened in Samburu and it is happening now in Garissa. It is unfortunate that our military officers got killed in Garissa. It is not something that we support at all. We condemn that incident, but we condemn more when ordinary civilians; children and women live in absolute fear in Garissa today because the military has unleashed their weapons on ordinary citizens who have got nothing to do with the crime committed. The same is happening in Eastleigh now. A crime is committed and a community is subjected to war and suffering.

The TJRC must never ask again even for one extra day, because we are desperate. Because of their failure, I developed a Bill which is lying in the Speaker's Office. It is called "The Gross Human Rights Violations Compensation Bill". It is not only for the north, but for the entire country, with specific references to areas which have been subjected to Government intimidation and crime over a long period of time.

Madam Temporary Deputy Speaker, I support this Bill. I hope that the Chairman and commissioners will now take full responsibility for the period. It would have been good if they came now because politically, it was very attractive to know who was responsible for the crime. But right now since hon. Members think that it will inflame passion, let us extend the time.

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

Dr. Khalwale: Thank you, Madam Temporary Deputy Speaker. I rise to oppose the extension of the term of this particular Commission for the reason that the TJRC was not an afterthought. It is one of the Commissions that were established after the considered opinions of a team that represented all of us during the Serena Talks.

Madam Temporary Deputy Speaker, if we allow this Commission's tenure to be extended, we run the risk of it meeting the same fate as did the Ndung'u Commission which looked into the land injustices in this country. The same risk that befell the Kiliku Commission on Tribal Clashes will befall this one. The same fate befell the Commission by Justice Cockar that looked into the sale of the Grand Regency Hotel.

Madam Temporary Deputy Speaker, with all due respect, the Members of this House have a lot of emphasis on the issue of the post-election violence, but I know that an even greater injustice was visited on the people of Kenya through the unjustifiable acquisition of wealth. We have people in this country, high and mighty, who brag every day, and almost block our ears with their helicopters, yet they got the money, the wealth they have accumulated, from public resources. That opened up a big gap between the haves and have-nots; this has resulted in an elite club of multi-billionaires, who today can buy anything. I beg my brother, hon. Midiwo, to bear with me, as this includes impunity.

What justification is there if 48 members of the disciplined forces, our officers, husbands, fathers, people on whom hundreds of people depend, can perish and then that gives us, politicians, an opportunity to ask them “*mta do?*” You do not even honour summons to go and say what you know on record at the CID Headquarters. You do not even bother to respect yourself by standing by the truth you uttered with your own very mouth.

I do not want to anticipate debate, but the least thing I can say is that I am expecting the President and the Prime Minister to fly the national flag half mast, so that Kenyans can know that even when small policemen are murdered, they are as important to the nation as when one big politician dies for whom we fly it at half mast. The least we can say is that the Minister who uttered these words has lost confidence of his Government and he should resign if only we can allow those people to wipe their tears.

The intention of the TJRC report was to try and have a situation where it would inform the forthcoming elections. Indeed, if the elections of 2013 were held at a time when Kenyans have read this report, then they would know that this is a standard that they can apply by way of Chapter 6 of the Constitution in testing the suitability of those who aspire to high office in this country. I look at the Waki and the Kleigler Commissions. Indeed, these two commissions have made milestones in this country. We want to thank them because of what they did; the country is on the way to a fresh start. Why can we not ask for an interim report from these good people? Then we will appreciate that some of the people who were adversely mentioned are not criminals. We appreciate that they will be given an opportunity either to defend themselves or ask for amnesty.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): On a point of information, Madam Temporary Deputy Speaker. The Member has posed a question as to why an interim report cannot be given, but the law does not allow that. The report must be presented to the President and no one can have access to it, not even the Minister until it is presented to the President. This is just a point of information.

Dr. Khalwale: Madam Temporary Deputy Speaker, I appreciate that. But because we are the law makers, we can still amend it, so that all Kenyans can know that because they have allowed me the privilege of sitting in this House for many years, I am not a special creature of God. They can know that we are also sensitive to what concerns them. I can assure you that when this House shall vote to extend the time, it is going to pass. But if you subject the vote to the court of public opinion, namely the public in the streets of Nairobi and in the township of Malinya, they will vote to say that they want to know who did what, why he did it and how they can get it back from him because it was not his. If somebody is enjoying wealth of Kenyans and lives a privileged life of affluence and influence at the expense of the poor of Ikolomani and Gem, why would the people of Gem and the people of Eldoret East want to wait even for one minute, so that that thief can continue living a life of influence and affluence at their expense? We want to know now and then we shall go back to Kenyans and ask them, “Would you like us to forgive them?” The Kenyans will make a decision. We can ask them, “Would you like us to take back that which did not belong to them?” Kenyans will make a decision.

I do not want to oppose for the sake of opposition. I oppose on behalf of these Kenyans because we want to know. But after knowing, we also do not want to behave like mercenaries. In fact, in my view - allow me to say this - probably it is through this report of the TJRC that we will have said that the ICC process at The Hague is not necessary because we have a local solution in form of the TJRC. But because the international community, which is trying to partner with us in having a State called Kenya, is seeing us not doing too much, then they

wonder whether they can trust the big people to help the small ones. Imagine a situation where the TJRC was to come up with a report which is contrary to the findings that were the reason why some members of the Republic are today facing cases at The Hague! People would realize that probably the process of finding out what took place, which necessitated the process at The Hague, was hurried and was not as thorough as what is being done by the TJRC. Then we would be putting Kenya together.

I say these things with conviction, knowing that one day, the common of this country will be used for all the people of Kenya and not for the politicians of this country. I beg to oppose.

Mr. Oyugi: Thank you, Madam Temporary Deputy Speaker. I have always supported a truth and reconciliation process in whatever manner it takes, but I have always been opposed to the TJRC process as initiated in Kenya. The simple reason why I oppose the TJRC process is because of its mandate. If you look at the Act, the preamble anticipates that the reason we are going to have a TJRC process in Kenya is to deal with the post-election issues. The term that was given to the TJRC was longer than that for dealing with the post-election violence. That is one of the reasons why I am opposed to the TJRC process in Kenya. The second reason is because of the person who is the Chair of the TJRC. In my opinion, that person is going to be a witness instead of being on the Chair.

Allow me to say that I have been privileged in the past couple of weeks to be in the Justice and Legal Affairs Committee. We had a chance to engage in truth and reconciliation exigencies with this particular Commission. The Commission raised several issues with the Committee and one of the things, for which I do not fault the Commission itself, is in terms of legislation. The legislation, for no reason at all, anchors the extension of any term of the TJRC to six months, which I think was not thought through properly. Secondly, the mandate of the TJRC then needed to have been worked through with the various commissioners and not narrowed down. In fact, the reason why the Minister for Justice, National Cohesion and Constitutional Affairs is asking for extension is simply because he thinks that the mandate of the TJRC is broad and, therefore, it needs an extension of time. For those reasons, if it were for me to decide, I would oppose the extension for those very reasons, so that we narrow down the term of the TJRC, and so that its term and mandate fit within what was in the preamble of the Act.

Having said all those things, and having said that I participated in a Committee which listened to the TJRC issues, I think that releasing the TJRC report at this particular moment would not be in the best interests of this country. If you look at the Act, it anticipated that the Commission was supposed to finish its work within two years of its incorporation.

It is long after those two years and I think the reason why someone had anticipated two years was so that we can give Kenyans a chance to reconcile, which is actually the objective of that particular Commission.

Madam Temporary Deputy Speaker, that is not going to be possible if at all we release the report particularly right now. We have less than two months to an election and I really think that the content of that report - which I had the privilege to look through - might not be very good to release right now. I really think that if at all there was no reason to extend this particular term, I think one of the reasons would just be to extend it for purposes of not releasing the report now before the elections.

Madam Temporary Deputy Speaker, the second reason why I would really like to vouch for an extension of the Commission's term is because of the reason that there are several people who have been adversely mentioned in that particular report. I think the rules of natural justice require that someone else be given a chance to be heard and also present their case. I think the

state in which the report is in right now, if at all it is released without giving the people a chance to iron out the issues, I think it would be contrary to the rules of natural justice.

Madam Temporary Deputy Speaker, the third reason why I would really like to support an extension of the term of the Truth Justice and Reconciliation Commission (TJRC) is so that we have a complete report. The state in which the particular report is in right now is not a comprehensive one. It is a report that is still work in progress. If it releases the work in progress to the nation, I really think it will be doing a great injustice.

Madam Temporary Deputy Speaker, the fourth reason why I would like to support the extension of the term of that particular Commission is simply because I really think there are some people who are not interested in a complete report of TJRC. I think to disband the TJRC as it is right now could be playing to those particular lords of impunity – people who do not want Kenyans to know the truth and I really think they would have scored on that particular angle.

Madam Temporary Deputy Speaker, Sir, so, I really think those four points would be my reasons to advocate for the term of the TJRC. I agree very well with my colleague, hon. Bonny Khalwale, that this might not be in very good spirit in terms of the Kenyan public. I think this is not in very good form with very many people but I really think there are moments when, as leaders, we must give leadership to the country. I really think that the TJRC's term, if extended at this particular moment, will be appropriate. It will be the best way forward to go for Kenya, however, unpopular it will be with the masses.

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

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

Mr. Temporary Deputy Speaker, Sir, however, I really think that for an extension like this to be granted to TJRC, we need to impose some sanctions on the part of the commissioners. The commissioners need to deliver on their term however much more time we give them, so that the Commission is not a gravy train where we continue to constantly ask for terms. If they do not finish their mandate within a specific period, then there will be sanctions. The Commission can be surcharged and any other thing that Parliament can think necessary.

Mr. Temporary Deputy Speaker, Sir, with those words, I beg to support the amendment in a manner that will give an extension to the Commission. Thank you very much.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, when the TJRC was formed, many Kenyans were pleased. We thought we would go the way of South Africa. We were very bitterly disappointed. The TJRC became a mockery, a joke and a battle ground for selfish gain. It wasted nearly one year arguing over whether the Chairman should step down or not. The Vice-Chairlady actually stepped down. The Chairman did not have the confidence of his own Commission and yet, the lords of impunity allowed him to stay there.

Mr. Temporary Deputy Speaker, Sir, I have known the Chairman all my life. I pleaded with him to do a respectable thing and step down, but he did not. It appears that TJRC is a property of a few people and it is being used to oppress Kenyans. I believe that there are so many things that we need answers for - like the *shifita* menace and problems in North Eastern Province. Those problems are coming back again. When we said: "Let us go to The Hague; let us not be vague", we thought that TJRC was not going to do the job. We were right. The TJRC has done

absolutely nothing. The TJRC is a selfish group of people and yet, we are saying here: “Let us extend their term. They have done very well.”

Mr. Minister, I was going to stop you when you said that they have done a lot of work. Yes, some of them have done a lot of work. But one man, in his own self, has destroyed everything. I know that man all my life. I call him often. He has destroyed the whole integrity of the TJRC and yet, we want to extend its term. The TJRC is run by the lords of impunity. We have now 100 billionaires and 40 million paupers and yet, we are coming to say that the mandate of the TJRC, which stands for Truth, Justice and Reconciliation Commission, should be extended. We need to change it to Truth and Injustice Commission. Justice delayed as you know, Mr. Minister, is justice denied. Justice is being denied to Kenyans.

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the speaker on the Floor is going outside of what we are discussing. The speaker on the Floor is now discussing the character of the Chairman of the Commission without giving him a chance to defend himself. He has also said that the TJRC is being run by the lords of impunity. My friend, Tom Ojienda, who is a first-class lawyer in this country, is in that Commission. It is important that we understand the role of Parliament. We should not use the Floor of this House to malign the good characters of many Kenyans who offer themselves for public service.

Mr. Temporary Deputy Speaker, Sir, I seek your guidance.

The Temporary Deputy Speaker (Prof. Kaloki): Very well, hon. Midiwo. Hon. Shakeel, could you make your request?

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I think you may want to refer to the-

--

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Shakeel! If you really want to proceed to make your contribution to this particular Motion, please confine your contribution to the Bill before the House.

Mr. Shakeel: Okay. However, it is a clarification, but I will take your guidance.

The Temporary Deputy Speaker (Prof. Kaloki): And hon. Midiwo is right?

Mr. Shakeel: Yes, I will take your guidance. However, I want to make a clarification.

The Temporary Deputy Speaker (Prof. Kaloki): Order! Hon. Shakeel, you need to proceed with your contribution to this particular Bill.

Mr. Shakeel: Yes, Mr. Temporary Deputy Speaker, Sir. I never said lots of people. I said lords of impunity. I had no intention of maligning any member of the TJRC and I want to repeat that I have great faith in the TJRC, except for one.

(Laughter)

The Temporary Deputy Speaker (Prof. Kaloki): Order! Hon. Shakeel, hon. Midiwo has brought an important issue here pertaining to the character of the commissioners and then you keep on saying “except one”. That is what we want to move away from. Could you withdraw the words “except one”?

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I shall withdraw.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you. Proceed.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I was saying that justice delayed is justice denied. Justice has been delayed. You can quote the South African case, the one in Rwanda or the other one and say that for the same reason, we should extend the term of the TJRC. I think it is actually taking this a bit too far. However, bearing in mind that we have no

choice; and bearing in mind that the results of the TJRC report should have been there to inform the public and the leaders on the way we should have done things and the way the forthcoming elections should be run, it is late. You are saying “better late than never” and I agree with you.

However, be sure that it is not too late to save a patient. We do not want our patient to die. So, I urge you to establish who or what circumstances caused the delay. If those circumstances can be blamed on any group of people or commissioners, they must be warned. They should even be denied their remuneration for work not done. That is the way forward. This kind of job is given on contract basis. The contract is for a period of time. However, that period can be extended once or twice during the lifetime of that Commission. Mr. Einstein once said it is height of insanity to expect different results by doing the same thing over and over again. So, we are allowing an extension of this time to this Commission, but we expect them to do things differently so that they get different results. I would have declined to support this Motion, but I understand their position and the position that we are in. I still urge that those individuals who cause the delay should not be paid their salaries.

With those few remarks, I very reluctantly support this Motion and urge that one person’s salary be stopped.

(Laughter)

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me this chance to support this Motion. We have established so many commissions as a country. When the Truth, Justice and Reconciliation Commission (TJRC) Bill came to this House, we passed it. It was the real hope for all Kenyans. It is important for all of us to note that we, as a House, agreed that the TJRC will go back to Independence or pre-Independence and address all the injustices committed to people of this country for a better Kenya.

It is important for this House again to remember that we approved all the names of commissioners who were brought to us. Our expectation, as a House and country, is that the Commission will be bringing a report based on the evidence given to them by Kenyans. It is not the Chairman or members of the Commission who will prepare a report based on their own opinions. We expect this Commission to give us nothing, but the truth. It is important that Kenyans know where the source of the challenges that we are facing today, as a country, are. I want to agree with Dr. Khalwale that we want this report to cover everything. We expect this Commission to do a thorough job because Kenyans have high expectations from them. They expect nothing, but the truth. We want justice for all Kenyans.

I want to indicate here that for those of us who come from regions which are cosmopolitan, we are expecting this report to be the solution to the many challenges that we are facing. We want peace in all parts of this country. Through the TJRC report, I believe that we shall give Kenya a better way forward. Courtesy of this report, we are expecting Kenyans to reconcile. Kenyans can only reconcile after this report has been tabled so that they are given opportunities to forgive each other or give the best way forward. We do not have that chance now. As we approach the elections, we need to be sober so that we make the right decisions after we have addressed issues raised by this Commission.

If we truly mean well for this country----

Dr. Eseli: On a point of order, Mr. Temporary Deputy Speaker, Sir. *In lieu* of the fact that hon. Members are either supporting this Motion half-heartedly or reservedly, but supporting all the same, would I be in order to ask that the Mover be called upon to reply?

The Temporary Deputy Speaker (Prof. Kaloki): Will the Mover be called upon to reply?

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

Mr. Minister, proceed and give your response.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I have a few minutes to respond. I wish to donate two minutes to my very good friend, Eng. Gumbo. I wish also to donate one minute to Mrs. Odhiambo-Mabona.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, I want to thank my good friend and able Minister, Mr. Wamalwa. In principle, I rise to support.

(Loud consultations)

Could you protect me? There is a lot of loud consultations.

The Temporary Deputy Speaker (Prof. Kaloki): You are protected; please, make your remarks.

Eng. Gumbo: Mr. Temporary Deputy Speaker, Sir, I thank the Minister and all those who have contributed. While in principle I have been disappointed with the performance of this Commission, it is important the reasons advanced for extension look valid and we should allow it. But one of my concerns is the way injustice continually becomes recyclable in Kenya. We have injustices regarding allocation of resources; injustices regarding promotion considerations in regional balances and injustices concerning land in this country. I think it is important that this Commission goes to the root cause of these injustices.

One of the problems that have rolled back the promise of this great nation still remains ethnicity. I think this Commission, in its report, must find ways for permanently dealing with the problem of ethnicity, so that we can usher in an era of societal conviviality in Kenya as a whole. I believe in this country. I believe this country has great promise. I believe if we, as Kenyans, could regard ourselves as one nation, one people and genuinely mean it as so; the progress for this country will be tremendous. This problem has been with us for far too long. Kenyans who deserve cannot move forward because they belong to the wrong “ethnic communities”. If we sincerely want to move forward as a country, we cannot afford to ignore the problem of ethnicity. This has to come out in the report. We, as leaders, must understand that to deal with ethnicity head on, there has to be sacrifices.

With those few remarks, I beg to support.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I have six minutes and I want to donate one to Mrs. Odhiambo-Mabona, Mr. George Nyamweya and Mr. Letimalo.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, this is one of the commissions that have not generated the greatest confidence in itself. From what the hon. Members have said, you can see that this Commission needs more time than what is indicated. If

you look at the injustices that it will be dealing with, including issues of gender, issues of insecurity in Marigat, Baringo and other areas like we are seeing now, they are from historical injustices. My suggestion is that I will push an amendment that they be given an extension but only to give a report because they cannot do all they need to do in nine months. They cannot perform miracles.

Mr. G. Nyamweya: Mr. Temporary Deputy Speaker, Sir, I would have wished to speak on this subject a little more carefully but unfortunately, I am at the mercy of a donation of the Minister. I might even have been persuaded to support the request for extension of nine months but I am a Member of the Justice and Legal Affairs Committee and I think we might be getting ourselves into a lot of trouble. The Commission has already embarked on report writing. They told us themselves. They said that they needed a month or two to conclude their report. Indeed, I am going to tell my colleagues that we should only extend for purposes of concluding report writing. Nine months is completely unnecessary.

I just wanted to go on record that the reason of election should not be used not to have this report published and it is the worst possible reason that any country can offer itself. If we were seeking truth, justice and, therefore, reconciliation to say that we are afraid of releasing a report on truth and justice because we are facing an election, it means we really do not want the truth. Until we have the truth, we cannot go to an election where we know how it is. If we committed these atrocities, we should not hide by pushing forward the release of the report so that I can get elected then the truth comes out when I am in power so that I can suppress it.

Therefore, I would not go for an extension because of an impending election. It is purely for purposes of having that report concluded. I would wish that we propose that we only give them two months to conclude the report and amend it so that even if they do not conclude the report, it can be released in whichever form it is so that they cannot use the inability to conclude to hold the country hostage.

I support to that limited extent.

Mr. Letimalo: Mr. Temporary Deputy Speaker, Sir, we are convinced that there was need to constitute a committee to investigate atrocities and other historical injustices committed against Kenyans. My concern and my appeal to the Minister is, given the fact that some of us have written to the Commission citing incidents that have taken place in our constituency like Samburu East, up to now, the Truth, Justice and Reconciliation Commission (TJRC) has not visited the place. In 1963/1964 over 20 people were killed indiscriminately by security officers. You can imagine the humiliation vested on Samburu women through rape by the British Army but the matter has not been investigated.

My appeal is that if this report comes without the TJRC visiting all parts of the country where atrocities were committed, it would be incomplete. So, I want to appeal to the Minister to ensure that with this extension, the TJRC should be able to visit those areas.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I just have two minutes to say thank you to hon. Members for the support to this Bill. I want to tell them a story I learnt from---

The Temporary Deputy Speaker (Prof. Kaloki): Order, Mr. Minister! Prof. Kamar, do you want to say something on this particular Motion? I am seeing a request here.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Sorry, Mr. Temporary Deputy Speaker, Sir. It was on an earlier issue, but when you rolled out the Motion, I just want to say that I support.

The Temporary Deputy Speaker (Prof. Kaloki): Alright! Proceed, Minister.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I was moved to hear from a judge from South Africa who is also serving on our Vetting of Judges and Magistrates Board about his experience in South Africa and how he almost lost his life in the struggle against Apartheid in South Africa. When the Truth and Reconciliation Commission was underway in South Africa, the man who almost killed him actually came to him and told him that he was going to appear before the Commission and he hoped to be forgiven. Justice Abhishek told him to go before the Commission and give his story for the record and he did. When he came back to see him, the man was in tears and he asked for his forgiveness and he forgave him. That experience was therapeutic to him both as a victim and the fellow who actually attacked him. So, the process of reconciliation and getting the truth is very important for this nation. It is very important for the healing of our nation. We have waited for over 45 years, that is, since 1963. So, we can wait a few more months for us to get to know the truth and for the children of Kenya to get to know what happened in future. These answers will give true meaning to the Biblical verse which says: “The truth shall set us free” as a nation through this report. We urge Commissioners to do their best in the extended period and discharge their mandate by covering areas that they had not covered like Samburu. We know that they were still covering some areas at the Coast Province. Therefore, with the extended period they can be able to do that and complete their report. If you come up with issues of reparation and give those adversely mentioned enough notice for them to clear their names and offer amnesty to those who will apply for it, it will be good.

With those few remarks, I thank hon. Members once more and wish the Commission well in completion of their work and presentation of their report within the extended period.

I beg to move.

(Question put and agreed to)

Second Reading

THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Vetting of Judges and Magistrates (Amendment) Bill be now read a Second Time.

In moving this Bill, I want to tell hon. Members that this is a very short Bill that seeks to bring some amendments to a few sections of the Act that we had already passed in this House.

Mr. Temporary Deputy Speaker, Sir, the Statute Law (Miscellaneous Amendment) Bill has brought changes some of which have offered practical challenges to the Board in execution of its duties. It has also raised the issues that touch on possible conflict of interest where we have, in the process of amending, also taken part of the mandate of the Board to the Judicial Service Commission (JSC). This is where we have magistrates who are sitting, representatives of magistrates and judges. In bringing these amendments, the most fundamental one that we are making is to ensure that we take back the powers we had taken from the Board through the amendments carried in the Statute Law (Miscellaneous Amendment) Bill so that we remove the JSC from the task of overseeing the vetting of judges and magistrates.

We have already seen a conflict between the Board and the Judiciary. The framers of our Constitution, in their wisdom had foreseen this. As a nation, we had already tried to carry out the

radical surgery previously which did not succeed. The Judiciary was one of the institutions that were in the eye of the storm during the post election violence because the Kenyan public had completely lost confidence in this institution. Part of what we are trying to achieve through the new Constitution is to ensure that we restore public confidence in the Judiciary by creating a mechanism for the vetting of all those judges and magistrates who were still serving at the time this Constitution came into force. This is why we created this Board that is independent and has the input of experts, for example, international experts like Justice Albie Sachs and the Chief Justice from West Africa. Through these amendments, we are saying; let the Vetting Board be given the full mandate to carry out the vetting. Through this amendment, we want to amend Section 23 of the principal Act by repealing Sub-section 2. In Sub-section 3, we are proposing the deletion of the words “the Judicial Service Commission” so that we remove the JSC from the vetting process and take it back to the Board.

The Board has also, in the process of execution of its duties, had various vacancies arising from its composition and part of the objects for this amendment is to ensure that any vacancies that might arise in the Board will not in any way invalidate their work. Owing to the reason of the vacancy, that cannot be taken as a defect in the execution of their work. So, these practical challenges will keep arising and we want to cushion the Board from these challenges as they arise.

Through these amendments, under Section 23(1) of the Sixth Schedule of the Constitution, the Bill is also providing for the vetting of the Board through a procedure that could be left to the Board to determine from time to time in order to speed up the process. This is the main reason we have this amendment. The other amendments are to do with minor changes touching on the provisions of the Act to be in line with the new Constitution.

Therefore, I urge hon. Members to support this Bill so as to allow the Vetting Board to go on. We must also, as a House, lend our support to the Board for the good work they have done so far under very difficult circumstances. We also want to say that, indeed, when we created this provision, we intended to have the Judiciary cleaned up completely. We must allow the Vetting Board to do its work. The process must run its full course for full confidence to be restored in the Judiciary.

With those few remarks, I want to invite my friend, neighbour and colleague Prof. Kamar to second.

I beg to move.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this Bill. This Bill is doing what it must do, which is to remove the conflict of interest in the Vetting Board, particularly in the presence of the JSC. It also aims at cushioning the Vetting Board because it enables the Board to stand on its own and do its work as required without any fear of being questioned.

With that, I support this Bill.

(Question proposed)

Mr. George Nyamweya: Mr. Temporary Deputy Speaker, Sir, I am not sure that the reasons that the Ministers are advancing or advocating are that convincing. What was the intention of the Judges and Magistrates Vetting Board? Was it not supposed to be a transitory exercise, moving us from the old order to the new order? When we propose to remove whatever we want to remove and give it to the JSC, which ultimately should have the powers to vet and

employ, why do we think that we should continue with this exercise as if it will be a long-term Board? Would it not have been better maybe to give them a similar thing like an extension to conclude the work that they have embarked on rather than making it a permanent mandate for a board which should cease as soon as it has finished its exercise?

Secondly, this subject is a bit deeper than it is because we are looking at one arm of the Government only, which is the Judiciary. The others – we hear the arguments that we, in the Legislature, will go through the vetting and, therefore, Chapter Six will be decided by the people. The Executive appointments will be approved by the Legislature. That may make some sense. However, you must also be able to read the true intention of what the Constitution provides in terms of dealing with judges and magistrates when we want them to be removed from office. Does it not give them the right to have a tribunal so that they face whatever allegations they are subjected to?

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

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

We are using the vetting process to remove judges without giving them an opportunity to face a proper tribunal as guaranteed by the Constitution. Therefore, I find it very difficult to reconcile with my conscience that what we are doing is the best thing for the country. As it is right now; where there are challenges against the Board, there are also challenges on whether the Judiciary or the High Court can be removed from reviewing the manner in which any organ functions. Are we, ourselves as Legislature trying now to influence the way the Board is managed or the way the Judiciary is functioning? Should it not really be allowed to run its course? We should conclude the matter and get into normal constitutional way of doing things rather than trying to maneuver around the difficulties that we encounter.

Now these judges are being difficult to us; we wanted to remove them; okay let us take it back from here; let us take it there so that we can remove them. We will not be surprised when people say, “you are victimising us”. Maybe when we are amending this, we should then provide the criteria that the Vetting of Judges and Magistrates Board should use when they are vetting these judges and magistrates because then somebody who goes before the Board will know what it is that he will have to answer. Otherwise, we are using the Constitution and legal process to actually victimise people. I can assure you those judges and magistrates who are out there will never agree that this was a Constitution which was good for them because it was only used to finish off their careers in a manner which is not completely in line with the Constitution itself. So, I find it very difficult to lend my support to this Bill. I would have thought that may be it might be better to withdraw this Bill and we have a better reading of it, a better understanding of what it is we want to achieve; we need to be clearer in our vision rather than doing it because there are some difficulties somewhere, or some challenges, which cannot be sorted out.

Parliament should not be used to do just--- It should be legislation which has meaning, is objective and has purpose, rather than where you feel you have some little difficulties then you say you want to amend the law. That was the road which, under the previous Constitution, we took when we faced constitutional legal challenges or political challenges. We then wanted to use the Constitution and Parliament to navigate round those challenges. I think we should not

take that route. We should be clear that Parliament should only enact legislation which has long term benefits. Otherwise, next week we will find another challenge and that will be brought again and we will say we were wrong about that one, and let us now do this other one. I will not categorically, at this point in time, support that proposal.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill.

Let me also take this early opportunity to welcome back Members to the House for this final leg. I believe we shall do what is best for our country.

Mr. Temporary Deputy Speaker, Sir, in supporting this Bill, I want to assure my colleague, hon. George Nyamweya, that, indeed, his fears are probable not founded. The issues he feared are exactly what has been addressed by this Bill. When you look at it, it is small, simple but very fundamental.

In the first instance, there is an issue of panels that have to work. But what happens to the entire Board if one or two members are absent? Is it open to challenge? I am just clarifying for avoidance of doubt that no action will be invalid just because the Board was not fully constituted. There are standards in all boards, committees in corporate as well as in public bodies. I believe that is what we are doing to make sure that this will never be challenged for that reason. The chain of other amendments is, for example, when we did the first one, we still had the Kenya Anti-Corruption Commission. The law has since been changed to create the Ethics and Anti-Corruption Commission. We had the Police Complaints Commission. Now we have the National Police Service Commission. So, some of these things are purely to bring in line the new bodies that have already been created by law since the passage of the Vetting of Judges and Magistrates Bill.

The most fundamental was when we changed the law, I think it was in Section 23, in 2011 and provided that for faster processing of the matter the magistrates should be vetted by the Judicial Service Commission (JSC). Obviously, you created a parallel system, where judges are vetted by a Board and the others by the JSC, which itself was never created for that reason. We are just reversing the matter to what it was before as a result of listening to input from the stakeholders. So, this to me is more of a tidying up Bill, tidying up in terms of sorting out the names of the Advocates Disciplinary Committee, the Public Complaints Standing Committee, Human Rights--- All those bodies are now being referred to differently as a result of passage of other laws. More importantly, we are now giving the Board the full power for its operation, whether or not there is vacancy because somebody has taken leave, somebody did not attend a meeting and we do not want that invalidated, especially given that we have become a very litigious society. Any action taken is now open to somebody going to court to challenge it; in fact, if people are not sitting in the right order during a meeting their decision could now be challenged.

So, that is meant to close all those loopholes because vetting of judges is critical for the purpose of ensuring that, that institution becomes like Caesar's wife, that is above suspicion and reproach. For us in Parliament, we shall be vetted by the electorate. I am sure by 5th of March, the people who will be sitting here, will be people who will have been vetted by the electorate. For the Executive, they would have been vetted by the electorate? For the judges, the only fair way of doing it is creating these structures that will now clean it up, so that as we go to the next dispensation we are all moving with a new Judiciary, Legislature, Executive and a new Republic will have been created pursuant to the new Constitution; Kenyans will live happily thereafter.

Mr. Temporary Deputy Speaker, Sir, with those words, I just wanted to confirm, again through my own understanding of this Bill, that, indeed, it makes the position better. It clears issues better. I want to persuade my colleague, hon. George Nyamweya, not to worry about it and to support us as we tidy up this Bill. As it were, we want to sort out the issues in the vetting of judges and magistrates. We hope that this exercise can be completed fast enough, so that as we move into the new Legislature and Executive we shall also have a newly vetted Judiciary to move Kenya into the next level come March, 5th, 2013.

With those words, I support.

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. I think what the Minister is trying to do is a good thing. It is important that this Board should continue with its work, so that it does it in a balanced manner. When we introduced the amendment and brought in the JSC, we brought in another factor. It is important that we do not have two bodies making judgment. We would like to have one independent Board that will ensure that whatever criteria they have set for vetting of these judges and magistrates is adhered to. Once you bring in another body the way we did during the other amendment of the same Bill, you will bring in other factors or other variables that may not be very easy to control. So, I want to say that it is important that we support this amendment Bill, so that the Board can carry out its mandate as soon possible, and so that this matter is expedited and we move on as a country.

Mr. Temporary Deputy Speaker, Sir, what I want to note is that we must make sure this Board does its work as soon as possible, so that we complete this. In this regard, I would have liked the Minister to give a certain period, so that we do not give them a blanket cheque in terms of time in which to operate; they may operate for a long term. That is what we have done with other commissions. It would have been nice to have given them time limit within which to transact their business. Otherwise, I want to support this amendment Bill with the hope that this Board will move with speed and execute its mandate and complete its work so that our Judiciary can now function as it was intended as stipulated in our Constitution.

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

The Minister for Gender, Children and Social Development (Dr. Shaban): Asante sana, Bw. Naibu Spika wa Muda. Yangu ni kuunga mkono marekebisho ya sheria hii. Kulitokea makosa kwetu sisi kuchukua majukumu ya bodi ya kukagua majaji na mahakimu na kugawanya majukumu ili mahakimu waweze kukaguliwa na tume ya mahakama ambayo ilikuwa na shughuli na kazi tofauti ambazo ziliwekwa kisheria kwenye Katiba kwa mujibu wa Katiba yetu ya Kenya.

Jambo hili limetatiza sana hasa Wakenya ambao walitaka kazi hii iendelee vilivyo na ilivyopaswa ili majaji na mahakimu waweze kuendelea na kazi zao bila wasiwasi. Kwa hivyo, bodi hii ni haki kabisa irudishiwe majukumu yake iweze kufanya kazi hii na vile vile Waziri ambaye anasimamia maswala ya haki hapa nchini aweze kuhakikisha ya kwamba wanaharakisha kazi ijapokuwa wameweza kuwekewa vikwazo, waweze kutekeleza kazi hii.

Bodi hii ya ukaguzi ni ya kipekee ulimwengu mzima. Tumepata sifa sana kwa kazi nzuri ambayo wanafanya na vile vile kuwawezesha kufanya kazi bila hali ya wasiwasi.

Ninaunga mkono marekebisho haya yaweze kutekelezwa mara moja. Asante sana.

The Temporary Deputy Speaker (Mr. Ethuro): Since there is no other interest, the Minister may respond.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I want to thank the hon. Members for their contributions and their support for this Bill. We believe that this Bill once passed will go a long way in streamlining the operations of the Board and in accordance with the Constitution which

anticipated that we will have one body that will have a clear mechanism of vetting both the judges and the magistrates, not having one body dealing with the judges and a different body dealing with the magistrates. It will also remove any other operational challenges the Board is undergoing currently.

With those few remarks, I beg to move and thank hon. Members for supporting it.

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

Second Reading

THE UNIVERSITIES BILL

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Universities Bill, Bill No. 53 of 2012 be read a Second Time.

Mr. Temporary Deputy Speaker, Sir, the demand for university education in Kenya is enormous. This has resulted in a rapid growth in university enrolment over the last ten years. The Kenya Vision 2030 also places an urgent demand for specific skills and research outputs for the country's human resource requirements. This ever growing demand and rapid expansion of the university sector has posed several challenges which include access, equity, quality, relevance, financing and governance of university education.

Patterns of access to both public and private universities tend to reflect increasing regional gender and socio-economic differences in the country. You will recall that according to the Welfare Monitoring Survey, way back in 1997, it was found that two-thirds of the university students enrolled came from the richest and the second-richest families while only 7.5 per cent representation was from the very poor. This situation is further reflected in gender imbalance in university education as well as access to university education by Kenyans, particularly those with special needs and the marginalized and minorities. Since the year 1997, things have progressed positively but not in the steps that we would have imagined over that long period.

Mr. Temporary Deputy Speaker, Sir, quality in education is determined by the quality of the students admitted, the learning environment created, the curriculum adopted and the quality of the academic staff in the institution. There have been a number of challenges in addressing these core tenets necessary for ensuring quality. There are also emerging concerns on the need to promote life-long skills and employability of graduates as well as incorporation of the needs of industry and national development priorities in university education.

Moreover, the Commission for Higher Education as is established currently has been limited to assuring quality of university education only in the private universities. The current average spending by students at the university level is 31 times, six times and twice as expensive as primary, secondary and tertiary education respectively.

This indicates that university education through public universities is particularly expensive to the Government and is not sustainable with the current resource base and has to some extent also influenced the quality of university education. As a result, there are several negative unintended consequences such as the establishment of satellite campuses that do not necessarily have quality learning environment and the focus on courses that can generate high

tuition revenue for the institution themselves. This means that some of the strategic degree programmes that the country requires have not been receiving adequate attention. A majority of university teaching staff have also been diverted to go into the teaching arena and thus the quality of research has been reducing. This is as a result of the piecemeal, inadequate and unclear policies on university education and financing. This Bill seeks to address those.

Mr. Temporary Deputy Speaker, Sir, Kenya has a vibrant university sector with both the private and public universities. The two university systems have very different governance structures because of the different governing laws. Private universities are sponsored by private individuals, trusts or organizations including churches and are all governed under the Universities Act of 1985 and associated regulations. They are actually regulated by the Commission for Higher Education. All public universities on the other hand are established by individual Acts of Parliament as autonomous and independent bodies. They are also covered by councils appointed in accordance to the respective Acts of Parliament. There is, thus, a need for a unified law to deal with university education, because even within the public universities there is variation in governance.

Mr. Temporary Deputy Speaker, Sir, to address the challenges facing the university education subsector, the Ministry through a taskforce of aligning the higher education, science and technology sector with the Constitution constituted under Gazette Notice No.11626 of 23rd September, 2001 developed the Universities Bill to harmonize various Acts of Parliament governing the subsector into one coherent Act that will create a unified legal environment for better governance and management of the institutions and the subsector in general. I would like to mention that although we were using the Committee to align, we were really not a committee under the schedule in the Constitution.

Part I of the Bill relates to the preliminary provisions, which include the short title of the Bill, interpretation, objectives of university education and national values. You may wish to know that the current legislations governing university subsector lack provisions which stipulate the objectives of the university education and the national values.

Mr. Temporary Deputy Speaker, Sir, Part II provides for the establishment of the Commission for University Education as a successor of the current Commission for Higher Education. Clause 4 establishes the Commission as a body corporate with the perpetual succession and common seal. Clause 5 provides for the functions of the Commission, which include quality assurance of university education in both the public and private universities. Clauses 6 to 8 provide for constitution of members of the Commission, their numbers, qualifications and vacation from office. The clause further provides for a selection panel to conduct the process of appointing members of the Commission who are not appointed by virtue of their office. This new process requires the selection panel to advertise for the position of Commissioners. This is a departure from the past practice where the Minister would appoint without advertising the positions. Clauses 9 to 12 outline the requirements for appointment of the Chief Executive Officer and other members of staff of the Commission.

Part III of the Bill sets out the procedure for the establishment and accreditation of universities. This part provides for the grant of the letter of interim authority and a charter to a university and the effect either of this have with respect to the university. It also provides for the establishment of specialized universities, technical universities and an open university. Clauses 14 to 17 contain provisions which outline the process of issuance of the interim letter of authority, its effect, duration and revocation. Clauses 18 to 22 provide for the grant of charter, its effect, publication and revocation. This means that all universities will be established through a

charter by the President on recommendation of the Commission. Currently, public universities are established by individual Acts of Parliament, as I had mentioned earlier. This has proved to be a long and tedious process, which hampers the growth of university education in the country. The provision under Clause 23 empowers a university council to make statutes and regulations, as it considers appropriate to regulate its affairs.

Mr. Temporary Deputy Speaker, Sir, the Bill proposes, under Clause 24 for the establishment of a specialized degree awarding or research institution, whose mandate shall be of strategic national importance, to deal with prioritized strategic areas identified for national importance. This is new because currently, all institutions have the freedom to do what they wish. Further, the Clause provides for establishment of a national open university as a specialized university to offer programmes through distance and e-learning mode. Members may wish to note that these institutions will only be established with the approval of Parliament to ensure that the prioritized strategic areas are in tandem with the needs of all Kenyans. I will be coming to this House to seek approval for the setting up of the first national Open University soon after this Bill goes through.

Clause 25 recognizes the importance of technical education in the development of our economy by providing for declaration of technical universities which will cater for progression of technical education. Clauses 26 to 28 provide for protection of the use of a university name, application for accreditation of foreign universities and academic freedom.

Mr. Temporary Deputy Speaker, Sir, Part IV of the Bill contains financial provisions with regard to the Commission. It also provides for funds of the Commission, annual estimates accounts and audit, investment of funds and divesting of property.

Mr. Temporary Deputy Speaker, Sir, Part V of the Bill contains provisions of the governance and management of universities, including the appointment of the Chancellor, Vice-Chancellor and staff of a university and also students and alumni association. Clauses 33 and 34 provides for the instruments of governance of a university, which include the charter and statutes. It also outlines the governing organs of a university. Clause 35 deals with the procedure of appointment of council members for public universities by the Cabinet Secretary. Clauses 37 to 39 contain the provisions for the appointment of the Chancellor, the Vice-Chancellor and staff of the university while Clauses 40 and 41 provide for the students association, its functions and the establishment of the alumni association.

Mr. Temporary Deputy Speaker, Sir, Part VI of the Bill has general financial provisions on both public and private universities. This is contained under Clauses 44 to 51. Part VII of the Bill establishes the universities fund from which money may be paid for funding public universities and giving conditional grants and loans to private universities. Clause 53 establishes and prescribes membership for a board of trustees to manage the fund. This introduces a new concept of financing the university subsector. Currently, my Ministry is responsible for disbursement of funds from the Central Government.

Mr. Temporary Deputy Speaker, Sir, Part VIII of the Bill establishes the Universities and Colleges Central Placement Service, whose main function is to coordinate the placement of Government sponsored students in the universities and colleges. It also disseminates information on the programmes available in those institutions and attendant costs. Clause 54 establishes the Service as a body corporate with perpetual succession and common seal, including prescribing its membership. Clause 55 provides for the functions of the Service, which include advising the Government on matters relating to university and college students placement.

The Bill further requires the Board, in performance of its functions, to promote equity and access to university and college education by, among other things, developing criteria for affirmative action for the marginalized, the minorities, persons with disabilities and gender. Currently, public universities admit students through the Joint Admissions Board while public technical and vocational education training colleges admit by advertisements individually. This process has not been able to cater for the needs of the marginalized, the minorities and persons with disabilities.

Part IX of the Bill has miscellaneous provisions on universities, which include general functions of a university council, display of instruments of accreditation, delegation of functions and disclosure of interest by both the members of the council and the staff when dealing with procurement matters, instruments of authority, general penalties and formulation of regulations. This is provided for under Clauses 57 to 67. Part X has repeals and transitional provisions. Clause 68 provides for the repeal of the various statutes establishing individual public universities. Clause 69 provides for the grant of a charter to each of the public universities within a period of one year after the Bill commences operation. Clause 70 recognizes the existing chapters and letters of interim authority for private universities to be deemed to have been granted under the new law. Clauses 71 to 73 provide for the continuation of existing constituent colleges, serving chancellors and vice-chancellors. University Councils have also been provided for, for a period of six months within which they should be renewed under the new law.

The part under Clauses 79 to 82 contains transitional provisions on the Commission for Higher Education now repealed to be the Commission for University Education. The First Schedule sets out the procedure for the meeting of the Commission and the Second Schedule outlines the procedure for the appointment of a chancellor of a public university. The Bill introduces a new concept on the procedure for the appointment of chancellors for public universities, which the Members should note. In this case, the alumni of a university shall rank the applicants from names of applicants deemed by the senate to be suitable for ranking as chancellor. After the ranking, the senate shall forward the names---

The Temporary Deputy Speaker (Mr. Ethuro): Time is up, hon. Minister! Who is seconding? Sorry, Minister, I am told that our time keeping is not accurate. The Minister has one hour. So, I give her the reminder of her time.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Thank you very much, Mr. Temporary Deputy Speaker, Sir, I knew that there must be an error but, I am about to conclude. There is a departure in the appointment of the chancellor, which I wanted hon. Members to note. With the alumni of the university, we shall rank the applicants from the names deemed by the senate to be most suitable for ranking as a chancellor. What that means is that the position of chancellor will be advertised for the first time in the history of this country. After the ranking, the senate shall forward the names of the top three applicants respectively ranked by the alumni to the Cabinet Secretary for onward transmission to the President, who shall pick one of the persons so ranked for appointment as chancellor. It is good to note "for onward transmission." The Cabinet Secretary has no role in this except to transmit. That is a complete departure from the current practice where the law requires the President to be the chancellor of a public university unless he delegates, which is what the current President has done for the six universities. He delegated the role of the chancellor and only retained himself in one university.

Mr. Temporary Deputy Speaker, Sir, let me assure hon. Members of the House that this Bill meets the global standards and best practices. It is comprehensive in its scope and coverage with regard to university education. As I wind up, Kenya's future as a prosperous and

internationally competitive nation will depend on her university education system to create a sustainable pool of highly trained human capital that underpins our national ambitions of being a knowledge-based economy. Lifelong learning is crucial in enabling workers to compete in the global economy. Good education can, therefore, help in reducing poverty as well as bringing prosperity. By improving people's ability to function as members of their communities, education and training can also increase social cohesion and local ties. We must move away from sending workers where the jobs are but, rather, create jobs where the people live thereby, helping to bring human capital, increase local economic growth and stimulate overall development. This Bill aims at that by expanding the university sector and also expanding access by all to higher education.

Mr. Temporary Deputy Speaker, Sir, the university education system must, therefore, be focused and able to create knowledge and deliver accessible, equitable, relevant and quality training to sustain a knowledge economy that is internationally competitive. It is on this basis that I call upon hon. Members to support this Bill so that we can achieve our vision to transform our beloved country into a knowledge based economy. I strongly believe that education and training is fundamental to economic growth, and it is now more than ever critical especially for our country to join the global knowledge economy.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to move. I would like to request my colleague and neighbour, hon. Eugene Wamalwa, to second the Bill.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Temporary Deputy Speaker, Sir, I wish to second this very important Bill and to congratulate my colleague, friend and neighbour, Prof. Kamar, for presenting before this House a very good Bill. It is very well researched. This Bill will enable this nation to take yet another stride on the road to realization of Vision 2030 of transforming Kenya into a knowledge-based economy.

Once we pass this Bill, we will only have one piece of legislation dealing with all our universities. I remember when I was at the University of Nairobi (UoN) we used to visit other universities. We had friends all over. They used to wonder why the UoN was the only university referred to as "The University of Nairobi".

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Makerere University *bwana!*

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): That is in Kenya!

Mr. Temporary Deputy Speaker, Sir. Others were known by other names, but that was a long time. We now have quite a number of universities. The most ridiculous part of it is that each university had to have its own law. We had to create an Act for each university. So among our statutes books, we have so many statutes scattered all over to cover for each university. We have the University of Nairobi Act, the Kenyatta University Act, the Moi University Act, the Jomo Kenyatta University Act, the Egerton University Act, The Maseno University Act and the Masinde Muliro University Act.

With this Bill now, we will achieve what we have tried to do in other sectors, including the agricultural sector. I was very pleased when Dr. Kosgei indicated to this House that we will take all those pieces of legislation touching on different things all under the agricultural sector and consolidate them. By passing this Bill we are also achieving that. We will have one Act of Parliament that will coordinate affairs of all our universities, both public and private. This would

go a long way in improving the management of these universities. It is a Bill that is timely and that has also brought about new developments in the management of our universities.

We have had a problem of technical colleges being taken over and turned into universities. It is one thing that has caused great concern to many of us, as leaders, because we have had very good technical colleges being taken over. With this proposed law, we have a very clear legal basis now for creation of technical universities.

Under Clause 25, it is very clear that only national polytechnics will from now on be upgraded into technical universities. So, there is a clear procedure and so not just every college will be taken over and lose the technical aspect of training that will also make this nation have the necessary technical manpower for the realization of our Vision 2030.

Mr. Temporary Deputy Speaker, Sir, I am also very pleased to see that the Bill addressed some of the concerns that were there in the past before the advent of multipartyism. We had a culture that tended to suffocate academic freedom in all our institutions of higher learning. We remember days when at the universities, you had to look around and look at someone's haircut and mind what you said or what you did. Now for the first time, this Bill is putting it into law the requirement of having academic freedom in our universities; freedom of thought, freedom of expression and opinion. It is, indeed, a serious advancement for future freedoms.

Under Clauses 40 and 41, we are encouraging our young people at our universities as they undergo the learning also to engage in the governance of our institutions. It is now mandatory under Clause 40 of the proposed Bill for each university to have a student association.

This is where we will encourage democratic participation of students in the leadership and governance of the university. We also have an alumni where these universities can continue being part of the university community and part of the family to continue to contribute towards the development of that particular institution.

Mr. Temporary Deputy Speaker, Sir, the other wonderful development that is completely new is the manner in which those who will lead our institutions of higher learning will be appointed. It is and it has been part of what we have been trying to do in bringing about constitutional review in this country, to remove as much powers as possible from the President and do away with the concentration of powers in the presidency which created an imperial presidency where the president had to lobby over all institutions. Graduations had to wait for the possibility of a chance being found in the busy diaries of the President because he was the chancellor of all the universities. Now that is no longer necessary. Also, it will now be open to competition. We are going to get the best of the best to lead our institutions of higher learning through an open and competitive process. Slowly, we shall be moving away from what was an autocracy to where merit will apply to those who seek any position in our country in days to come and it will matter not what tribe you come from or which region or religion you come from. It will be your papers and your qualifications through an open and competitive process.

This will be a new beginning for our country and we want to thank the Minister for bringing this Bill at such a time. The only other issue that we want to urge the Minister is to look at how we can make university education affordable. It should not be out of reach for many Kenyans. We have done very well in this House. Mr. M. Kilonzo, the Minister for Education brought a Bill on basic education in implementing the Constitution. It is the new expanded Bill of Rights which ensures that every Kenyan gets basic education. We have expanded the meaning of basic education not just up to primary education where we were talking about free primary education and we thought that it was basic education, but now it includes secondary education up to Form Four and it will be available to every child born in this country so that a child's success

in this country should not so much depend on the depth of the pockets of the parent but the ability of the child. It is a great stride we are taking as a country in ensuring that education is available to all the children of Kenya for them to realize their God-given potential.

We do urge that even as we now put in place policies and laws to ensure every Kenyan child gets basic education, we must now focus on how the higher education can also be made affordable and accessible by all children born in this country. That is where we are going now and that is where we need our focus.

We now have a county system of government and we are looking forward to a day when this country will have a university. We know that it is possible and do-able with much more focus. With the full implementation of this Constitution, embracing the spirit and letter of the Constitution, we can make it possible to have a university in each of the 47 counties. This can be done and as we set the legal framework in place for the management of universities, let us also look at equitable distribution of these institutions to ensure that one day Turkana County or Pokot County and all the other counties have their own fully-fledged universities in days to come.

I just want to thank the Minister and to fully support and second the Bill.

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill and thank the Minister for bringing it at this point. Indeed, I am glad that the Minister promised that she will bring the Bill before Parliament is dissolved because we had raised certain issues and concerns regarding it. Therefore, I want to congratulate the Minister. Nonetheless, I want to say that some of the issues that the Minister promised; indeed, for me the major concerns are not addressed here.

I want to indicate that in the past, whenever you travelled all over the world one of the remarkable things about Kenya was that our students stood out with distinction compared to students from other countries. However, right now, we do not compare favourably. Even a statement and a Question that the Minister answered indicated even though she was disputing the criterion that was used to assess our students and our universities--- Indeed, one of the things that was very clear is that we are fairing very badly without exception.

All our universities are not doing very well and this is because we have not set and met standards. Even though I can see that we have made an attempt to consolidate the laws relating to university education which is laudable, I still do not see us providing for standards. Indeed, I was discussing this with some colleagues like hon. Dr. Otichilo and others who are in the education sector. They said that we will leave some of these to regulations. I am totally uncomfortable with regulations because I am sure that even now, we have regulations but they are not followed. So, I will be happy if you have certain minimum standards within the main law.

I will give you an example. Yesterday, I passed through Keroka Town. It is becoming a very common standard that whenever you pass any town, you see a very small place--- In fact the Keroka one was better though still an eye sore. I wanted to take a photo to come and give it as an exhibit to see what I have been complaining about. As much as we want to expand university education--- Many private universities have money because they charge exorbitantly. You cannot charge exorbitantly and put structures that do not even look like primary schools and call them universities. You cannot have such standards. No wonder, the products that we are producing from those universities are of very low standards. I was an employer before I came here and I can tell you that you can see a very clear distinction.

Mr. George Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as my good friend is--- Is it really in order for her to single out Keroka, when, indeed, the

sensitivity of education is clear; that particular county or those two counties have been subjected to that sort of thing, which affects their performance?

I would want her to urge the PCEA University to be given a charter immediately. But everywhere you go in the country you will find these Universities commercial or otherwise---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. George Nyamweya! You stood on a point of order and not for a contribution.

Mrs. Odhiambo-Mabona: Mr. Temporary Deputy Speaker, Sir, indeed, the hon. Member is lucky that I can actually single out Keroka because it actually has one, even if a bad one. Where I come from, I cannot single out because there is none even a bad one. In Mbita Constituency, there is absolutely none. So, I cannot even give it as an example. So, I am saying Keroka has at least something, even though a bad one. So, I want Keroka to have a very good one and I want Mbita to have equally good one. Not a bad one. I do not want Mbita to have a bad one. I want it to have a very good one, the same way I want Keroka to have a good one because if Keroka gets a good one, at least, if Mbita does not have, we can pass, Keroka is very close. They are our brothers.

Mr. Temporary Deputy Speaker, Sir, I want to look at the preliminary part. I want to encourage the Minister, when we talk about constituent college, you have not provided the standards of a constituent college. My house cannot be a constituent college of a university, Madam Minister. As much as you want to improve education, there is money because you are charging our students exorbitantly and we can set standards. Again for distance learning, there are no standards.

Mr. Temporary Deputy Speaker, Sir, I would also want to challenge the Minister, some of which I have raised with her. As much as we have set standards on equity and equality especially by gender, in reality that does not apply. I would want us to provide a way of putting that in this law. I will give you an example, I have a very hardworking niece, who did exceptionally well in sciences, which is a rarity for girls. She wanted to do medicine. She got a straight "A" and "A" in all the sciences but she cannot get any single course she applied for. It is embarrassing. How can you have girls passing sciences and we know that finding girls who are excelling in sciences is not very common, and yet they cannot get courses to do? Indeed, the father told me the other day that he does not understand that he could encourage his daughter to do so well so that she could struggle to look for university just like any other person who failed. So, why do they go to university? Why can she not just remain in Suba fishing, if she can get an "A" and start looking for a course that she can qualify for in fishing? She does not need a university degree; she could have gone straight for fishing. But if you want to encourage our women, I know I was a very good student of mathematics, perhaps, I was the only one who passed mathematics in my class because girls were not encouraged and they did not do well in mathematics. But if you have a girl who has got a straight "A" in physics, chemistry and all the sciences, why would she be given a course she did not apply for? I have the opportunity to raise it with the Minister, but there are other girls who cannot. They would be doomed even though they worked hard. So, the next thing I do is a lot of mentorship for girls. The next time I go to girls and tell them "work hard because you have opportunities", they will ask, "opportunities for what?" We are killing the spirit of our girls.

Mr. Temporary Deputy Speaker, Sir, I would also want to see a specialized scholarship fund being set up and linked with the Equalization Fund especially for persons from marginalized areas. Just the other day between me and the Minister we looked for one woman who is qualified, a lawyer from Suba, who was qualified for certain things, but we could not get.

I think we are only four. So, really, unless we do aggressive affirmative action, for some of us, we would be doomed for eternity.

Mr. Temporary Deputy Speaker, Sir, I want to also indicate that the university must also provide fairness in fees, especially with the parallel system. Again, I will give an example, I want to give very loud examples. I know that many university students now go for parallel systems and some of them really struggle to pay the fees and because sometimes they are out they are not able to pay the fees. They are then forced to repeat a year because they were not able to pay the fees in time. If you are doing medicine, the fees is Kshs1 million and above a year and if you struggle as a parent and you are not able to meet the fees in time, why do you have to repeat a year so that you can still go ahead and look for another million? Why are we making university education a cat and mouse chase between the university and parents who are basically struggling to get their children education? We must provide very clear standards even for parallel universities.

I want to laud the Minister for the promotion of gender balance and equality among students and employees. But again, as I have indicated it is provided as a principle. Even the issue of institutionalizing non-discriminatory practices, the way you mainstream issues is not just by providing a principle but by providing very concrete steps on how that is done. I am going to propose amendment that will give us very clear ways in which we would do that.

I would also indicate one of the comments that I want to provide in relation to this Bill----

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ethuro): Order, Members! Hon. Odhiambo-Mabona, you will proceed next time. You have got ten more minutes to continue.

Hon. Members, it is now time to interrupt the business of the House, the House stands adjourned until, tomorrow morning, Wednesday, 21st November, 2012, at 9.00 a.m.

The House rose at 6.30 p.m.