

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 1st December, 2011

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I have the following Communication to make to the House. Perhaps, I should allow those who want to sit to take their seats.

(Members Standing at the Bar entered the Chamber and sat in their places)

VETTING OF CHAIRPERSON\ MEMBERS OF ETHICS AND ANTI-CORRUPTION COMMISSION

Hon. Members, Section 6 of the Ethics and Anti-Corruption Commission sets out the process for the appointment of the Chairperson and members of the Ethics and Anti-Corruption Commission (EACC). Under Section 6(6), the President is required, within 14 days of receipt of the names of successful applicants forwarded to him by the Selection Panel established under the Act to select a chairperson and members to the Commission and forward the names of the persons so selected to the National Assembly for approval.

Hon. Members, by a letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service dated 24th November, 2011, addressed to the Clerk of the National Assembly and received on 30th November, 2011, the National Assembly has been advised that His Excellency the President has, in consultation with the Right Hon. Prime Minister, nominated the following persons to be considered for appointment as Chairperson and members of the Ethics and Anti-Corruption Commission.

Hon. Members, I must point out that this was the second letter. The first one was received in the House on Monday and it was recalled. It is important that hon. Members are brought into the picture.

The following persons were nominated:

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|------------------------------|---|-------------|
| 1. Mr. Mumo Matemu | - | Chairperson |
| 2. Prof. Jane Kerubo Onsongo | - | Member |
| 3. Ms. Irene Cheptoo Keino | - | Member |

Hon. Members, under Section 6(7), the National Assembly is required to vet and consider all the applicants and to approve or reject all or any of them within 21 days of the day it next sits after receipt of the names. I accordingly direct that the names and the accompanying curriculum vitae and other documentation relating to these nominees be forwarded to the Departmental Committee on Justice and Legal Affairs for consideration and report on or before 7th December, 2011.

PETITION

INTERVENTION TO AVERT STRIKE BY MEDICAL PERSONNEL

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, I rise to present to the House a Petition under Article 119 of the Constitution and the National Assembly Standing Order No.205(2) on the urgent need for intervention in the state of health facilities in the Republic of Kenya.

Due to the pending strike by doctors – they are now joined by nurses – which is due on 5th December, 2011, on behalf of the petitioners, the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPPDU), I wish to present and lay this petition on the Table of the House.

The petitioners draw the attention of the House to the following issues that put this country to a threat of a strike by doctors.

1. As evidenced by the state of the public sector hospitals, lack of human resource, providing training, medical equipment, supporting infrastructure, medicine, capacity building, sustainable policy in management, the health sector has been, and still is, heading for tragic collapse.

2. The KMPPDU has, through all the means available to them, sought the audience of the Ministry of Medical Services and the Ministry of Public Health and Sanitation but has been met with silence and hostility.

3. Brain drain involving key health care staff - 85 per cent of doctors joining the Civil Service at any given time as interns will have resigned from the service by the end of 36 months following their appointment, the key reason being poor remuneration not commensurate to their qualifications and workload.

4. Despite Kenya being a signatory to the Abuja Declaration, 2001 and as recommended by the World Health Organization (WHO) that states that the Government should assign 15 per cent of its annual budget to health care, Kenyans have suffered deliberate annual cuts in national budget allocations to health care. Thus the health care sector has been unable to serve its providers and those in need.

5. Non-existent investment by the State in any meaningful research and capacity building for health care despite losing battles against endemic illnesses and emerging diseases.

6. Outdated and non-commensurate terms and conditions of employment of health care providers in the public service.

Mr. Temporary Deputy Speaker, Sir, the petitioners humbly pray that Parliament and the Republic of Kenya:

1. not to apply the normal procedure for petitions, but deal with this petition immediately and expeditiously in view of the urgency of this matter;

2. address the terms and conditions of employment of health workers in the public sector, especially as regards remuneration and medical allowance;
3. address the need to pay salary to post-graduate students training at the Kenyatta National Hospital (KNH) and Moi Teaching and Referral Hospital, and other public hospitals that teach medicine;
4. ask for the immediate resignation and new appointments in the Office of the Director of Medical Services, starting with the Director of Medical Services himself;
5. discuss the prospects of a health service commission mandated to oversee and create sustainable and progressive policies for the health sector in Kenya;
6. the Ministers of Medical Services and Public Health and Sanitation should respond and address the petition urgently to avert the strike.

Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Is there anybody who wants to make a contribution on that?

If not then I direct that the Petition be conveyed to the relevant Government Ministry, that is, the Ministry of Medical Services. The Ministry should table its report on or before 7th December, 2011, in view of the urgency of the matter.

QUESTIONS BY PRIVATE NOTICE

GOVERNMENT EXPENDITURE ON KENYAN DELEGATION TO ALL AFRICA GAMES

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Youth Affairs and Sports the following Question by Private Notice.

(a) Could the Minister table an account of the funds spent by the Kenyan delegation in the just-ended All Africa Games that were held in Maputo, Mozambique?

(b) Could the Minister also table the full list of persons who travelled to Maputo, indicating their respective roles?

(c) How many of these were “*joyriders*” who travelled and lived on Government funds?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Arising from our participation in the just ended All Africa Games that were held in Maputo, Mozambique, the account of the funds spent by the Kenyan delegation is as provided in my written answer. The answer is too long and I seek your guidance that I table it. However, I could just highlight some of the major budget items.

Some of the major payments were overseas allowances which ranged from US\$125 to US\$250 per day.

The Temporary Deputy Speaker (Mr. Imanyara): Minister, was this Question not answered some time back and you were to give details?

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Temporary Deputy Speaker, Sir, that is what I am providing.

The Temporary Deputy Speaker (Mr. Imanyara): Limit yourself to the areas that you did not cover last time.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Temporary Deputy Speaker, Sir, thank you for your guidance.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Indeed, the Question came up last week, but it did not take off. So, the Minister should just start from the beginning. It was as a result of my point of order that he was forced to go back without having answered the Question at all.

The Temporary Deputy Speaker (Mr. Imanyara): All right. In any case, go on, Minister. Let us not spend time on that.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Temporary Deputy Speaker, Sir, I will comply with that.

(a) I said that I will table the answer, but I will go through some of the major budgetary items. They are allowances which were paid for 18 days at the rate of between US\$125 and US\$250. Estimates were put at Kshs103,423,697. The actual expenditure on that came to Kshs93,386,900. The other major expenditure was accommodation in the games village at Maputo for athletes and team officials and managers, which was estimated at Kshs27,613,440, but the actual expenditure was Kshs18,705,000. We also had accommodation locally here, which was estimated at Kshs22,830,000, but it came to Kshs24,156,102. There was ticketing which was estimated at Kshs42,394,000, but the actual expenditure came to Kshs37,492,470 through our national carrier Kenya Airways. There is also Item No.10 which was estimated at Kshs1 million but an LSO was issued at Kshs978,600. These items were supplied late and so the money has not been paid. Those are the major expenditure items which I can pick from my response. The rest are self-explanatory.

(Dr. Otuoma laid the documents on the Table)

(b) Mr. Temporary Deputy Speaker, Sir, I have also tabled the list of all those who travelled to Maputo and their respective roles. Hon. Members may wish to note that this list is categorized into 25 clusters determined by roles. We had athletes and coaches numbering 57. The other disciplines were badminton, basketball, boxing, canoeing, chess, cycling, handball, judo, karate, netball, sports for the disabled, swimming, lawn tennis, tae kwondo, table tennis, triathlon, volleyball and beach volleyball. There was also the medical team which is shown on the list. These were basically the doctors, physiotherapists, and nutritionists. We also had the delegation of Ministry officials which was headed by myself. The nine of us are listed down there. There was also the steering committee which was led by the *chef de missio*, Mr. Nyaberi, who was technically in charge of our delegation. There was also the management committee to the games, which deputized the *chef de missio*.

(c) Mr. Temporary Deputy Speaker, Sir, from the above-mentioned list, 396 persons were in the Kenyan contingent which travelled to Maputo to attend the 10th All Africa Games. I am not aware of any ‘joyriders’ who accompanied us. Perhaps, there could have been spectators who found their own way to Maputo.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, according to these accounts, the Minister is telling the House that he spent approximately Kshs46.8 million on accommodation. He is also telling us that he spent approximately Kshs15 million on equipment and uniform. When this team reached Maputo, some of the Kenyan players

slept on the floor in bathrooms and kitchens. As far as the equipment was concerned, some of the players played without uniform. In fact, the netball team played in the uniform of Post Bank team.

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): On a point of order, Mr. Temporary Deputy Speaker, Sir. The Question is very clear and the Minister is on track answering the details pertaining to the Question but when an hon. Member rises to give misleading information that our athletes slept on the floor, in the toilets and bathrooms, could he be kind and responsible enough to either substantiate that clearly irresponsible statement, table evidence or keep his silence?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, maybe he should have rose on a point of information to inform the Minister but the point that I am making is that I am building the fact that we need the Minister to justify that expenditure. If he saying that he spent Kshs15 million---

The Temporary Deputy Speaker (Mr. Imanyara): Order! That is not a question! The Assistant Minister has stood on a point of order and challenged you to substantiate allegations that some of the athletes slept in the kitchen and toilets and he is entitled to seek substantiation according to our Standing Orders.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, yes, indeed, the question I am raising is that, I was given information by the players who travelled.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Khalwale! The Assistant Minister rose to seek substantiation; address that issue before we go further, please.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I have the written issues raised by the players who went to Maputo. It is here typed but I did not know that you would require it, for me to force them to sign it. I table it!

(Dr. Khalwale laid the document on the Table)

The Temporary Deputy Speaker (Mr. Imanyara): Let me see it.

Order! We need to handle these issues the way we are used to, according to the rules. Let me see that document.

(The Temporary Deputy Speaker perused the document)

Dr. Khalwale, this is not a document that I should look at! It does not have a signature and date!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): He should apologize!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Do not address the Chair in that manner, Mr. Onyonka!

Dr. Khalwale, you know our rules and I want to give you the opportunity because we cannot escape. Once a point of order has been raised to substantiate, you know what the rules say. You can have a maximum of one day according to our rules but you cannot escape the necessity of substantiating when the Assistant Minister has stood on a point of order to seek substantiation.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, in that case, let me withdraw the document that I have tabled but then request that the Minister, given the fact that---

The Temporary Deputy Speaker (Mr. Imanyara): Let me handle this, Dr. Khalwale. If you have withdrawn the allegation that athletes slept in toilets and bathrooms because it is not true, then you must not only withdraw but also do what follows a withdrawal, that is, an apology.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, what I am withdrawing is the document that I have tabled but I am not withdrawing the statement that the players, when in Maputo, slept on the Floor, in the bathrooms, in the kitchen and in the games village. I am not withdrawing that one.

The Temporary Deputy Speaker (Mr. Imanyara): That is what you are substantiating. So, can you substantiate that because the documents that you have tabled are not substantiation? Can you substantiate that before I can permit you to proceed further?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, having withdrawn this, so that we make progress on this Question, allow me to apologize for presenting a document that is not signed, then allow me to ask the following question: Could the Minister table before the House the actual receipts in the hotels where these players were accommodated both here in Kenya and in Maputo?

Secondly, given that players played in Post Bank uniforms, could you also table the receipts for the equipment and uniforms because the players never received them?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, as I said, I was a member of this delegation and I have provided a list of all the people who were officially in Maputo. We have said that all those people were accommodated. Some were accommodated in athletes' village or accredited hotels. As it is the procedure, when you go for international events of that nature, we normally pay and that is why I put here accommodation for the games in the village in Maputo for athletes and team officials on item number two which was estimated to cost Kshs27,613,000 and we paid Kshs18 million. If the hon. Member needs the receipts and the vouchers, I am sure under the Government Financial Regulations, given that he is the Chairman of the Public Accounts Committee (PAC) that opportunity can be availed for my technical team to do what is necessary as provided under the financial procedures in our Chapter Two of our procedures under his Committee. We are also supposed to have provided---

The Temporary Deputy Speaker (Mr. Imanyara): Minister, let me just advice you. The Public Accounts Committee is a Committee of this House and you are now before the House. Just table what you have, to answer his Question.

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, as I said, the receipts and details can be availed to the Member of Parliament so that they can be scrutinized under the relevant Committee. That is what I was begging so that my accounting officers can bring them. We have already paid for some of those expenses. So, it is just an issue of the Chair ruling that my Accounting Officer sees the relevant committee to provide further evidence.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Clearly, my question has not been answered. My question is: Could he table those documents? Since he has not tabled---

The Temporary Deputy Speaker (Mr. Imanyara): Minister, indeed, you have not. An undertaking to table documents before the PAC is not answering a Question before the House. You can table the documentation that the hon. Member needs. If it can go to the PAC, then it can come to this House. So, please, table the documentation that you have so that we can go to the next Order or business.

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, according to this Question, I was to table the accounts and which I have already done. If you need supporting evidence, the Government Financial Regulations give clear guidelines on how this can be obtained. I will be asking for your guidance on this issue. I do not know whether I was supposed to carry all the vouchers and bring them here to the House. I thought that it can be directed so that the Accounting Officer can provide them.

Mr. Kioni: On a point of order, Mr. Temporary Deputy Speaker, Sir. The amount of money that the Minister claims to have paid as allowances amount to about Kshs46 million. The Question is seeking to know who that money was spent on and if it was spent properly. Is the Minister in order to avoid tabling those documents irrespective of the volume because this House has capacity to deal with voluminous documents?

The Temporary Deputy Speaker (Mr. Imanyara): What I understand the Minister is doing and is perfectly entitled to do is what we request in this House everyday that Questions be referred to Committees. He is offering to appear before the PAC with his officers with all the documentation that you require. To me, that sounds very reasonable.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, indeed, since I am the Chairman of the Committee, I will only be too glad to have the Minister appear before me with the Accounting Officer. So, that we do not lose the meaning of my Question, I do not know whether the Chair can allow a few supplementary questions because they will help us in the Committee.

The Temporary Deputy Speaker (Mr. Imanyara): What happens in events like this is that, when I refer a matter to a Committee, I defer the Question so that when they come before the Committee and you are not satisfied, when the Question is reinstated, you can say what happened. So, you cannot have it both ways. You cannot ask the Minister questions here and take a second bite at your Committee. So, choose the one you want. Do you want the matter to go to the Committee or should it be exhausted here?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, I would like the matter to be exhausted here and if in accordance with the Standing Orders, my Committee chooses to revisit the issue because it was inconclusively done, we will go ahead and do so, but let him table the documents now.

The Temporary Deputy Speaker (Mr. Imanyara): Since you had not asked for the documentation, it is not reasonable to ask him to table them now because he has tabled accounts. If you want documentation, and he is saying that he is ready to provide them but on another day. Today, he came to present the accounts which he has done. So, you can interrogate those accounts. If you want to table them now, he has clearly indicated that he cannot do so because he was not expecting that he would be requested to table documents other than the accounts. Really, you are asking for too much now.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, emanating from the answer given by the Minister, it is clear that the allowances rose to US\$125 to US\$150. Could the Minister inform the House what necessitated the rise?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member may not have heard me clearly. I said that the rates were paid from US\$125 minimum to a maximum of US\$250 depending on who was being paid. I provided the list of those who were being paid. The rates are different.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, could the Minister tell the House whether there were any well-wishers who may have donated commodities that would support the team while they were in Maputo? He should also tell the House the value of the same.

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, the only well-wisher that I am aware of was the National Social Security Fund (NSSF) which provided the Kenya National Sports Council with a donation of Kshs1 million which is completely outside this one.

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, the document that the Minister has tabled, on page 7; the persons who travelled and received allowances, number 11 on netball, my understanding of the game of netball is that it is played by seven people and it is played by ladies. The list that has been tabled by the Minister has 28 players for the netball team, 13 of whom are men. Could he explain why almost 50 per cent of the team, who were men, were doing in the netball team? Did they play a game and if so, what were the results?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, for the first time during the 10th All African Games there was netball for men as an event but after accreditation of our team, when we reached Maputo, some countries from North Africa who were the main players in this game had pulled out for some reasons unknown to us. The terms and conditions for a sport to be considered an event is that it must be played by five countries. In this case, there was only Kenya and Maputo. So, we had to make a decision to bring these men back to the country because they could not play but it was not their wish. They had been invited and had already been accredited but the other countries did not turn up.

Ms. Noor: Mr. Temporary Deputy Speaker, Sir, I am interested in the netball issue. I want to know whether there were games for the ladies. If there were, what were the results? Was it played?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, there were games for ladies. They won a bronze medal which means they played.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, the list of people who travelled to Maputo was given by the Minister. I want him to tell the House whether all those people in this list actually travelled to Maputo. More so, in the boxing team, he should tell us whether a fellow by the name Joseph Njogu actually travelled with this team. The information we have is that he did not travel with the team.

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, if there is any evidence that Joseph Njogu did not travel, then the hon. Member is welcomed to give me that information. However, as far as I have interrogated this list, these are the people who travelled to Maputo.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The first bit of my question was for the Minister to confirm to the House of the Republic of Kenya that the people listed here all of them travelled to Maputo and that there were no ghost travellers in this list.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kabogo, you are the one who mentioned Mr. Njogu and he was perfectly entitled to. There is no such thing as a rider to a question. If you ask a question, then do it directly!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I will repeat. Could the Minister confirm that all the people listed in the list he tabled actually travelled to Maputo?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, in the earlier ruling when Dr. Khalwale asked this question, we said that we were to provide signed copies of those who travelled using Government documents. That is what I have done. I have tabled it. That is the true record of the people who travelled to Maputo.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, my last question is about joyriders. Clearly, there are many here who took a ride. They never participated in a game called netball. I have *googled* and found that Kenya and Maputo are the only teams---

The Assistant Minister for Sports and Youth Affairs (Mr. Kabando wa Kabando): On a point of order, Mr. Temporary Deputy Speaker, Sir. As much as we are concerned about delegates, is it in order for Dr. Khalwale to call Kenyans who are venturing and breaking the mark into netball which is previously a domain of the female, joyriders, just because they travelled to Maputo and did not get an opportunity to participate in the tournament because other countries did not bring their players? Is he in order to call Kenyan citizens dedicated to represent the country "joyriders"? He needs to apologize after withdrawing that defamation and stigmatization of men who are doing great for this country.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, please, guide me on that point of order.

The Temporary Deputy Speaker (Mr. Imanyara): Just make your point! You were on your question!

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, the point I am making is that two young athletes, Patroba Ojwang and Sarah Njoki were denied, a chance to fly to Maputo and these two youth, who travelled by bus, they travelled for five days and reached Maputo and Sarah Njoki won a bronze medal, the only medal to be won by a woman.

(Applause)

What is more is that Sarah Njoki was denied her entitlement of Kshs100,000 Presidential Award for any athlete who won a bronze medal. Could he tell us what is going on in this Ministry?

The Temporary Deputy Speaker (Mr. Imanyara): Before you answer that question. Mr. Minister, you indicated that the team travelled using Kenya Airways. Let me hear your answer first.

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, indeed, Dr. Khalwale is raising a very important issue here. You have heard me speak several times that the only way we can put our sports in order is to have clear regulations and framework through which our sports federations operate. It is very unfortunate and I have been consulting with our new Attorney-General who has promised me that he is fast-tracking our Sports

Bill which is supposed to address some of these challenges that we have been facing. What happened in this particular case is that the federations affiliate their athletes. So, if your federation has not affiliated you---

The Temporary Deputy Speaker (Mr. Imanyara): Your answer to this House and the nation was that the team travelled by air. So, were there members of the team who did not travel by air and why was there no disclosure on that part?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, all these 396 Kenyans travelled by air, our national carrier. However, the issue raised by Dr. Khalwale is about some two Kenyans, who travelled almost in a private capacity. They were not part and parcel of the delegation.

(Several hon. Members stood up in their places)

Please, protect me, so that I finish!

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members!

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, as I was explaining, these two individuals that Dr. Khalwale talked about came to my attention that these Kenyans were not accredited through the *chef de mission* who is in charge of accreditation.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Imanyara): Let him complete and I will have you asking more questions!

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, thank you for protecting me. These Kenyans travelled in their private capacity. It is like the federation officials---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Otuoma! This is a very straightforward issue that you are being asked. Were there any members in the Kenyan team who travelled by road, including one who won a bronze medal?

(Applause)

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, the list that I have provided to this House contains the official Kenyan delegation to All Africa Games.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Minister, we are not through with this yet! You have said that all the team members travelled by air. However, Dr. Khalwale is alleging that they all did not travel by air. Not only that, one of those who travelled by road, won a bronze medal. Get me correctly because this is not a trivial issue that is being raised here! That Kenyan did not travel by air, but she won a bronze medal. Did she win a bronze medal without accreditation? I think we need to deal with this.

(Applause)

Mr. Lagat: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think that according to the international rules, there are no guest runners in the competition.

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have risen on a point of order. What is your point of order?

Mr. Lagat: Mr. Temporary Deputy Speaker, Sir, I think the Minister is misleading the House because according to the international rules, there are no guest runners in an international meet.

(Applause)

So when he says that the athletes travelled on a private arrangement, there is no private arrangement in an international competition. So, they went there as part of the Kenyan team or not. Is he in order to mislead the House? Let him apologize to the House.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Lagat, had you listened to me, you would have realized that was precisely what I was going to ask the Minister. How a Kenyan could win a bronze medal without accreditation? That is the point I want explained!

Hon. Members: Yes!

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, the list of athletes, our sportsmen and women that I have provided in this House is the official list of people who travelled to Maputo as the Kenyan delegation. If there was any other arrangement, it was not part of what I have provided.

(Several hon. Members stood up in their places)

Mr. Temporary Deputy Speaker, Sir, I am aware of the issue that Dr. Khalwale raised. We did not recognize that bronze medal nor did it become part of our tally. This is because the procedures that were provided had nothing to do with us as the official Government delegation.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Minister in order to claim that he did not recognize the medal when the organizers of the All African Games after Sarah Njoki won, they received her, crowned her and the National Anthem was sang? The real reason why they do not want to say is because somebody took Sarah Njoki's Kshs100,000.

(Applause)

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, that was a flawed process. So, we did not recognize it. We did not put that medal as part of our national tally and that is why when we were awarding the athletes who had won, that was not provided for. That is an issue that can be addressed in another forum as an issue---

(Several hon. Members stood up in their places)

Just a minute, please, protect me! I was saying, I empathize with this situation is not where hon. Members are trying to put it. That is a completely different issue. If a Question came to this House to that effect, I can exhaustively come here and answer it.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Mr. Minister, I was going to let you off, but I will not. I am going to refer this matter to the Departmental Committee in charge of sports to investigate that aspect of the bronze medal and non-payment of Kshs100,000 and report back to the House.

(Applause)

Order, hon. Members! This Question will come back to the Order Paper one month from today.

Next Question!

(Question deferred)

SUSPENSION OF LICENSING OF 14-SEATER *MATATUS*

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Transport the following Question by Private Notice.

(a) Why has the Government halted the licensing of the 14-seater matatus since January 2011?

(b) Is the Minister aware that the directive is already negatively impacting on the livelihoods of over 60,000 young persons, who are directly employed in the sector?

(c) Could the Minister consider rescinding the directive?

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

(a) The Government introduced a policy to phase out all public service vehicles with a carrying capacity of below 25. The policy does not stop the already licenced 14 seater minivans from operating as public service vehicles on our roads. This policy was implemented through the Kenya Gazette Notice No.209 of 21st December, 2010 and the deadline for new licensing for vehicles within this category was 31st December, 2010. The vehicles of this category which were already registered as at 1st January, 2011 will continue to be licensed as long as they are road worthy. The decision was made after thorough evaluational measures necessary to decongest our roads and to bring order to the sector including improvement on passenger safety and conflict. This was further subjected to consultations with public service transport operators during a stakeholders' conference that was held at the Bomas of Kenya on 19th October, 2010.

During this conference, stakeholders made several proposals to the Government to improve order and safety on our roads and efficiency in the operation of road transport to the country. Among those proposals was concurrence of the need and the modalities to phase out low capacity public service vehicles if we have to reduce congestion on our roads especially within the city and the urban areas.

(b) I am not aware that the directive is impacting negatively on the livelihoods of over 600,000 young persons who are directly employed in the sector. The phasing out of the public service vehicles---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kimunuya, you know that the policy now is that Question Time should not be used to make Ministerial Statements. Please, summarise the answer to enable a question to be brought. Otherwise, we will convert Question Time to Ministerial Statement and that is the intention of the Question.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I was attempting to answer as requested. I am not aware that the directive is impacting negatively over 600,000 young persons. The reason for that is that phasing out is a gradual process and the vehicles involved, the 14-seater matatu and below, account for only 22,000 out of the 79,024 registered service operators and hence 22,000 cannot be supporting 600,000 youths---

Hon. Members: 60,000!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, the information I have is that we were requested about 600,000. I am also aware that there has been an increase in the sale and registration of high capacity public service vehicles which are currently creating additional employment opportunities for the youth in our country more both at the assembly plant as well as on the roads.

(c) I have no intention of considering rescinding this decision because it was arrived at by the stakeholders and we are convinced that the passengers and the industry players can benefit from it.

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, this is a situation where a Government is out to oppress its low income earners. The Minister has talked about a stakeholders' meeting at the Bomas of Kenya. Could he tell this House how the stakeholders were picked? The information we have is that the Ministry, under the leadership of Mr. Kimunya, handpicked people who would come and hit a dead nail to the 14-seater, *Marutis* and *Proboxes* in this country. Could he confirm how these people were handpicked?

Mr. Kimunya: Mr. Temporary Deputy Speaker, Sir, the attendance to the stakeholders' conference was widely publicized and was attended by all the registered transport associations including all the various *matatu* branches from across the entire country and was co-ordinated not just by the Ministry of Transport but through the National Road and Safety Council which includes the *matatu* owners, bus owners, *matatu* drivers and operators who all sit within that National Roads Safety Council because I have included everyone in that and organized to ensure that it was an all inclusive meeting bringing together all the players within the transport sector in Kenya. It has representation from every district in Kenya.

Mr. Mwiru: Mr. Temporary Deputy Speaker, Sir, the Minister had indicated that one of the reasons of phasing out the 14-seater *matatu* was to decongest our roads. Could he indicate how many man hours are today lost after deregistration of 14-seater *vis-à-vis* what we were losing on our roads before that directive?

Mr. Kimunya: Mr. Temporary Deputy Speaker, Sir, we stopped registration of any new 14-seater vehicles in preferences for higher occupancy vehicles. This means that

for every 14-seater vehicle that would have come on the road to carry 42 passengers, we now have one vehicle instead of three vehicles.

Pure mathematics tells us that last year when we had no any new 14-seater coming on board, the number of vehicles on our roads has reduced. We have only seen big vehicles coming on road. Every space occupied by one vehicle is released for other road users.

Mr. Kabago: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kabogo, please, do not deny other hon. Members the opportunity to raise---

(Several hon. Members stood up in their places)

Order! Members, you cannot stand up all and expect me to address all of you.

Mr. Kabogo, I hope it is a point of order!

Mr. Kabago: Mr. Temporary Deputy Speaker, Sir, is the Minister in order to mislead the House that decongestion has reduced, yet we know a route such as Nairobi-Namanga, people are travelling in small vehicles called *Probox* because the Government has not registered 14-seater *matatus*?

Mr. C. Kilonzo: Mr. Temporary Deputy Speaker, Sir, indeed, this is a Government which has no human face when it comes to dealing with the poor common man. This is a Government of the rich, for the rich and by the rich.

He says he is not aware that we have very many youths who will be unemployed if they stopped licensing the 14-seater *matatus*. Could he tell us what they will do with them as a result of this directive?

Mr. Kimunya: Mr. Temporary Deputy Speaker, Sir, if the hon. Member was listening to me patiently, I said we have 22,000 14-seater *matatus* out of the 79,000 Public Service Vehicles (PSV). Typically, a 14-seater *matatu* creates employment for a driver and a conductor. So, maximum people who will be directly employed by those vehicles will be 44,000. However, the figure of 600,000 that will be affected has no relationship with the 44,000. In any case, the 22,000 *matatus* are still on the road. We have not removed them from the road. All we have said is that we shall not increase the number of 14-seaters *matatus* on our roads. We shall only increase the number of higher occupancy vehicles. So, nobody has been declared redundant as a result of this directive.

Mr. Joho: Asante sana, Bw. Naibu Spika wa Muda. Je, Bw. Waziri ana habari kuwa Serikali yake ambayo inawanyima watu leseni za kufanya biashara ya uchukuzi wa umma wa magari madogo yanayobeba abiria 14, inachukua ushuru magari haya yanapoingia humu nchini kupitia Bandari ya Mombasa? Serikali hii inapokea ushuru kwa mkono wa kulia na kuwanyima leseni wanabiashara hawa kwa mkono wa kushoto. Je, ni haki kufanya hivyo?

The Temporary Deputy Speaker (Mr. Imanyara): Tafadhali, uliza swali moja!

Mr. Kimunya: Bw. Naibu Spika wa Muda, ningependa kumsahihisha mhe. Mbunge kuwa Serikali hii si yangu wala ni yetu sisi sote.

Ningependa kuarifu Bunge hili kuwa magari yote yanayoingizwa hapa nchini kupitia Bandari ya Mombasa hulipiwa ushuru. Ni baada ya kulipa ushuru ndio unapewa nafasi ya kutueleza unataka kuitumia gari yako kwa njia ipi. Ikiwa unataka kufanya biashara ya matatu kwa kutumia gari ndogo kama Nissan au inayobeba watu 14,

unanyimwa leseni. Hii ni kwa sababu Serikali wakati huu haitoi leseni kwa watu wanaotaka kufanya biashara ya matatu wakitumia magari inayobeba abiria 14. Sheria za uchukuzi wa umma hairuhusu magari yanayobeba chini ya watu 14.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Mr. Kabogo!

Mr. Kabogo: Mr. Temporary Deputy Speaker, Sir, you have evidently seen that this Government does not recognise small business man. Is it unconstitutional for a Minister, or a Cabinet, to decide that you must have so much money to do business? When they say 14-seater or below 21 seaters would not be allowed to do this business is like telling those Kenyans who cannot afford over 21-seater that they are in the wrong business and they can only haul *mikokoteni*, or do other businesses.

Mr. Kimunya: Mr. Temporary Deputy Speaker, Sir, this Government is very mindful of the people who use public service vehicles. The major consideration is the safety and security of the passengers. Not necessarily the protection of the owners of the vehicles who totally disregard the law and crowd people in smaller vehicles without caring about their safety. That is why we encourage people to buy vehicles with high carrying capacity, so that commuters can feel secured and safe as they travel.

The Temporary Deputy Speaker (Mr. Imanyara): Next Question, Member for Kisauni!

PLANNED EVICTION OF RESIDENTS OF
KWABULO IN KISAUNI

Mr. Joho: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Is the Minister aware of plans by the Government to evict more than 4,000 families living in Kwabulo in Kisauni Constituency?

(b) Could the Minister provide the names of persons and/or companies that have been allocated the said land and state from whom they acquired the land, and at what cost?

(c) Could the Minister clarify whether there have been any transactions in relation to the said land and state what measures the Government will take to ensure that the residents are not evicted?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, the hon. Minister did confirm to me that he has already spoken to the Questioner that the Chair should allow him to answer this Question on Wednesday next week.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Joho, indeed, the Minister did approach the Chair and said that you and him had agreed. Is that the position?

Mr. Joho: Indeed, Mr. Temporary Deputy Speaker, Sir, we did agree. However, I am only worried that over 4,000 Kenyans will be evicted. Therefore, I beg your indulgence because a few days ago, the Coast PC, Mr. Munyi, has---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Joho! If you have those concerns, then you should have insisted the Minister answers the Question today, and not next week.

Mr. Joho: Mr. Temporary Deputy Speaker, the reasons we consulted with the Minister are valid. However, he should give an undertaking in this House that no eviction will be done between now and when he answers that Question on Wednesday next week.

The Temporary Deputy Speaker (Mr. Imanyara): This Question is validly before the Minister. That is where you should have sought that undertaking. This Question will be on the Order Paper on Wednesday next week.

Mr. Chanzu: On a point of order, Mr. Temporary Deputy Speaker, Sir. When hon. Ojode was telling us what transpired between the hon. Member and the Minister, I saw the Minister for Lands walking in. Could he give the undertaking sought by the hon. Member?

The Temporary Deputy Speaker (Mr. Imanyara): Order! All these Ministers are Ministers!

(Mr. Joho stood up in his place)

Order, Mr. Joho! What is your point of order?

Mr. Joho: Mr. Temporary Deputy Speaker, Sir, I am aware that evictions can take place this weekend. However, I asked the Minister to make sure that eviction does not take place until he answers this Question on Wednesday next week. He assured me that the Coast PC, Mr. Earnest Munyi, will not evict those people before we interrogate this Question.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ojode, the PC is under your docket. Is that the agreement that was reached?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I am not aware of any eviction. I was just standing in for the hon. Minister. He had already spoken with the Questioner. I cannot give any undertaking because I am not aware of what he is talking about. I am at a loss. This is security and he is talking about land.

Mr. Joho: I beg your indulgence, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Joho! You know you are the author of this situation and your own misfortune. You allowed the Minister to defer the Question to next week and now you are now seeking undertakings from those who were not party to the agreement to defer the Question.

Mr. Joho: Mr. Temporary Deputy Speaker, Sir, then if that is the case, I will not have it deferred. I would like the Assistant Minister to answer it.

The Temporary Deputy Speaker (Mr. Imanyara): Order! That is not the way we operate. You have confirmed to this House---

Mr. Joho: Mr. Temporary Deputy Speaker, Sir, these are Kenyans and we do not want to take the situation lightly and then we come to Parliament to form committees to investigate after 4,000 families are out in the cold. I was very clear that we agreed on Wednesday as long as the Coast Provincial Commissioner, Mr. Ernest Munyi, does not move to the ground and evict the 4,000 families. So, therefore, the Government must give an undertaking.

(Question deferred)

The Temporary Deputy Speaker (Mr. Imanyara): Swali namba nne la Dr. Nuh.

LIST OF BENEFICIARIES OF ORPHANS\VULNERABLE
CHILDREN PROGRAMME IN BURA

Dr. Nuh: Bw. Naibu Spika wa Muda, naomba kumuuliza Waziri Wa Jinsia na Masuala ya Watoto na Ustawi wa Jamii Swali Maalum lifuatalo.

(a) Je, Waziri anaweza kuwasilisha orodha ya wanaofaidika kwa sasa kutokana na mradi wa kuwasaidia mayatima na wawezao kudhuriwa (*Orphans and Vulnerable Children - OVC*) katika eneo bunge la Bura?

(b) Je, Waziri ana habari kwamba orodha hii sasa imewatenga watu ambao walifaidika kutokana na mradi huu hadi mwezi wa Juni 2011?

(c) Kwa nini watu hao wa awali wametengwa sasa, na je, wataorodheshwa lini katika mradi huu?

The Minister for Gender, Children and Social Development (Dr. Shaban): Bw. Naibu Spika wa Muda, naomba kujibu.

(a) Orodha ya walengwa ndio hiyo hapo.

(Dr. Shaban laid the document on the Table)

(b) La hashu. Walengwa wote wako kwenye orodha na wale ambao Daktari Nuh alitaja ni watu watatu tu ambao hawapo. Lakini wale ambao hawapo walikuwa si walengwa.

(c) Wale 600 wote walionufaika katika mwaka wa kifedha uliopita wanaendelea kuwa kwenye orodha ya kulipwa kupitia posta ya mwezi huu wa Disemba. Itakapokamilika, orodha hiyo, watawezwa kulipwa kupitia kwa posta.

Dr. Nuh: Bw. Naibu Spika wa Muda, katika orodha niliyowasilisha kwa Waziri, orodha la walengwa katika kata ya Madogo walikuwa 213, na kati ya hao, 150 walilipwa pesa hizo mwezi wa Aprili na mwezi wa sita. Afisa wa watoto katika Eneo Bunge la Bura alikuwa akitoa fomu ya kuwasajili watu hawa 150. Inadaiwa na wananchi kwamba kati ya wale 150 waliolipwa katika Madogo, na wale 167 katika Kata ya Bura waliwachwa kupewa fomu hizo na afisa wa watoto, akidai kwamba shida iko katika ofisi kuu Nairobi. Kwa hivyo, Waziri anaweza kuwahakikishia wale watu 600 waliolipwa pesa hizi katika Eneo Bunge la Bura, 150, Madogo na wale wa Bura wote, wako katika orodha na hawataachwa nje?

Dr. Shaban: Bw. Naibu Spika wa Muda, watu walioorodheshwa wakati wa usajili wa kwanza katika kata ya Madogo walikuwa 213, lakini waliolipwa kutegemea pesa ambazo zilipatikana walikuwa 150. Katika Bura, walioandikishwa walikuwa 314, katika kata hiyo waliolipwa walikuwa 213. Ningetaka kutaja kwamba ijapokuwa watu wote Bura waliosajiliwa mara ya kwanza walikuwa 854; pesa zilizopatikana---

Mhe Naibu Spika wa Muda, hatuelewani. Watu wanazungumza kwa sauti ya juu sana.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members. Endelea Waziri.

Dr. Shaban: Bw. Naibu Spika wa Muda, watu waliosajiliwa kwa ujumla katika wilaya ya Bura walikuwa 854, lakini kwa kutegemea pesa tulizopata, watu 600 pekee ndio wamekuwa wakilipwa. Hawa watu 150 kutoka Madogo wataendelea kulipwa, ijapokuwa kumekuwa na kucheleweshwa kwa malipo kwa sababu ya shughuli za kuwasajili kupitia kwa mpango na mtandao uliyoko katika posta. Vile vile, watu 213 katika kata ya Bura wamekuwa wakilipwa, na mwezi huu wa Disemba hautaisha kabla hawajalipwa. Nataka kuwahakikishia watu wote wa Bura, ambao wamekuwa wakipata pesa hizo katika mradi huu, kwamba pesa zao zipo na wataendelea kupata haki yao bila shida. Tatizo lilitokea kuchelewesha malipo kwa sababu ya usajili na posta. Asante sana.

Dr. Monda: Mr. Temporary Deputy Speaker, Sir, our Constitution talks about the Government not discriminating against any member of the population of this country. The Minister has talked about some parts of this country being registered to benefit from this programme that targets orphans and vulnerable children. Could she inform the House what she is doing to ensure that all the children who fall under these categories benefit from this programme, so that there is no discrimination and service to a few members of the country while others are suffering, with the Government showing no concern?

Dr. Shaban: Mr. Temporary Deputy Speaker, Sir, I just want to point out that we have been scaling up slowly in the whole country depending on the amount of money we get from Treasury. We started off with a few homes and beneficiaries who numbered 300.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order, hon. Members! Please, we need to give the Minister an opportunity to be heard.

Dr. Shaban: Mr. Temporary Deputy Speaker, Sir, we started off with about 300 households in the whole country, and we have since gone to 124,000. That was as at the end of June 2011. We are still scaling upwards. Once we get more money, we will add more people to this safety net. As it is, the amount of money which we have cannot cover the country at one go. So, we are scaling up slowly and I think we are doing very well, as far as this programme is concerned.

Dr. Nuh: Bw. Naibu Spika wa Muda, kati ya majina niliyowasilisha kwa Waziri, kuna watu wanne ambao alisema hawakuwa wameorodheshwa katika walengwa; hao ni Abdiya Mohammed Issak, Fatuma Dalgale Deko, Abdikadir Burale na Maimuna Guresha Dugo. Ikiwa itabainika kwamba hawa wanne waliwezwa kulipwa mwezi wa nne na mwezi wa sita, Waziri anaweza kuwahakikishia kwamba pia hawatatengwa na watakuwa katika orodha?

Dr. Shaban: Bw. Naibu Spika wa Muda, ningependa kumueleza Mbunge mwenzangu kwamba hawa watu wane, ambao hawako kwenye orodha, hawajawahi kulipwa hata mara moja; kwa sababu hiyo, watafikiriwa kuwekwa katika orodha ya walengwa wakati watu watakapokuwa wakiongezewa; kama watafaa kuwa kwenye orodha, basi wataorodheshwa. Kwa sasa, hawako kwenye orodha ya walengwa tuliyo nayo.

DISAPPEARANCE OF STUDENT
KENNETH MUCHIRI MURIITHI

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

(a) Is the Minister aware that Kenneth Muchiri Muriithi, a Form III student at Kiine Mixed Secondary School in Mara District, disappeared on 7th September, 2011 and has not been traced since?

(b) Was a report on the disappearance made to the police by the School and, if so, when?

(c) What is the Minister doing to ensure the whereabouts of the student is established?

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

(a) Yes, I am aware of the disappearance of Mr. Kenneth Muchiri Muriithi, who is a Form III student of Kiine Mixed Secondary School in Mara District. He has not been traced since then.

(b) The report of the disappearance was made at Marima Police Patrol Base of Ntumu Police Station in Mara District vide OB No.14/10/2011 by the school principal, Erastus Njeru. Immediately the report was received investigations commenced and a circulation was made to all police stations in Kenya vide Ntumu Police Station signal reference C/ORG/10 Vol.II/6, dated 14th October, 2011. The parents provided a mobile phone number 0703896120 which the student had been using.

(c) The District Criminal Investigation Officer (DCIO) Meru South, in liaison with the parents, Mr. Richard Muriithi and Agnes Wanjiru and a liaison officer from Safaricom traced the coverage area of the phone within Chuka and Embu area. It is still functional and the phone is still being used, probably by the owner. Further, a printout of the same number was obtained from Safaricom for analysis and investigations to trace the whereabouts of the missing student are ongoing. So, hopefully, sooner or later we will know where this particular student is hiding.

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, you have heard that unfortunate statement from the Assistant Minister “where the student is hiding”. This is a boy aged 17 years, in Form III and, therefore, he is a minor. He was in a boarding school and disappeared from a boarding school where the parents entrusted him to the school authorities. The school took more than seven days to report. They only reported after the mother went to school and discovered that the child was missing. Has the Assistant Minister investigated the relevant personalities in the school, from the watchman to the teacher on duty and head teacher, to find out why they did not immediately report the disappearance of this minor?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the information we have is that the student was given some assignments to do during the holidays and he never did them. When the school was opened, he was told to go home and bring his parents. I think that is why he is hiding. But as at now---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ojode, you cannot use disappearance and hiding at the same time.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, let me say that he is disappearing. The reason why maybe this young boy is disappearing is because he was sent home to go and bring his parents to school. Of course, to date, he has not shown up. We are still tracing him through Safaricom and will definitely get where he is.

Mr. Lessonet: Mr. Temporary Deputy Speaker, Sir, this case was reported to the police on 14th October and today is 1st December. I was just wondering, in the performance contract of our DCIOs, PPOs and police officers, how long should it take them to investigate and resolve such a matter?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, with the use of the Safaricom equipment, I am sure that we will trace where this young boy is. I would beg my colleagues to let the police try to trace him through the Safaricom equipment.

Mr. Lessonet: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister, definitely, has not even attempted to respond to my question. I have not asked him anything about the equipment that he is referring to. I have asked him: Under normal circumstances, in the performance contracting of his police officers, how long does it take to resolve such a matter? My question has nothing to do with the equipment.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, ordinarily, it is not quite proper for us to give the timeframe, because this is somebody who disappeared. So, we are using the Safaricom equipment to trace the boy and we are getting very good leads. If they continue with the investigations, the boy might be traced maybe next week or today. But we have very good leads which we are using.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, we must thank God that this phone is still communicating, at least, as far as the Assistant Minister is concerned. If that is case, that phone calls some people. How many people, who have been communicating with this boy, as of now, have recorded statements?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, Safaricom gave us information that they can only trace the phone when it is being used. I am not sure, but it might be difficult for them to know whom they have called. We have not reached there yet, but the information we have from Safaricom is that the phone is still operational. But sooner or later, I know for sure that once we get the whereabouts of this young boy, I will even report to this House that we have now succeeded to get him.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, hon. Karua! We are short of time today!

Ms. Karua: Mr. Temporary Deputy Speaker, Sir, from the Assistant Minister's answers, it may be very well that they only started investigations when this Question was asked. Could he detail the specific actions that the police have taken; how many people they have interviewed within the school and what actions beyond the school they have taken to try and trace this minor and alleviate the suffering of the parents?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the police have so far done a commendable job. This is because they started with the school. We got all this information that I am giving here from the principal of the school. A watchman had already recorded a statement and some of his colleagues have also been interviewed. So,

let us wait for the outcome of the police and Safaricom investigations. Sooner or later, we will definitely know where the minor is.

ORAL ANSWERS TO QUESTIONS

Question No.1273

NON-REPAIR OF MOTOR VEHICLES ASSIGNED TO MAKUENI DC

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

(a) whether he is aware that motor vehicle Reg. Nos.GKA756 and Z298, which are assigned to the Makueni District Commissioner for security operations and other matters like relief food distribution in the constituency, have been grounded since 2009 due to lack of repairs;

(b) why the Ministry has not allocated funds for repair of the motor vehicles; and,

(c) when the motor vehicles will be repaired.

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

(a) Yes, I am aware. Due to the exorbitant price of the repairs *vis-à-vis* budgetary constraints the repairs have not been carried out.

(b) It is not true that the Ministry has not allocated any funds for the repair of motor vehicles. During the last financial year, each district was allocated a total of Kshs352,112 for repair of motor vehicles. It is also important to note that whenever there is an allocation of relief food, there is normally an Authority to Incur Expenditure (AIE) to facilitate transport. The District Commissioner is at liberty to utilize the funds for repair of vehicles or hire vehicles to facilitate the transportation of relief food.

(c) The question of repair of motor vehicles assigned to District Commissioners is a decision which is made by the officer himself. I am, however, aware that due to financial constraints the District Commissioners have not been given adequate funds to carryout repair of motor vehicles under their custody.

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, while I appreciate what the Assistant Minister has said, I beg to seek further information from him. He has said that Kshs351,112 was allocated to each District Commissioner. I had asked a specific question as to how much money has been allocated for the repair of these two lorries which had been assigned to the District Commissioner (DC), Makueni.

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, only one of the two lorries belongs to the Provincial Administration. The other lorry belongs to the Ministry of State for Special Programmes. Our lorry requires a total amount of Kshs523,000 for repairs only and the one for the Ministry of State for Special Programmes requires Kshs620,000. We had asked the DC to do a letter to us if he does not have enough funds for repairs. Otherwise, the Ministry of Public Works has given us an estimate of Kshs523,000 for repairs only. If the DC does not have enough money apart from the Kshs351,000, he is at liberty to write a letter to us requesting for the additional funds.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, the vehicles at the district level assist to sort out many crucial issues especially in areas where there are IDPs. In my district, a vehicle was taken to the garage on the instructions of the Provincial Commissioner---

The Temporary Deputy Speaker (Mr. Imanyara): Order, Mr. Kigen! That question does not arise from the answer that the Assistant Minister has given. The question you are asking is totally different from the Question that was asked by the Member for Makueni.

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, I have not asked the question up to now.

The Temporary Deputy Speaker (Mr. Imanyara): Go on!

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, if such a vehicle is already grounded, why is the Assistant Minister not expediting the issue to ensure that it is back on the road to enable the district to carry out its functions?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, the Member did not listen to me. Whenever there is supply of any relief food, we normally accompany that relief with an AIE, namely, Authority to Incur Expenditure, to the DC. The DC also has the capacity to outsource transportation if he does not have a lorry. So, it is the DC who should outsource transportation services if he does not have a lorry because we have given him money through the AIE.

Mr. Kiilu: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has not been serious in answering this Question. I have three DCs in Makueni who handle famine relief food and they are given Kshs100,000 each per month. The Assistant Minister has confirmed that this vehicle needs slightly over Kshs500,000 to repair. Is the DC allowed to utilize this Kshs100,000 to repair the vehicle when it is grossly inadequate?

Mr. Ojode: Mr. Temporary Deputy Speaker, Sir, I mentioned that we had all the districts in Kenya allocated Kshs351,000 each for vehicle repairs. I have also said that if the Kshs351,000 is not enough as the Member has alleged, then the DC should write to us requesting that we top up what is required and we will give that money.

Question No.1175

NON -ISSUANCE OF TITLE DEEDS
TO RESIDENTS OF SHAVIRINGA

The Temporary Deputy Speaker (Mr. Imanyara): Member for Vihiga, my understanding is that you and the Minister have agreed that the answer that was provided was insufficient and that he will answer this Question next Wednesday. Is that the situation?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, we have agreed, but I just wanted to say that the Question came before the House one month ago and was directed to the Ministry of Lands and then it was referred to the Ministry of Forestry and Wildlife.

The Temporary Deputy Speaker (Mr. Imanyara): I understand that.

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I would like the Minister to consult when he goes back. I have given him a copy of the HANSARD on the ruling of the Speaker that there must be adequate consultation before he brings the answer, so that

he does not come and say that the Question should be directed to the Ministry of Lands or any other Ministry.

The Temporary Deputy Speaker (Mr. Imanyara): Order! Indeed, the Minister approached the Chair and indicated that those are the concerns he too had. He wants to make extensive consultations and he will be ready with a comprehensive answer on Wednesday next week. So, the Question will be deferred until Wednesday next week.

(Question deferred)

Question No.1190

STATUS OF KESSP-FUNDED PROJECTS IN SAMBURU EAST

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Letimalo! Is the Member out of the country on any parliamentary business? Does anybody know? The Question is dropped!

(Question dropped)

Question No.1235

NUMBER OF DEATHS DUE TO FAMINE SINCE 2009

Mr. Ochieng' asked the Minister of State for Special Programmes:-

(a) how many people have died in each district in the country due to famine since 2009;

(b) what the food deficit in the country has been since 2009; and

(c) what measures she will take to ensure that residents of Nyakach Constituency, who are adversely affected by the prolonged drought, are provided with sufficient relief food.

The Assistant Minister, Ministry of State for Provincial Administration (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, I am told that the Minister consulted the Questioner---

The Temporary Deputy Speaker (Mr. Imanyara): Yes, I recall now. She did approach the Chair. I do remember that and we agreed that this Question should be answered on Wednesday next week. Mr. Ochieng, is that the position?

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, that is the position.

The Temporary Deputy Speaker (Mr. Imanyara): So, the Question is deferred to next Wednesday.

(Question deferred)

Question No.1244

IMPLEMENTATION STATUS OF VISION 2030 MID-TERM PLAN PROJECTS

Mr. Mbau asked the Minister for Trade:-

(a) whether he could state the implementation status of the mid-term plan projects under the auspices of Vision 2030 that are spearheaded by the Ministry;

(b) when the construction of Maragua Wholesale Market will commence considering that the wholesale and retail sector has been identified as a critical component for growth and job creation under the Vision 2030; and,

(c) what other measures the Government is taking to ensure that the objectives and programme of Vision 2030 are achieved.

The Minister for Trade (Mr. Mwakwere): Mr. Temporary Deputy Speaker, Sir, I am replying with the assumption that the Question was referring to the medium-term plan and not the mid-term plan because we have no mid-term plans for the Vision 2030, but we have medium-term plans which started in 2008 and will run up to 2012.

(a) The Ministry of Trade is tasked to spearhead and implement the following three flagship projects:-

(i) The creation of at least, ten hubs and 1,000 to 1,500 producer business groups with a pilot project in Maragua to be extended to other regions later.

(ii) The building of at least ten tier one markets with a pilot project in Athi River and the construction of wholesale and retailer hawkers markets in selected urban areas.

(iii) The establishment of special economic zones in Lamu, Kisumu and Mombasa.

The implementation status of these projects is as follows:-

(i) For Maragua, land measuring 20 acres has been provided by the Maragua Town Council for the construction of the pilot wholesale hub and other 50 acres identified in Athi River for the development of the pilot tier one retail market.

(ii) The Ministry has development concept papers on wholesale hubs and tier one retail markets.

(iii) Land for the development of the three flagship special economic zones, namely, Mombasa, Lamu and Kisumu, has been surveyed and profiled by the Ministry of Lands for eventual securing.

(iv) Some 1,085 producer business groups have been formed.

(v) A Cabinet memo on the establishment of special economic zones was prepared and approved by the Cabinet in late 2009.

(vi) The special economic zone policy is ready for forwarding to the Cabinet and is now awaiting counter-signature in the Ministry of Finance and Office of Deputy Prime Minister. The draft was forwarded to the Minister last year.

(vii) The Special Economic Zones Bill was developed and forwarded to the office of the Attorney-General in April this year.

(b) The construction of Maragua Wholesale Market will commence during the 2012/2013 Financial Year once the land transfer is finalised.

(c) The Government has taken appropriate measures for the achievement of Vision 2030; the Vision continues to receive support from the highest level within Government, while the institutional framework for the implementation of Vision 2030 projects is continuously strengthened. In particular, the National Economic and Social

Council continues to play its leading role in guiding Vision 2030 programmes while the Vision 2030 delivery board and secretariat have been established and continue to coordinate implementation of Vision 2030 projects.

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, I thank the Minister for that answer and confirm to him that, indeed, my inquiry was in respect of the mid-term projects covering the period between 2008 and 2012. My desire was for the Minister to inform the country the progress that is being made in pursuit of the agenda of Vision 2030, which has been broken into five year terms. So, I thank the Minister for the answer and, specifically, for stating that Maragua Wholesale Market project is on course; what was outstanding was the acquisition of land. I appreciate that the Minister now knows that land has been made available. I know that the Town Council has liaised with the Ministry to finalise transfer of the land. Can the Minister, therefore, confirm that, accordingly, the Ministry will start mobilising farmers' producer groups, so that when the project eventually commences, farmers producer groups will also be ready to supply produce to the wholesale market?

Mr. Mwakwere: Mr. Temporary Deputy Speaker, Sir, I would like to confirm that, that is something which is going to be done. In fact, we have started sensitizing farmers but it should be appreciated here that the Ministry of Trade is not the only implementing agent in this case. We are working together with the Ministry of Agriculture, the Ministry of Transport and the Ministry of Local Government, and with all other implementing agents. We want to work out a modality for sensitizing not only the Maragua people and the surrounding counties but also other areas where hubs will be developed.

The Temporary Deputy Speaker (Mr. Imanyara): Last question, Mr. Mbau.

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, I only want to thank the Minister for confirming that the budgeted provision will be made available in the 2012/2013 Financial Year.

The Temporary Deputy Speaker (Mr. Imanyara): Next Order!

Hon. Members, before I find out if there are any requests, how many Statements are due for delivery by Ministers? May I get communication from the Ministers as to how many Ministerial Statements are to be given? Dr. Onyonka was also to give a Ministerial Statement on behalf of the Ministry of Foreign Affairs. I will pick the requests and then come to Mr. Ojode, who will be followed by Dr. Onyonka.

POINTS OF ORDER

NON-PAYMENT OF TERMINAL DUES TO FORMER AFRICAN SAFARI CLUB EMPLOYEES

Mr. Yakub: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to request for a Ministerial Statement from the Minister for Labour. The African Safari Club, a company registered in Kenya, was giving---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Let me give you some directions, Mr. Yakubu. Since you have the request in writing, just point out that it is in relation to the African Safari Club Limited and hand over the document. We do not have

much time. Indicate what subject it relates to and then table it for the Minister to take it up. When he answers, he will go through the entire request.

Mr. Yakub: Mr. Temporary Deputy Speaker, Sir, my request is to the Minister for Labour. It is on an ongoing issue in a company in the name of African Safari Club. I need the Minister to comment on the 14 days notice, where members of staff have not been paid so far. I also want the Minister to confirm the amount outstanding, which is Kshs295,080,614.84.

I would also like to inform the Minister that three members of staff who had been camping there, have died. Their names are the late Pwani Juma, the late Tom Otieno and the late Isaac Oyanda, whose body is still at the Coast Provincial General Hospital Mortuary.

I table my written Ministerial Statement request.

(Mr. Yakub laid the document on the Table)

The Temporary Deputy Speaker (Mr. Imanyara): Deputy Leader of Government Business, when will the Minister for Labour give that Ministerial Statement?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, we can have the answer by Thursday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): It is so ordered!

Yes, Mr. Hassan.

MEASURES TO AVERT STRIKE BY
NAIROBI *MATATU* OPERATORS

Mr. Hassan: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Minister for Transport on the impending *matatu* strike in Nairobi.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Hassan, I understand that you put in a Question yesterday. That is the one we asked you to---

Mr. Hassan: Mr. Temporary Deputy Speaker, Sir, I did what you said because---

The Temporary Deputy Speaker (Mr. Imanyara): You may seek the Ministerial Statement from the Minister. As I said, you should just summarise what it is about and give the written copy to the Minister, so that you do not read out a long statement. We have run out of Question Time.

Mr. Hassan: Mr. Temporary Deputy Speaker, Sir, I will do so but it has several dimensions. I would like to find out if the Minister is aware of the impending Nairobi *matatu* operators strike. In his Statement, I would like him to address the issue of the new bus stop in Muthurwa, which is impassable, and which is causing enormous damage to *matatu* vehicles and seriously inconveniencing commuters, who use that particular station.

I also want to know whether the Minister is aware of the daily harassment of the *matatu* operators by the police and Nairobi City Council *askaris*, and the serious corrupt activities by the police and the Nairobi City Council *askaris*. He should also explain why the Government has not implemented the memorandum of understanding (MoU) that it signed with the *Matatu* Owners Association (MOA) on 13th January, 2010.

Finally, I would like to know from the Minister what steps he is taking to avert the strike, which is likely to paralyse transport in the city.

*(Mr. Onyonka consulted with
Members of the Front Bench)*

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Mr. Onyonka, I have had occasion to caution, and I will not caution you again.

Mr. Hassan: Mr. Temporary Deputy Speaker, Sir, I would like to ask the Minister what measures he is taking in order to avert the *matatu* operators strike, which is likely to paralyse public transport in the city, and which is likely to cause serious economic damage and human suffering.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, some of the matters contained in the request relate to the Nairobi Metropolitan Authority. Some of them relate to the police, while others relate to the police and the Ministry of Local Government. I will need to co-ordinate all those offices. Therefore, we will have the Ministerial Statement by Thursday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): So, the Ministerial Statement will come from you, after you have consulted the other Ministers?

The Minister for Transport (Mr. Kimunya): That is right, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): It is so ordered.

Yes, Mr. Ochieng.

Mr. Ochieng: On a point of order, Mr. Temporary Deputy Speaker, Sir. I requested for a Ministerial Statement from the Deputy Prime Minister and Minister for Finance 21 days ago. So far, the Ministerial Statement has not been delivered.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ochieng, in what respect was the Ministerial Statement request?

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, it was in respect of the borrowing that we were doing in order to tame inflation.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, we can deliver the Ministerial Statement on Tuesday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ochieng, are you happy with that undertaking?

Mr. Ochieng: It is okay, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Very well.

Yes, Mr. Mwadeghu!

SALE OF NEW CHANGAMWE HOUSING ESTATE

Mr. Mwadeghu: Mr. Temporary Deputy Speaker, Sir, I would like to request for a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on the sale of New Changamwe Housing Estate by the Municipal Council of Mombasa to Local Authorities Pension Trust Fund. In his Statement, the Minister should state:-

(i) Why did the Municipal Council of Mombasa not collect the debt from Kenya Railways to pay off the workers pension instead of reverting to the sale of the estate?

(ii) To clarify why the Treasury could not pay the old debt to the council for it to offset the pension liability considering that the Treasury is equally indebted *in lieu* of rates to the council.

(iii) Explain why Treasury failed to release the funds it had undertaken to pay to the council on behalf of the KPLC, which should not have been used by the council to pay the pension liability.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Yes, Mr. Minister!

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, as you know, I have noticed that we already have very many Statements scheduled for next week. I would like to request that this one is made next Tuesday but one.

The Temporary Deputy Speaker (Mr. Imanyara): Is that okay, Mr. Mwadeghu?

Mr. Mwadeghu: Mr. Temporary Deputy Speaker, Sir, I am not comfortable with that, given the fact that this matter is very serious and the transaction is at an advanced stage.

The Temporary Deputy Speaker (Mr. Imanyara): Yes. We also have many Statements that have been requested for next week. There is no point of saying; “deliver it next week,” and then there is no time for it to be delivered. So, are you not better off when you are reasonably certain that your statement will be read?

Mr. Mwadeghu: Mr. Temporary Deputy Speaker, Sir, can they try to give it on Thursday, next week?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, the Statement will be issued two weeks from today!

Yes, Mr. ole Lankas!

HAPHAZARD\SELECTIVE TRANSFERS
AT NAROK COUNTY COUNCIL

Mr. ole Lankas: Thank you, Mr. Temporary Deputy Speaker, Sir. Last week on the same day, I sought a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government on the ongoing haphazard selective transfers that have rocked Narok County Council. It was ruled that it will come up today and the Minister was here a while ago.

The Temporary Deputy Speaker (Mr. Imanyara): The Clerks-at-the-Table, was that due today? Can you confirm?

(The Clerk-at-the-Table consulted the Chair)

It is not due today according to the schedule here, Mr. ole Lankas!

Mr. Minister, when can you deliver it?

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, on Tuesday, next week.

The Temporary Deputy Speaker (Mr. Imanyara): The Statement will be made on Tuesday, next week, Mr. ole Lankas! Are there any more requests?

Yes, Mr. Mungatana!

QUARTERLY BUDGET REVIEW

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, mine is not a request but a follow-up. There are two Statements; one from the Treasury on Quarterly Budget Review. I do not know whether it is ready and if it is not, maybe the Minister can tell us when it will be ready.

The Temporary Deputy Speaker (Mr. Imanyara): I have to request that all those requests now be done on Tuesday, next week because we have run far out of time. Any further requests that were due today should be done on Tuesday because there is a lot of Business to be covered this afternoon.

Mr. Mungatana: So, we expect them on Tuesday?

The Temporary Deputy Speaker (Mr. Imanyara): You are right! That will be done on Tuesday, next week.

Mr. Mungatana: Thank you, Mr. Temporary Deputy Speaker, Sir.

(Mr. Baiya stood up in his place)

I am sorry, Mr. Baiya. Was it a request?

Mr. Baiya: Mr. Temporary Deputy Speaker, Sir, mine was a reminder. I hope honourable---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ojode is delivering your Statement?

Mr. Baiya: Yes!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): I know about it!

Mr. Temporary Deputy Speaker, Sir, I have three Statements to make and I do not know what to do because we are running short of time!

The Temporary Deputy Speaker (Mr. Imanyara): What is the length of those Statements?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, two of them are quite lengthy.

The Temporary Deputy Speaker (Mr. Imanyara): What are the subjects of the Statements?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, the first one which I want to deliver was sought by Mrs. Shebesh on the shooting of two people in Kawangware.

The Temporary Deputy Speaker (Mr. Imanyara): What about the second one?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): The second one was sought by Mr. Eugene Wamalwa but I do not see him here.

The Temporary Deputy Speaker (Mr. Imanyara): That one you do not deliver! Just put it aside! What about the third one?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): The other one, which is on the way coming, belongs to hon. Mwau, which I can defer to next week.

The Temporary Deputy Speaker (Mr. Imanyara): If he is not here, it is clear! He is not in the House. So, deliver the Statement sought by Mrs. Shebesh!

MINISTERIAL STATEMENTS

SHOOTING OF IBRAHIM ONDEGO AND JOSEPH NYABERI IN KAWANGWARE

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, on Thursday, 24th November, 2011, Mrs. Shebesh rose on a point of order and sought a Ministerial Statement on the shooting of Ibrahim Ondego and Joseph Nyaberi. She wanted to confirm whether a car belonging to the Criminal Investigations Department (CID) was seen at the crime scene and whether the officers were trying to interfere with the scene. Lastly, she requested that I explain the action taken to apprehend the culprits and compensate the bereaved family.

Mr. Temporary Deputy Speaker, Sir, on 23rd November, 2011, at about 0345 hours, two police officers, namely PC Simon Kikwai, Personal Number 65073 and PC Ndolo Musili, Personal Number 76855 from Muthangari Police Station were on patrol within Kawangware area when they allegedly heard screams of a person. They reversed towards the direction of the screams and on the way, they met two men who were coming from the opposite direction. They shot at the two, killing them instantly.

After the shooting, a large crowd gathered at the scene and allegations started emerging that the two deceased persons were on their way to Gikomba Open Air Market to buy groceries. The allegations that the officers tried to interfere with the scene are being investigated.

Further, there was no CID vehicle at the scene at the time say for the Crime Scene Support Services (CSSS) vehicle, which visited the scene after the incident. The CSSS officers processed the scene and the bodies were taken to the mortuary for postmortem. After preliminary investigations by the PCIO, Nairobi Area, the two police officers were arrested on 23rd November, 2011, and arraigned in the High Court on the same day, charged with the offence of murder vide Criminal Case No.144/185/2011, High Court Criminal Case No.91/2011. Therefore, providing more details of this case would be *sub judice* as the case is before the court as we speak.

Thank you, Mr. Temporary Deputy Speaker, Sir.

Mrs. Shebesh: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank the Assistant Minister for his answer but more importantly, for the quick response and for the admittance, for once, that its own officers did kill innocent Kenyans in cold blood. I do understand that the issue is in court but behind that family were other family members who were affected. Can the Assistant Minister tell us, as the case continues to go on, how they plan to compensate the family that has been left behind by this heinous crime committed by police officers?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, the issue of compensation is left with the court, because the court has to decide how much needs to be compensated. On compensation, maybe, we have to wait until the determination of this particular case.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Imanyara): Is it a request?

Dr. Khalwale: It is on the same issue, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): I am sorry! Please, proceed!

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Maybe the Assistant Minister can use this opportunity---

*(Mr. Mbiuki and Ms. Mbarire stood up
in their places and consulted loudly)*

The Temporary Deputy Speaker (Mr. Imanyara): Just a moment, Dr. Khalwale! Hon. Kareke Mbiuki and the Member for Runyenjes---

You may continue, Dr. Khalwale!

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Maybe the Assistant Minister can use this opportunity to, first and foremost, apologise to the family and while waiting for the court to decide on compensation, give a donation from the Government as condolences because one of the so-called “two men” was a 14-year-old boy!

The Temporary Deputy Speaker (Mr. Imanyara): Order, Dr. Khalwale! The matter is actively before court. You may seek clarifications that are not, in any way, seen to interfere with the trial that is taking place. So, please, you can ask clarifications, but be alive to the fact that the matter is in court.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Because the matter is alive in court, I want to join the Assistant Minister in supporting him that he should not give any compensation until the matter is decided. However, can he consider giving a donation as a way of the State sending condolence to the family which lost a father and a boy of 14-years-old?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, if we get any request from the family members, as human beings, yes, we will do something for his burial. But as of now---

The Temporary Deputy Speaker (Mr. Imanyara): Do you need a family that is grieving and mourning to make the request? Do you really need to wait for a request to be made?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, sometimes, the family gives priorities to what they want the Government to do for them. If we get any request on what they want us to do, I can consider that.

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am an elected Member of Parliament who represents the people of Ikolomani and, under the Standing Orders, all the people of Kenya. I now make an official and formal request on

the Floor of this House that this family be given a donation of Kshs500,000 to help them defray---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Except that that is not a point of order.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, there are so many cases of this nature happening in the country. In the light that we have a new Constitution which has put a lot of responsibility on the part of security officers, could the Assistant Minister tell us, even as we wait for the comprehensive police reforms, what he is doing, at the moment, to educate police officers to realize that we are in a new constitutional dispensation where they have to respect the citizens of this country?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Temporary Deputy Speaker, Sir, you realize that even before the new Constitution came in, the police were not supposed to kill people. We are doing the reforms. We asked this House to give us some money in order for us to fast track the reform process. We are yet to get that money. In the meantime, the reforms are going on and some of these atrocities will be a thing of the past.

Ms. Shebesh: Mr. Temporary Deputy Speaker, Sir, I just want to thank the Assistant Minister and the Ministry for quickly responding to this issue. As we wait for the court order, I want to reiterate what Dr. Khalwale has said. Please, consider giving a donation as the State because it is the responsibility of the State to take care of its own citizens. After all, they were killed by a police officer.

SAFETY OF KENYANS IN SUDAN

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, Mr. Joseph Gitari, the MP for Kirinyaga Central had sought a Ministerial Statement from the Ministry of Foreign Affairs as to the safety of Kenyans who are in Sudan following the issuance of the warrant of arrest against the Sudanese President hon. Omar Al-Bashir by the High Court in Nairobi on 28th November, 2011.

Mr. Temporary Deputy Speaker, Sir, I wish to inform the House that there are about 1,400 Kenyans working in Khartoum. Some of them are students. In fact, the exact number is 1,200 are working whereas 300 are students in various colleges and universities in Khartoum. Most of them also do work for international organizations. The rest of them are enrolled in local universities. The embassy has contacted most of them and informed them that it will remain open for business as usual. The channels of communication remain open for the Kenyans to contact the embassy on a 24 hourly basis in case there is any problem.

Mr. Temporary Deputy Speaker, Sir, the other question that my colleague has asked is what measures the Government of Kenya is putting in place to guarantee that Kenyans living and working in Sudan are safe. I think I have already explained that.

He also wanted us to clarify the Government's position concerning agreements such as the current Doha Initiative and bilateral and regional relations in view of the court order. The truth is that Kenya and Northern Sudan have enjoyed excellent bilateral relations over the years. Kenya has tried very hard to work very closely with the Government of Sudan in resolving the civil war in South Sudan, formulating the

comprehensive peace agreement and seeking to resolve some of their standing issues which have existed before the referendum and post referendum in Sudan.

Mr. Temporary Deputy Speaker, Sir, His Excellency President Kibaki has, currently, as I speak to you, dispatched hon. Minister Moses Wetangula to Khartoum to go and have a meeting with President Bashir, so that we can then try and figure out how to resolve this issue which has become a problem to our two Governments.

Thank you.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I see the Government going into great lengths to please the government of Northern Sudan even after our court system has helped the Executive do what they could not do last year. The question I would like to ask the Assistant Minister is: What is this obsession with Northern Sudan even when our court has determined and directed what should be done? Is there any benefit that this country is receiving from the north, maybe from oil that you would like to tell us? We want to be sure and probably share with you this obsession because the Executive cannot commit Kenya as a country to some kind of arrangement that we are not aware of? What is this that the Government of Kenya is receiving from the President of Sudan which makes us be so indebted to him that we have to quickly dispatch our Minister for Foreign Affairs as if our lives start and end with Northern Sudan?

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Assistant Minister, just take notes and then you respond to all of them at the same time.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, it is obviously a good effort to keep diplomatic relations warm with all countries, not only in Africa, but in the whole world. Could the Assistant Minister tell us whether the Government is, therefore, saying that the court orders that are executed by our judicial system do not hold any water when it comes to diplomatic States? Is this a precedent being set that we will never listen to our courts? Does it mean that our courts are not superior in terms of the final word on issues that deal with international protocols with regard to our country?

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell us whether the Government is trying to promote the culture of impunity taking into account that the President of Northern Sudan has been known to be ordering the killings of so many people down there in Dafur? Are we not sympathizing with the people who have been killed and their families?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, as we request for this clarification six sons of Kenya are today facing justice at the International Criminal Court. Could the Assistant Minister clarify whether in the process of going to talk to Bashir, hon. Wetangula will prevail upon Bashir to realize that what the High Court did was in accordance with the Constitution of Kenya and because our own sons are facing that justice we have no responsibility of protecting him?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, I think the issues that my colleagues have raised in the House are quite weighty. I hope they will be patient enough with me to try and make clarifications.

It is important that we look at the issue of Sudan *vis-a-viz* the ICC statute, *vis-a-viz* the court ruling in Nairobi. First of all, our regional issues are actually peculiar. The reason why these issues are peculiar is because the Rome Statute states very clearly that it is critical when we are trying to interpret this statute to make sure that we understand that

sometimes when the stability or the peace and security of a region is at stake, then there may be a necessity for certain issues to be dealt with differently.

This is why it is critical that when we look at the issue of Sudan, we look at the issue of regional stability. Sudan is a country that is a critical player and a stakeholder within the Horn of Africa. The Kenya Government has deliberately made sure that we have engaged Sudan on matters which have been critical. Pertaining to South Sudan, we know that there are outstanding issues which need to be sorted out in terms of agreeing on the border disparities and the issue of Abbey. Also, South Sudan, even after it has become an independent State, we must act as an independent broker by making sure that we talk to both sides. We want to avail the necessary information, so that we are able to be seen by these two countries with this very fragile negotiated settlement, as an arbiter who provides the necessary position which will make both sides to agree peacefully.

Lastly, the Ministry of Foreign Affairs and, indeed, the Kenya Government have taken the position saying that we are not dismissing the court ruling, all we are saying is that we are going to allow due process to take place so that if the ruling has come out, it is important that this ruling should actually have taken place not in a vacuum but understanding all the issues which are outstanding internationally---

The Assistant Minister, Ministry of State for Defence (Mr. Musila): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Your colleague wants to inform you. Do you want the information?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Yes, it is alright.

The Assistant Minister, Ministry of State for Defence (Mr. Musila): Mr. Temporary Deputy Speaker, Sir, I thank my colleague for allowing me to inform him. In fact, the issue of hon. Bashir is plain and simple; all he needs to do is keep out of our country and he will not be arrested!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, according to me, that information is actually obvious. My colleague Mr. Musila, it is true that hon. Bashir needs to stay out of our country but what we are dealing with is the fact that we have a Head of State and somebody has gone to court and sought an interpretation of whether---

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to mislead this House that hon. Bashir, I mean Mr. Bashir - whether he is honourable or not, I do not know - should keep away from our country yet the same Government has sent a Minister to go and assure him and even invite him to come to our country to prove that he cannot be arrested? Is that contradiction deliberate or you are trying to mislead the House?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, the comment that Mr. Musila made as far as I am concerned, I believe was his personal opinion. The Kenya Government's position is that, Al-Bashir is an elected President of an African country, legitimately, who is a Head of State and who enjoys certain immunities and privileges. Even when he has been indicted at the ICC, he has not been convicted and, therefore, we must look at his conviction at the ICC as a matter which has not been resolved.

Secondly, I would like to state this; the ICC statute makes an obvious recommendation that we need to arrest Al-Bashir if he comes to this country, but it is the

ICC which has the responsibility of arresting him and taking him to The Hague, if they feel that they have that responsibility.

The Temporary Deputy Speaker (Mr. Imanyara): Assistant Minister, even as you seek to explain the statute of the International Criminal Justice, you must not mislead the House. There is an obligation under that Statute for States to comply with the orders issued by that court. Indeed, that is why the President of the Republic of South Africa and the President of the Republic of Uganda have indicated that they will comply with such requests. What the hon. Members are asking of you is; does your Government intend to comply with the order of the High Court of Kenya? That is what they are asking you.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, the South African and Ugandan positions as far as the Kenya Government is concerned, are positions which these countries have taken disregarding the position that the African Union and Inter-Governmental Authority on Development (IGAD) have taken.

Secondly, I want to make it very clear; what we are saying is not that Al-Bashir cannot be arrested if he comes to Kenya. We are saying that he is not here. So as far as we are concerned, there was even no need for us to have the ruling coming from the court. He is not here!

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House when we know two things very well; one, the hon. Bashir was in this country and he was shielded. We also know that his Minister is on record as having said that they are going to the Court of Appeal. Is he in order to mislead the House?

The Temporary Deputy Speaker (Mr. Imanyara): Assistant Minister, I think you should take this a bit more seriously. In your own Statement, you have said that as you speak before this House, the Minister for Foreign Affairs is in Khartoum in order to do something in relation to this warrant of arrest. So, please, do not say that he is not here and that is why you are not complying. You have in your own Statement indicated that the President of this Republic has dispatched his own Minister for Foreign Affairs to the Republic of Northern Sudan in connection with this same matter in respect of which you are issuing a Ministerial Statement.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, I take your wise word seriously. However, I will tell you that we have appealed to the matter. It has not conclusively been decided by the court as to whether that decision is legitimate or not.

The Temporary Deputy Speaker (Mr. Imanyara): That is legitimate; the right of appeal is. That is what you need to inform the House about.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Temporary Deputy Speaker, Sir.

The second point that I want to make is that there are certain critical issues that have to be interpreted by the courts all the way to the Supreme Court if need be. These issues are; does a Head of State---

The Temporary Deputy Speaker (Mr. Imanyara): Order! You have appealed; you leave the matter to the courts!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Much obliged!

The Temporary Deputy Speaker (Mr. Imanyara): The Deputy Prime Minister and Minister for Finance, you had indicated to the Chair that before we reach Order No.8 you would raise certain issues. What were those issues?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Yes, indeed, Mr. Temporary Deputy Speaker, Sir. However, I also had a Statement.

The Temporary Deputy Speaker (Mr. Imanyara): Then you can deliver your Statement.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I rise to request

GOVERNMENT'S INTENTION TO INVEST
IN PRINTING OF KENYAN CURRENCY

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, on the 10th of November the Member for Ikolomani, Dr. Bonnie Khalwale, sought a Ministerial Statement from the Prime Minister of Kenya in respect of the Government intentions to invest in the venture of printing of the Kenyan currency. In particular he sought clarification on the following:-

- (a) Who is the current printer of Kenyan currency?
- (b) What is the difference between:-
 - (i) Thomas De La Rue AG
 - (ii) De La Rue Kenya Limited
 - (iii) De La Rue Currency and Security Print Limited; and
 - (iv) Thomas De La Rue Kenya Limited?
- (c) Who is the leasee of LR.No.78784 in Nairobi?
- (d) Who is the vendor who is entering into a joint venture agreement with the Permanent Secretary, Treasury, on behalf of the Government of Kenya?
- (e) What is the value of assets that the Kenya Government is paying 5 million UK Pounds which is equivalent to Kshs700 million as 40 per cent equity in the venture?

Mr. Temporary Deputy Speaker, Sir, I wish to respond to the hon. Member's request on behalf of the Rt. Hon. Prime Minister by stating as follows:-

(a) With regard to who is the current printer of the Kenyan currency, Kenyan currency is currently printed by De La Rue Currency and Security Print Limited, located at the Ruaraka Plant.

(b) According to information available to the Ministry, De La Rue PLC of the United Kingdom (UK) is a company incorporated in England and Wales. It is a public company listed on the London Stock Exchange. Thomas De La Rue AG is a company incorporated in Switzerland and is a wholly owned subsidiary of De La Rue PLC of the UK.

De La Rue Currency and Security Print Limited is a company incorporated in Kenya in 1992 by De La Rue PLC of the UK to operate currency and security printing business in Kenya.

Following the restructuring of the De La Rue group, De La Rue Currency and Security Print Limited is now 100 per cent owned subsidiary of Thomas De La Rue AG which is in turn 100 per cent owned subsidiary of the De La Rue PLC of the UK.

Thomas De La Rue (Kenya) is a company incorporated in Kenya and was the initial company in which the operating of De La Rue Currency and Print Limited were to

be hived into. However, another company De La Rue (Kenya) EPZ Limited was incorporated by De La Rue PLC of UK as a transferee of the hived assets of De La Rue Currency and Print Limited.

De La Rue (Kenya) EPZ Limited is a company incorporated by De La Rue PLC of UK to take over the hived operating assets of De La Rue Currency and Print Limited. This is the company in which the Government of Kenya would acquire a 40 per cent stake.

Who is the leasee of LR.No.78784 in Nairobi?

The land is owned by the Central Bank of Kenya and leased to De La Rue Currency and Security Print Limited. This is the land situated at Ruaraka Nairobi on which the Currency and Security Print Factory is located. The lease is one of the assets that will be hived out to De La Rue (Kenya), EPZ Limited. However, the land will continue to be owned by the Central Bank.

Who is the vendor who is entering into joint venture with the Permanent Secretary, Treasury, on behalf of the Government of Kenya? The vendor is Thomas De La Rue AG, which company owns 100 per cent ordinary shares of De La Rue Currency and Security Print Limited. What is the value of assets that the Government of Kenya is paying? This is 5 million UK Pounds, equivalent to Kshs700 million as 40 per cent equity in the venture.

(Loud consultations)

I lost a part of my question.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Michuki, you are not allowing the Deputy Prime Minister and Minister for Finance to finish. You are destructing him.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, according to the valuation done by Tysons Limited, the professional firm engaged to value the assets, the open market value of the assets as at 31st March, 2011 was Kshs2,220,522,800. I wish to inform hon. Members that De La Rue is one of the leading printers of currency worldwide. The organization, therefore, has the capacity to print any currency according to specific technical specifications agreed with its customers. From a Government's perspective, although profitability is an important consideration in investment decisions, the decision by the Government to invest in a currency printing business was a strategic decision based on the need for a country to be in control of the printing of its currency.

As indicated when I appeared before this House on 2nd November, 2011, many countries have joint ventures with printing firms to secure sustainable currency printing services. Examples where De La Rue has joint ventures with other countries in bank note production includes amongst others, De La Rue, Sri Lanka, Valora in Portugal, there is a Nigerian Security Printing and Minting PLC, Orell Fussli Security Print Limited in Switzerland and Portals in the United Kingdom.

The Government, therefore, regards this as a strategic investment. Currency is an important medium of exchange and has major implications on the performance of the economy. In fact, internationally, currency printing and management is exclusively the responsibility of the Government. In most countries, the printing is 100 per cent owned

by the Government as it is the case with the United States of America and Australia amongst others.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Before I seek a clarification, allow me to lay on the Table a lease agreement signed on 15th June, 1992 for this particular contract between the Central Bank of Kenya, on behalf of the Government and De La Rue Limited. What this lease agreement proves is that the Deputy Prime Minister and Minister for Finance is misleading us by telling us that the local company, De La Rue Currency and Security Print Limited has got that lease. The import of this—

The Temporary Deputy Speaker (Mr. Imanyara): Sorry! You accused the Deputy Prime Minister and Minister for Finance of misleading the House. I just wanted to hear what he said.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, he told us that the lease is not between De La Rue Limited and the Central Bank of Kenya but it is between De La Rue Currency and Security Print Limited. There is a big difference. The first clarification I want is that the answer given by the Deputy Prime Minister and Minister for Finance is a deliberate effort to create a deal berserk in our brains so that we do not see what he is doing. Could he table the directorship of all these companies and show the shareholding so that when he alleges that one company has 100 per cent shareholding or it is a subsidiary, it is proved by a document? That is the first clarification.

The second clarification is---

The Temporary Deputy Speaker (Mr. Imanyara): Ask three.

Dr. Khalwale: Yes, Mr. Temporary Deputy Speaker. The second clarification is that the Government is buying phantom shares. The company that owns the shares is called “De La Rue Currency and Security Limited”. However, the agreement that the Government has entered into is not with this company but with a company called “Thomas De La Rue AG”, which by the way is registered in Switzerland. In fact, it was registered on Ruud De Moor 11 CH/1700 Switzerland.

This company has no relationship with the securities company. I am saying it. Why the House should allow me to deliberate this before I say the second point is that there is a history of this contract. This contract was first envisaged by the KANU Government. However, when the NARC Government took over in 2003, hon. Mwiraria discarded that agreement and floated an international tender which was won by De La Rue at USD51 million. As soon as hon. Mwiraria left office, hon. Kimunya, who was his successor, discarded the tender that had been won by De La Rue at US\$51 million and reintroduced the old one which, by the way, was more expensive at US\$130 million. De La Rue, to get that tender, ended up paying a deposit of US\$25 million. Up to now, we do not know whether the US\$25 million has been refunded. If it has been refunded, I am asking that the Deputy Prime Minister and Minister for Finance clarifies in which account the refund was made.

The Minister for Transport (Mr. Kimunya): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Member for Ikolomani in order to mislead this House that the first contract was cancelled by hon. Mwiraria and a new contract purportedly entered into and that a US\$25 million that was paid as a deposit for a new contract, entered under my instigation, is not known where it went? He should know, clearly, as the head of the Public Accounts Committee that the US\$25 million he is talking about was a deposit on

the US\$51 million contract and not on the US\$130 million he is talking about and that the US\$25 million was towards the purchase of money. As the Public Accounts Committee Chairman, he should have been looking at this information as part of the review of the audited accounts of the Central Bank of Kenya, unless, of course, he does not know what he does in the Public Accounts Committee.

Dr. Khalwale: Thank you, Mr. Temporary Deputy Speaker, Sir. Hon. Kimunya, I thank you for that reiteration. You have simply reiterated what I said, that the US\$25 million was simply a deposit of the US\$51 million that Thomas De La Rue won when they went for the international tender.

He is also right in saying that I should have audited those accounts. However, my frustration is this; when I attempted to interrogate the accounts of the Central Bank of Kenya, through a letter written by the Clerk of the National Assembly that a special audit be done on this thing, I got a letter of rejection that Parliament had no power to audit Central Bank of Kenya, and the Minister knows it. I tabled that letter here. So, I am frustrated in the sense that many years from now, I might be accused of having connived with these people while I was the Chairman of the Public Accounts Committee. I am laying it on the Table and he will do us a great deal if he went and told the Cabinet to allow Parliament to interrogate the Central Bank of Kenya.

Mr. Temporary Deputy Speaker, Sir, the final clarification I would like to get from hon. Uhuru is on the issue of investment. The Kenya Government to get 40 per cent, this would translate to a value of 8,697 UK Pounds.

Mr. Temporary Deputy Speaker, Sir, in attempting to purchase 40 per cent of the value, the Kenya Government is supposed to pay 5,000 UK Pounds. However, the value of this company is 8,697,000 UK Pounds. Now, 40 per cent of this would be 3,478,800. So, the difference between the 5,000 UK Pounds and the actual 40 per cent on the calculated value of the company is money which is over and above, which is going to people who only God knows. In the absence of God, probably, the Minister would do well to tell us who is pocketing this money.

The Temporary Deputy Speaker (Mr. Imanyara): Very well, clarifications, Mr. Mbadi. Minister, just note and then you will respond to all of them together.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I have two quick clarifications to make---

The Temporary Deputy Speaker (Mr. Imanyara): One!

Mr. Mbadi: Then, I am struggling to choose which one.

Mr. Temporary Deputy Speaker, Sir, the Minister has told us that the Government is intending to invest in 40 per cent equity interest in the venture; that is, De La Rue Kenya Currency and Print Security Limited. I am aware it will only print currency for this country alone. All the countries in the region which used to have their currency printed here by this company, have already discontinued and have already engaged other ventures. So, could he table before this Parliament the feasibility study carried out by the Government of Kenya to determine viability of this venture? Could he also indicate to us whether there will be an approval sought from Parliament before the Government finally invests our money in this venture?

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, this issue had been here just about a month ago in another form. Could the Minister reiterate his commitments which he gave to this House that before this deal goes on, he will bring for scrutiny the

negotiations between this shadowy company and the Government of Kenya, so that this Parliament can be satisfied? Also, could he be kind enough to tell us this afternoon, how much more would cost the Government, if these notes were printed outside the country? Also tell us whether De La Rue company which we are so busy trying to invest in, could actually print third generation notes, which are tamper proof, which the Government has been trying to do for so many years?

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, mine is more basic. The last time the Minister spoke on this issue here, he indicated that, after promulgation of the new Constitution no new money was being printed. He indicated that the contract with De La Rue had not been completed. I would like him to confirm that there are no new notes being printed. As far as I know, when you go to the bank, you get new currency freshly minted still with a portrait. That is not what the Constitution clearly indicates. Could he tell us why we still get new bank notes? Who is printing them? How is that happening when he says the contract has not been signed?

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, there is the question that was asked with regard to the lease agreement. I believe I did say that there is lease to De La Rue Currency and Security Print Limited. Earlier I said that this is the company that was incorporated in Kenya in 1992 by De La Rue PLC of the United Kingdom to operate currency and security printing business in Kenya. I went on to say that following the restructuring of the De La Rue Group, the De La Rue Currency and Security Print Limited is now 100 per cent owned subsidiary of Thomas De La Rue AG, which in turn is owned by De La Rue PLC of the United Kingdom.

As to who actually signed the lease--- I have seen the lease. I want to see if there is any issue pertaining to any irregularities as the hon. Member claims. I do not believe so, because it is also signed by the PLC themselves, maybe, when they were initially starting the company itself. However, I am more than willing to look into it to see if there is any deviation. But I did say that all the assets, including the lease are to be transferred to the entity that has been hived off by Thomas De La Rue, which is the entity that the Government will be entering into partnership with or shareholding of 40 per cent. That is the entity that is now being referred to as De La Rue Kenya EPZ Limited.

I said more importantly that the land is still owned by the Central Bank of Kenya.

With regard to the Directors, I do not have a list of the Directors of the various names. I can try and make that available to this House. But I do not have that information on me.

With regard to the valuation, again, I have said that the valuation was done by Tysons Limited. That is a professional firm. They were engaged to value the assets at the open market. I said that those assets as at 31st of March, 2011 were valued at Kshs2,220,520,800. It is 40 per cent of that, that the Government was going to acquire at a value approximately 5 million UK Pounds, approximately Kshs700 million.

Mr. Temporary Deputy Speaker, Sir, with regard to the feasibility study, that, indeed, is a different question; there was no query here about the feasibility study. But again, if the hon. Member wishes to acquaint himself with the study that has been done, he can either put that Question, or indeed, I can make that available to the Public Accounts Committee (PAC) or any other Committee that seeks to utilize it.

With regard to new notes being printed, I think I made it clear in my previous statement that there are, indeed, no new notes being printed. However, we do have what is called stocks. Stocks are being utilized until such time that we have a new currency.

Mr. Temporary Deputy Speaker, Sir, with regard to various other allegations made, I am not in a position to answer that. They are serious allegations. I believe if, indeed, the hon. Member has any evidence, then it should be taken to the appropriate authorities to be able to deal with them. I do not have any information that would make me accept the kind of very serious allegations that have been made on the Floor of this House. That information is not available to me. Indeed, if that information is available, I believe it should be made available to the necessary investigative authorities who would fall under hon. Ojode.

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

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

Dr. Khalwale: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to stand by what the Minister terms as very serious allegations. My point of order is: Since the Minister has said that he would like to be given time to bring to us the names of the directors and their shares and also a comment on the authenticity of the copy of the lease agreement, can I request if you will give him time to do so?

The Temporary Deputy Speaker (Mr. Imanyara): He wants to return them to the Public Accounts Committee (PAC). He said that he would provide them to the PAC.

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, may I just conclude my statement? Could he at the same time come with a valuation certificate, showing the value of this company that we are buying from? Finally, so that I am not seen to be witch-hunting, this matter is so serious that it has just arrived in court. It arrived in court. It is a matter between the State and Charles Kioko Muthusi, the petitioner, while the respondents are the Central Bank of Kenya (CBK), the Permanent Secretary, Treasury, Government of Kenya, the hon. Attorney-General, Thomas De La Rue Ag., Thomas De La Rue Kenya Limited, De La Rue currency and Security Limited and other interested parties. This is Petition No.191 of 2011.

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Khalwale, when you say the matter has just arrived in court, are you saying it was filed today?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, on this matter, I chose my English very carefully. It came up after the matter was put before the House.

The Temporary Deputy Speaker (Mr. Imanyara): When was it filed?

Dr. Khalwale: Mr. Temporary Deputy Speaker, Sir, let me see the stamp. Yes, the stamp is of last month but the date is not very clear.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): On a point of order, Mr. Temporary Deputy Speaker, Sir. I also thank you for your clarification. What I told the hon. Member - I think I mentioned it last time as well - was that the issues revolving around this matter are so vast. We have been on the Floor on the same issues severally. I mentioned to him then, and I repeat it today--- I have already stated that I am more than happy to address myself to his committee, and provide it with any information that we may have on the particular matter.

Mr. Temporary Deputy Speaker, Sir, lastly, he has just also brought to the attention of the House the fact that this is a matter before court; it is, therefore, *sub judice*

and I am wondering whether--- If, indeed, it is *sub judice* I would like your guidance as to how to treat it, or go forward.

The Temporary Deputy Speaker (Mr. Imanyara): You have dealt with the issues that hon. Khalwale raised; so, I need not address myself to that issue, but there was a point of order by hon. Mbadi.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. As the Minister attempts to provide the documents to the PAC, I would request that he considers also making available the feasibility study, which I asked for.

The Temporary Deputy Speaker (Mr. Imanyara): Let me put it this way. The Minister has offered to appear before the PAC. Therefore, let the process begin and let the summons indicate exactly what you require of the Minister and then that can be dealt with there; you can then table your report in the House. Mr. Kenyatta, can you address the second aspect? I want to move to Order No.8 and I want to hear you on the issue that you wanted to raise.

POINT OF ORDER

DEFERMENT OF COMMITTEE OF THE WHOLE HOUSE ON THE FINANCE BILL

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Mr. Temporary Deputy Speaker, Sir, I rise to make a request with respect to Order No.8 on the Order Paper today. I seek your indulgence and that of the House if this matter could be deferred. The reason for the request for deferment is that as you can see on the Order Paper, there are numerous amendments, or proposed amendments, some of them even new clauses to be inserted into the Finance Bill. Some of these amendments have far reaching consequences not just on matters pertaining to finance but also those that touch on other Ministries. That being the case, there is need for us to be able to go through these amendments in more detail as well as be able to engage with the various hon. Members who have proposed these amendments, so that we ensure that we will be able to handle these in a manner that will not be disruptive to the normal course of doing business in our own economy. With those brief remarks, I kindly request that this matter be deferred until such time that I will be able to go back to the House Business Committee (HBC) for it to be put back on the Order Paper.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I am a little bit concerned that the Minister is saying that there are issues that touch on Ministries, and also new clauses in the Finance Bill. I am one of those who have a raft of amendments to the Finance Bill, some of which are very urgent. As you know, as we go around this city today, there is no paraffin and petrol. Kenyans are suffering. One of those amendments targets the hoarding of essential commodities required by Kenyans. The other one is about regulating the interest rates that the banks are using to fleece Kenyans, and it is very important. I want to say that it is good to engage the Minister. I am willing to engage him. I was with him today alongside bankers. Something has to be done urgently. I want to plead with the Minister to let us deal with this economy using legislative channels; unless we do that, our people will never forgive us. Thank you.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, indeed, this is a matter that requires consideration in view of the fact that it touches on a number of important issues as the Joint Chief Whip says. The Speaker will be communicating on this issue on Wednesday next week; so, the order will be deferred to Tuesday. In the meantime, of course, if the Minister and those who have proposed amendments wish to engage in urgent discussions, they will be fully entitled to do so, but the Speaker will be giving clarifications on those matters on Wednesday next week.

Hon. Members, therefore, Order No. 8 will be deferred to Wednesday next week.

(Order No.8 deferred)

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I will, therefore, kindly request that we deal with the Finance Bill a week from Tuesday next week, because I am not going to be around and it will not help---

The Temporary Deputy Speaker (Mr. Imanyara): Given that you have been engaging the Minister since this morning, those are matters you can engage him and the Clerk of the National Assembly on, so that they can be brought to the attention of the Speaker as soon as he gets back to the country.

Yes, Mr. Kimunya.

MINISTERIAL STATEMENT

BUSINESS FOR THE WEEK COMMENCING
6TH DECEMBER, 2011

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I wish to take this opportunity to make the following statement with regard to business for the week pursuant to provisions of Standing Order No.36(4).

Mr. Temporary Deputy Speaker, Sir, next week, we expect the House to deliberate on the following Bills that are currently at the Second Reading Stage. These include the Alcoholic Drinks Control (Amendment) Bill, Bill No.19 of 2011, the Ratification of Treaties Bill, Bill No.28 of 2011, the Consumer Protection Bill, Bill No.50 of 2011, the Labour Institutions (Amendment) Bill, Bill no.19 of 2011.

Mr. Temporary Deputy Speaker, Sir, the following Bills will also be considered at the Committee of the Whole House Stage: the Cancer Prevention Bill, Bill No.47 of 2011, the Public Procurement and Disposal (Amendment) Bill, Bill No.27 of 2011, the Malaria Bill, Bill No.8 of 2011, the Companies Bill, Bill No.23 of 2010. The House will also consider the following Motions. The Motion by hon. Maina Kamau to the Ministry of Higher Education, Science and Technology, urging the Government to ensure that at least 75 per cent of all qualifying students are admitted to the regular programmes in our public universities from the year 2011, the Motion by hon. Capt. Clement Wambugu to the Ministry of State for Planning, National Development and Vision 2030, urging the Government to establish a Men Enterprise Fund to increase the economic opportunities for and participation by vulnerable Kenyan men in nation building.

There is also a Motion by hon. Affey to the Ministry of State for Public Service urging the Government to disseminate information on employment vacancies available in

Government Ministries and departments, parastatals and other sectors, counties, locations, areas of worship and other areas easily accessible to the public and using all available media in order to accord all Kenyans equal opportunity to apply and compete for the positions.

Mr. Temporary Deputy Speaker, Sir, finally, the House Business Committee will be meeting next week on Tuesday 6th December, to consider other business for the rest of the week.

COMMUNICATIONS FROM THE CHAIR

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I have two Communications to make.

MEETING OF JUSTICE AND LEGAL AFFAIRS COMMITTEE TO RESOLVE OUTSTANDING ISSUES

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, the first Communication is with regard to the Committee on Justice and Legal Affairs.

Hon. Members will remember that yesterday I did point out or direct that the Committee meets. I am glad to say that arising from that direction, yesterday, the Committee being facilitated by the Clerk of the National Assembly, was able to meet from 6.00 p.m. and I understand that the meeting went on up to well beyond 10.00 p.m. last night. In attendance were:

Hon. Ababu Namwamba, MP,
Hon. Njoroge Baiya, M.P,
Hon. Abdikadir Mohamed, M.P,
Hon. George Omari Nyamweya, MP,
Hon. Olago Aluoch, MP,
Hon. Millie Odhiambo-Mabona, MP,
Hon. Isaac Ruto, M.P,
Hon. Eugene Wamalwa, M.P; and,
Hon. Sophia Abdi Noor, M.P.

The Committee did recognize the importance of the matters before it because they did review the pending work before it and observed that there were two main matters that had been referred to it as of yesterday. That includes the nominees on appointment of the Selection Committee for appointment of the Registrar of Political Parties (ten names) and the nominees of the Vetting of Judges and Magistrates Board, foreign components (two names). Of course, with the referral that I made this afternoon, they now have three important matters to deal with.

The Committee in their meeting last night, resolved to constitute a Sub-committee to consider the nominees to the above stated positions and report to the main Committee; and, further, that the following Members form the Sub-Committee:-

Hon. Olago Aluoch, M.P,
Hon. Abdikadir Mohamed, M.P,
Hon. Sophia Abdi Noor, M.P,
Hon. Isaac Ruto, M.P, and,

Hon. George Omari Nyamweya, M.P.

The Committee did resolve that advertisements relating to the above nominations be done by Friday 2nd December. I may now add that with the referral that I have made to that Committee with regard to the names of the Ethics and Anti-Corruption Commission, those advertisements too ought to be published latest by Sunday, so as to enable the Committee to consider them and report back to the House by 7th December, 2011.

The Committee noted that they also have other outstanding operational and legal challenges relating to leadership, composition *et cetera*, facing the Committee, and this required more time to be dealt with by the Committee. They resolved that they would have a two-day meeting to iron out any of the differences that are before them. They were confident that they would resolve any outstanding issues.

The Chair does wish to commend them and look forward to getting this report together with the other two by 7th December, 2011 as directed.

AUTHENTICITY OF DOCUMENTS/MATERIALS
LAID ON THE TABLE BY THE PRIME MINISTER

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, the second Communication relates to the documents and materials laid before the House yesterday by the Rt. hon. Prime Minister.

Hon. Members, you will recall that yesterday, 30th November, 2011, the Rt. Hon. Prime Minister, while answering a Question filed by hon. Danson Mungatana on the extent to which Kenyan politics is allegedly being funded by drug money, tabled two documents on the matter in question.

Hon. Mwau, rising on a point of order, informed the Chair that one of the documents tabled was the subject of a suit in Nairobi High Court Civil Case No.126 of 2011 and averred that the Question to the Prime Minister placed in the Order Paper yesterday was, in fact, *sub judice*.

Hon. Members, I did promise to look at that and I have perused the documents laid and find as follows.

The first document titled "*Report of Survey on Drugs and Substance Abuse in Coast Province, Kenya*" tabled by the Rt. Hon. Prime Minister and which, on perusal has an author and logo of the National Campaign Against Drugs Abuse (NACADA) authority, complete with its address and NACADA being a Government agency, and the document having been tabled on behalf of the Government, meets the threshold of papers that maybe laid in the House and is, therefore, admissible.

Hon. Members, the second document tabled by the Rt. Hon. Prime Minister is titled "*Termites at Work; a Report on Transnational Organized Crime and State Erosion in Kenya; comprehensive research findings.*" The document has the following words printed in all the pages: "Uncorrected proof." I want to emphasize that. This means that the document is not in its final stages and, indeed, the contents therein may change when the document is complete. The document has an author and the address is given as International Peace Institute 777 United Nations Plaza, New York. Even though on the face of it, the document would seem to meet the conditions for admissibility and/or the authenticity of documents tabled in the House, as the Chair has previously ruled, the printed words "*Uncorrected proof,*" make the document incomplete. The words amount

to an unequivocal disclaimer, the essence of which is that the document should not be relied on in its present form. From the foregoing, I find the document, whatever maybe its source, value or use outside this House, inadmissible and order that it be returned to the Rt. Hon. Prime Minister.

As to the matter raised by hon. Harun Mwau, as to whether or not the Question filed by hon. Danson Mungatana is *sub judice* within the meaning of Standing Order Nos.43 (10) and 80, I wish to make it clear that the Question itself, in so far as it is general in nature, does not refer to any individual or matter pending in court. Therefore, it is not *sub judice*. However, the claim for *sub judice* would have been meritorious in reference to the document titled "Termites at Work, a report on transnational organized crime and state erosion in Kenya; comprehensive research findings," laid by the Rt. hon. Prime Minister in so far as it purports to be a report that is a subjected matter of the court. However, considering that I have ruled that the document is inadmissible, then the issue of *sub judice* does not arise.

Hon. Members, arising from the foregoing, Members will be allowed when the Question next appears on the Order Paper, to ask supplementary questions on the answer given to the original Question, so long as it relates to the speech given by the Rt. Hon. Prime Minister and as long as that speech is properly before the House. Hon. Members should bear in mind the provisions of Standing Order No.79(4) which *inter alia* states:-

"No Member shall impute improper motive to any other Member except upon a specific substantive Motion of which at least three days notice has been given, calling in question the conduct of that Member."

Hon. Members, to that extent, the reference by the Prime Minister to two sitting Members in breach of that Standing Order was erroneous and that reference in the HANSARD will be expunged.

Thank you.

BILLS

Second Reading

THE KENYA DEPOSIT INSURANCE BILL

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

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

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Madam Temporary Deputy Speaker, I beg to move that The Kenya Deposit Insurance Bill (2011) be now read a Second Time.

Madam Temporary Deputy Speaker, the Deposit Protection Fund Board was established in 1985 as a body corporate under the Banking Act, Cap.488, Laws of Kenya. Following the banking crisis of 1983/1984, the Act created a fund for the purpose of levying contributions from member institutions and to hold, manage and apply the Fund

as mandated by the Banking Act. The purpose of the establishment of the Board and formation of the Fund was to create confidence in the banking industry by offering deposit insurance for institutions and customers, particularly small and vulnerable depositors.

In 1999, the Board commenced operations and the Central Bank made available such facilities and services for the proper and efficient exercise of the functions of the Board as provided for by the Banking Act. Therefore, administrative services for the Board have continued to be provided by the CBK. The mandate of the Deposit Protection Fund Board (DPFB) is summarized under the following core objectives:-

(a) To provide a viable deposit insurance scheme for customers or member institutions.

(b) To liquidate and wind up operations of any insolvent institution in which the DPFB is appointed liquidator.

(c) To prudently hold, manage and apply funds and levy contributions for the Fund for member institutions.

Madam Temporary Deputy Speaker, the Deposit Protection Fund (DPF) is managed by a Board with the Governor of the Central Bank as the Chairman. As I have mentioned, the CBK currently provides personnel who manage the operations of the DPFB. The DPFB, therefore, operates administratively as a department of the CBK. This arrangement compromises the independence of the Board in carrying out its activities and operations, thereby exhibiting operational and legislative weaknesses. As such, the present arrangement is not aligned to international standards for a deposit insurance scheme.

The current mandate of the DPFB is limited in scope and, hence, does not give the Board the latitude to intervene effectively and promptly in problem bound resolution process as is currently undertaken in other jurisdictions whose deposit insurance schemes are aligned to international best practice. It is against this background that the CBK appointed a taskforce in March, 2006, to examine the legislation currently in place, governing the DPFB operations to assist in the preparation of a draft Bill that will ensure an effective legal framework, provide for autonomy, enhance corporate governance and expand the mandate of the DPFB.

The main objectives of the Kenya Deposit Insurance Bill, 2011, are as follows:-

The Bill intends to align the deposit insurance policy and operations to international best practices in order to attain efficiency and effectiveness in discharging its mandate. As mentioned earlier, the DPFB is currently established as a statutory body under the Banking Act, Cap.488 and operates as a department of the CBK. This is pursuant to the current legal framework which mandates the CBK to make available to the Board such facilities and services or such officers as are necessary for the functioning of the Board. The Bill establishes the Kenya Deposit Insurance Corporation as an independent body and grants it mandate, powers and obligations that will enable it to operate effectively within the current and emerging challenges in the financial sector. The Corporation will be a body corporate with perpetual succession, common seal, with the power to sue and be sued and enter into contracts. The corporation shall set its own operational budgets and procedures that shall finance any reimbursements.

With regard to enhancing corporate governance, this Bill provides for the independent Board of the corporation that comprises the Permanent Secretary, Treasury,

the Governor of the CBK and not more than five members with specific qualifications. The Bill provides for a non-executive Chairman and the Chief Executive Officer shall be an ex-officio member of the Board. The Board of Directors is mandated to ensure that the corporation is managed and run to achieve its objectives and to ensure effective and efficient internal controls and risk management policies. The DPFB is currently not involved in problem resolution of member institutions. The DPFB is engaged when an institution is completely insolvent and the CBK appoints the DPFB as a liquidator. The DPFB pays the protected deposits, liquidates and winds up the collapsed institutions. The DPFB's role is, therefore, limited to a pay box system.

The Bill, therefore, proposes to enhance the Board's role from that of a pay box to a safety net player that will be involved in problem bank resolutions, in close consultations with the CBK and the Ministry of Finance. The Bill contains provisions for prompt corrective action to resolve any problems in an institution which places interest of its deposit or the banking sector at risk. Prompt corrective action shall, however, be taken in consultation with the CBK. The corporation will, therefore, take a more active role in financial stability. The Bill empowers the Board to make rules, regulations, guidelines as may be necessary, to expedite in relation to the administration, management, control, business, assets and affairs of the corporation and for carrying out and achieving the objectives and purposes of the Bill as enacted. The rules, regulations and guidelines will ensure the corporation keeps abreast with the dynamics of the financial sector to enhance financial stability and to create public confidence in the banking sector. The rules, regulations and guidelines will, therefore, ensure that the corporation effectively plays its role as a safety net player to maintain a stable and efficient deposit insurance system to support the financial system.

Allow me to give the following highlights on parts of the Bills. Part I provides for the preliminary matters focusing on the short title, commencement and interpretation of the terms used in the Bill. Part II provides for the establishment, powers and functions of the Kenya Deposit Insurance Corporation. Part III contains financial provisions in respect of the corporation. Part IV establishes the Deposit Insurance Fund, vests the Fund with the corporation. The Fund shall consist, among others, of monies contributed by institutions licensed under the Banking Act, the deposit taking micro-finance institutions licensed under the Micro Finance Act of 2006 and interest or penalties levied in respect of such contributions and income that may accrue to the Fund from its investments. Part V provides for an examination of institutions. Clause 40 empowers, for example, the Corporation to request the CBK to undertake an inspection of a member institution and to avail the information so often to the Corporation while Clause 41 provides for a special examination of a member institution by the Corporation in exigent circumstances.

Part VI provides for the receivership, liquidation and winding up of member institutions while Part VII provides for offences under the Act. Part VIII contains miscellaneous provisions relating to acquisition, preservation and disposal of assets, co-operation with other law enforcement agencies, exemption from tax, exemption from levy, an attachment, issuance of regulations, repeal of relevant sections under the Banking Act which touch on the DPFB and the transitional arrangements. The transitional arrangements relate to amongst other things the vesting of assets and liabilities of the DPFB in the Corporation and vesting of the assets of the institutions in liquidation in the Corporation as well as the secondment of current staff working under

the DPF to the Corporation. The Schedule contains revisions as to the conduct of business and affairs of the Board of the Corporation.

With these few remarks, I beg to move and request hon. Kimunya to second the Bill.

The Minister for Transport (Mr. Kimunya): Thank you, Madam Temporary Deputy Speaker. I rise to second this Kenya Deposit Insurance Bill which comes in as part of the major reforms that have been taking place within the financial sector. I am happy to see that the journey that this reform began in March, 2006, when I was at the Treasury is almost coming to an end in terms of the amendments that are required to ensure that all depositors are properly protected within the law in the unlikely event that the bank should go under. We had a lot of those examples in the 1990s when the banks would just collapse and the maximum that people would be compensated for was Kshs100, 000. This obviously took ages and with the bureaucracies involved, even accessing this money was a problem. Some of the people who lost their money are still struggling to see if they can get their money or not. By capturing all these things, putting them into a legal framework and giving independence to the Deposits Insurance Corporation, at least, things can be expedited and part of the bureaucracy will be cut off.

Madam Temporary Deputy Speaker, as we celebrate these reforms, Kenyans need to be patting themselves on the back. The world has just gone through a huge process; it started in 2008 with the collapse of some of the biggest banks that were termed “reputable”. They failed and some of them had to be bailed out expensively by the governments in the USA, the UK and elsewhere in Europe. Some countries ended up bankrupting their own economies; examples were in Iceland and Ireland. Those countries are still reeling from the effects of the banking failures that took place. In Kenya, we did not witness any of the banks failing despite the global recession. This shows that the reforms that have been put in place, especially from 2003, certainly under the Kibaki administration, have been working.

Madam Temporary Deputy Speaker, Sir, part of the reasons for the failure of banks was political interference. We saw monies from public bodies such as the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF) transiting through some of these banks. The money would be withdrawn and given out as loans or cash handouts to politically connected people; of course, these people were not expected to pay back the money. The long and short of it is that when you default in payment, the bank will collapse with all the money that the depositors have put in it. I must say that we must be happy that because this is not happening under the Kibaki administration, banks and public money have been saved. The best way of capturing these things in the future is looking at the best practices and anchoring them in the law.

This is what I want to see happening; we should capture some of these things in the law, so that their existence is not based on the good behaviour of the Government of the day; they should be something in respect of which there is a law to protect things like deposits and ensure that everybody does the same thing consistently.

Madam Temporary Deputy Speaker, Sir, the other thing that I want to mention is that, given the political turmoil that has been going on within the banking sector, the fact that most of the banks are still holding on is a credit to the Kenyan people. Even when they take loans, they honour their obligations. It is something that our people forget. They fear going to the banks to take loans because of what happened in the past, when they

saw people's properties being auctioned. By and large, Kenyan people are very creditworthy. I would like to encourage them, since this kind of insurance is coming into being. I hope that at some point in time, we will increase the amount of funds that will be covered beyond the Kshs100,000, so that we can encourage the culture of saving.

More importantly, savings in a bank cannot grow the economy. I encourage people to borrow money, so that we can develop this economy, and because we know that people will continue meeting their obligations. We see this happening not just at the banks. Even at the very basic levels, within the Savings and Credit Co-operative Societies (SACCOS), people save little amounts of money, which are lent out to others. Even without providing security, people pay up their obligations, and the economy can grow.

Madam Temporary Deputy Speaker, it is because of those little savings and borrowings that you see civil servants at relatively low levels owning buildings like Harambee Plaza. These are multibillion investments. This gives an indication of the potential that we have in this country in terms of mobilisation of savings and people borrowing. All they really need is the faith that comes with legal reforms in areas like the banking sector. We are creating this deposits insurance scheme within the law, but outside the Central Bank of Kenya, so that the sector can have its own way of doing things. It can intervene when some of the financial organisations get into problems. It should not just be looked at as a pathologist who comes in after the event and says: "Things are bad. We want to sell you and pay all the people." It will come in to help in terms of holding the hands of these organisations as they grow.

Madam Temporary Deputy Speaker, this is a straightforward matter. I am obviously very happy to see it come into fruition. It is a journey which started a long time ago. It is something that people have been expecting. I hope that the House will give this Bill maximum support, so that we can pass it and start the implementation process of the resultant law to give our people the protection they need for their deposits and, by implication, increase the confidence levels within our financial sector.

With those words, I beg to second.

(Question proposed)

Mr. Mututho: Madam Temporary Deputy Speaker, I rise to support the Bill.

Supporting the Bill brings to mind some of those dark memories of the 1980s and as recently as the 1990s, when depositors lost huge chunks of their money in banks that went under. I must say that I was one such victim. In one of those banks which went under, I lost Kshs21 million, only to be told that I was entitled to be paid only Kshs100,000. It does not matter now. It happened. The way forward is the route we have taken, so that all deposits are properly protected through a viable insurance scheme.

I would urge the Minister, at this juncture, to look at other possibilities too like covering our own Retirement Benefits Authority (RBA), the NHIF and the NSSF, so that instead of the Government spending hours and days negotiating with the World Bank and other international institutions or other countries, it can also borrow from our local institutions because the Government of Kenya will always be there. It may be the form of Government that we have today or other future governments; the truth is that the Government of Kenya will always be there. After incorporating this insurance scheme with deposits held by the RBA, the Government will not need to go overseas to borrow

money. The Government will be able to implement development projects very fast for the good of the Kenyan people.

Madam Temporary Deputy Speaker, caution would, however, be on the cost of this insurance. It is also good to do an economic evaluation to see whether when we insure the deposits, in the long run, it will be an open valve for the erosion of the value of the said funds. So, I would persuade the Minister to look into minimizing the risk in licensing such deposit collectors; he should also look at new ones, particularly the ones that are coming in now. The M-PESA facility and others are likely to hold huge amounts of money. Insuring those kinds of deposits becomes a challenge. The reason as to why I am saying this is that, if you look at the amount of money held by SACCOS, for instance, and look at the management of those SACCOS, you realise the exposure of the depositors.

Madam Temporary Deputy Speaker, this Bill is long overdue. It should be supported. However, we need its fine-tuning, and we propose to undertake it during the Committee Stage, so that it does not become an impediment to good deposits management and discourage possible investors in our institutions.

In conclusion, Madam Temporary Deputy Speaker, I want us to also look at the possibilities of empowering this new body to look and tie this insurance scheme with other very established insurances around the world that can be able to absorb huge losses in case and if it did happen. It can happen. Even the very best banks can land into the kind of problems that we saw the other day with one of the biggest and oldest newspapers in the world because of a very ridiculous kind of event where they were tapping people's phones and then they had to wind up overnight. Assume a similar thing happens – not necessarily the same – that one of the major depositors or banks happens to have such a problem. Say, for instance, the new crimes coming through like crimes to do with drug trafficking and the rest of it, and that bank happens to be the principal shareholder. Such an avalanche of funds and the problems that come and follow that particular issue would need urgent attention because some of these deposits might be meant, say for instance, to tackle agricultural challenges, which need prompt time.

Madam Temporary Deputy Speaker, I support this whole heartedly and look to the Third Reading and the Committee Stage, when some of these fine-tunings can be done and when the Minister will have a chance to interest more hon. Members to understand the importance and intricacies of the new proposed law.

Madam Temporary Deputy Speaker, I beg to support.

Mr. Njuguna: Thank you, Madam Temporary Deputy Speaker, for the opportunity to very briefly contribute to this very important Bill. Let me start by thanking the Deputy Prime Minister and Minister for Finance for this very timely Bill. It is importance to recognize the good work that the Ministry of Finance and the Central Bank of Kenya are playing in the area of trying to tame the current inflation facing our country. It is important also to recognize the good work that Mr. Michael Waweru at the Kenya Revenue Authority (KRA) is doing by making extra effort to realise the required targets.

Madam Temporary Deputy Speaker, the new law will go a long way in ensuring that investors in this country will never lose their resources and investments. We recall vividly when the pyramid schemes siphoned a lot of money from innocent Kenyans. Many families were affected as a result of the pyramid schemes. We witnessed some

family members committing suicide, churches were defrauded of their money and even credit societies were also affected by these schemes.

Therefore, this law will regulate and bring the adequate discipline in the sector. We cannot also forget the Rural-Urban Credit Bank and the Pioneer Building Society, which went under with a lot of resources from investors. With proper laws in place, the economy of this country is bound to expand. With the current investment climate and proper money management in the country, we have seen the banking industry expanding. Banks that were almost crumbling or going under like the National Bank of Kenya (NBK) and the Kenya Commercial Bank (KCB) have started to realise benefits now and also expand in the country and even in the neighbouring regions. We have seen KCB starting new branches in South Sudan and even in Uganda. This is very healthy for the economy of our country.

Madam Temporary Deputy Speaker, this law will also guarantee the security of assets of depositors. This will attract local investors to invest more. It will also attract foreign investors to this country, thereby creating the necessary job opportunities for our youth in this country. Job creation for the youth of this country has been a major concern and this insurance law will go a long way in expanding the economy of our country.

Micro-finance institutions have been mushrooming in this country and have also benefitted many families and even young graduates. Therefore, this law, again, will regulate these small micro-finance institutions and even encourage our graduates to start the same and start employing the other youth in this country. This is a law that has been under consideration for the last 47 years and will bring total revolution in this country. Therefore, this law is timely and is long overdue.

Madam Temporary Deputy Speaker, with those few remarks, I fully support the passage of this law.

Thank you, Madam Temporary Deputy Speaker.

Mr. Namwamba: Madam Temporary Deputy Speaker, very briefly, I want to support this Bill. Let me also add my voice in applauding the Deputy Prime Minister and Minister for Finance and the Treasury for making every effort humanely possible to steer the economy of this country in the right direction in a very difficult global context. The economy of this country, especially in the last two or three years, has had to weather many storms. Of course, we are not an island and we have, certainly, been affected by the global economic meltdown, and yet we remain an economic force in this region.

I just came back from Bujumbura yesterday, where the nations of East Africa had been gathered for the annual summit and you get a sense that despite our challenges; despite the challenges bedeviling this country, Kenya remains the economic hub in this region and that if anything goes wrong with the economy of this country, it has a ripple or domino effect that spreads all across the region, to which we pretty much serve as the hub of the fulcrum.

Madam Temporary Deputy Speaker, I want to thank the Deputy Prime Minister and Minister for Finance and the Treasury, of course, including the Central Bank of Kenya and all the organs that go with the Treasury for making every effort to make sure that our economy remains on track.

Madam Temporary Deputy Speaker, this Bill is long overdue. Again, I do believe that by the Deputy Prime Minister and Minister for Finance bringing this Bill, it is part of the very drastic reforms we have witnessed at the Treasury in the recent past. One, of

course, is aware that for an economy to grow and remain stable, you need confidence; confidence of not only the biggest investor who may want to put his or her money in the economy, but also the smallest investor or the smallest player in the whole economic matrix who wants to be confident that if he or she puts his or her Kshs100 in any financial institution, that money is safe.

Because of the vagaries of the unknown, should anything happen, then I have comfort that my investment or my savings have a certain level of security assured in law.

Madam Temporary Deputy Speaker, I also support this Bill, appreciating and recognizing the serious challenges this country has experienced in the past where financial institutions ran into strong head winds and some even went under. Those who had put their hard earned money in these institutions were left high and dry.

So, I want to thank the Minister and I hope that when this Bill is enacted and actualized by this House, it will go a long way in helping to make the entire financial sector in this country better, more secure and will engender confidence in anybody who wants to put their money in circulation in this economy.

Madam Temporary Deputy Speaker, with those remarks, I support.

Mr. M'Mithiaru: Thank you, Madam Temporary Deputy Speaker.

I also stand up to support the Kenya Deposit Insurance Bill. As I speak, I am one person also who has great experience in the finance industry. Therefore, I know the importance of having such a Bill.

It can only just be reflected that such a deposit insurance fund will assist our banking system in ensuring stability and enhancing the confidence that the depositors have in their banking institutions and other financial institutions.

It may be recalled that before the current Deposit Protection Fund which currently is a department of the Central Bank of Kenya was established, if there was any management or receivership in a bank, it was domiciled at the office of the Attorney-General. That took a very long time. Sometimes the people handling it did not really know the intricacies of handling financial institutions. With the emergence of the Deposit Protection Fund at the Central Bank of Kenya, I think things have changed.

We know as of now, any person depositing money in a bank or financial institution and, for some reason it goes under, that person can get a maximum of Kshs100,000. That maximum was fixed in 1989 or 1987. I remember that time I used to be in the banking industry. It was that long time ago. Up to now, there has been no revision at all. I also do hope that now with the new Bill, it will actually give more incentives to depositors. If there is any refund for banks or financial institutions that may have gone under, then, at least, there must be some kind of a percentage of the deposit that one has in the banking institution rather than the fixed amount that we are seeing today whereby if I have Kshs20 million in my account and the bank goes under, I will get Kshs100,000. If somebody else had Kshs100,000 in their account, that person will get 100 per cent. So, I am sure within this law, the Minister can be empowered through the regulations to ensure that there are some revisions of such amount from time to time, taking into account also the level of our economy.

Madam Temporary Deputy Speaker, the good thing about this one also is that this Bill proposes that the Kenya Deposit Insurance Corporation will be autonomous. It will now no longer be a department of the Central Bank of Kenya. It will be a body corporate on its own and it will also now manage that insurance fund. That way, it will also relieve

the CBK so that the CBK will concentrate on its core mandate of the monetary policy of the land and also the general supervision of the banking industry.

Madam Temporary Deputy Speaker, as I support this Bill, there are also issues I would like to raise within our banking system. You will find that in our banking system they compete more on who will post huge amounts of profits at the end of the financial year, rather than competing for quality service. That is why you find that even today the banks are posting huge profits, but when you go just for a very small service you are charged a lot of money. For example, even to get a mere statement just printed over the counter some banks will charge as much as Kshs200. Yet, at the end of the year, they are posting huge amounts of money. So, we would also wish that our banking institutions should be partners in development to ensure that they do not really unnecessarily exploit their customers when it comes to offering services.

Currently, the CBK has raised the CBK lending rate to 16.5 per cent. The banks have also adjusted their base rates accordingly to 20 plus. The lending rates in some banks have now hit 30 per cent. If you follow those banks, you find that in their third quota profits they are again to post huge profits and yet, they are still exploiting the customers. I would also urge the banks to ensure that they really become partners in development, so that they do not exploit the same customers that they serve. If banks charge very high interest rates, then you find that most of the customers may not afford and then the default rate will increase. Now as it were, the bank which had the intention to get huge profits may even end up getting losses. When banks get losses year in, year out, then now it becomes a candidate of the deposit insurance fund. So, we hope that the banks will be reasonable enough to ensure that they treat their customers well by charging something reasonable, but not the high rates that we are seeing today.

With those remarks, I support.

Mr. Abdikadir: Thank you, Madam Temporary Deputy Speaker. I will be very brief. Let me also join my colleagues in congratulating the Ministry for the work they have done on the financial infrastructure and for modernizing that infrastructure.

This, indeed, is a major step in that modernization effort, especially with respect to insurance, the insurance industry and the regulation in the insurance industry which for a long time has been in the doldrums as indicated by the failures that insurance companies had before.

Indeed, it was the order of the day that insurance companies as a rule will ask their customers to carry stickers that say, "Do not accept liability". In many places it is illegal to even deny liability before liability has occurred. The whole idea of insuring is to ensure that you get indemnified upon an accident occurring. So, the need for modernization of this industry certainly cannot be gainsaid.

In terms of streamlining liquidation and insolvency in the insurance industry and indeed in the financial industry, if you look at the banking industry, some of the institutions that were liquidated, 30 years ago, the liquidation processes are still going on. The Deposit Protection Fund at the CBK essentially has become a provider for jobs for those people when you are supposed to have liquidated and wound up, so that you move forward with the process.

So, it is important that we modernize the liquidation and winding up process and professionalize it and ensure that the moral hazard of retaining that process for as long as

possible so that people can earn salaries and so that you maintain large bureaucracies is not handled.

Finally, when it comes to regulations and regulators, usually this House makes laws, giving powers to institutions, so that they can create rules and regulations within those institutions. However, most times, those rules and regulations are overstepped, so that the institutions essentially become mini-legislatures where they create rules whether prudential or otherwise, that mostly are meant for good, but are sometimes overstepped.

One of the issues, whether it is in the insurance industry or the banking industry, is the issue about independent directors. Whether a shareholder can be an independent director and why the traditional definition is that an independent director is one who is independent of management. These institutions have now decided to come up with the rule that an independent director is somebody who has absolutely nothing to do with the institution who has no shareholding, which really encroaches on the rights of shareholders if they are not in management. Therefore, we will, indeed, propose amendments to those particular rule-making processes, so that those rules are brought to this House and Parliament can look into them.

Having said that, this is really a major step forward, I congratulate the Ministry and I support.

The Temporary Deputy Speaker (Dr. Laboso): I now call upon the Minister to respond as there seems to be no more interest.

The Deputy Prime Minister and Minister for Finance (Mr. Kenyatta): Thank you Madam Temporary Deputy Speaker, and at this early opportunity let me thank all Members for their contributions. Those contributions, indeed, are useful. The objective of this Bill, as I have stated, is to further strengthen the financial sector and ensure that we reduce and minimize risk for all depositors in this country, especially the small depositors as has been stated.

This is a process of reform of our financial services and sector that we have started and we intend to continue until we ensure that this country becomes a financial services hub as has been mentioned by Mr. Namwamba, not just in the region but also in the continent of Africa. There are a lot of good suggestions that have been mentioned and, indeed, before we come to the Committee Stage, we will have a good opportunity, especially with the Finance, Planning and Trade Committee to go through and be able to incorporate some of the positive contributions that have been made so that by the time we come to the Committee Stage, we do have a fully comprehensive, inclusive Bill that will ensure that we perform the function and duties and responsibilities that we intend to take with regard to this particular Bill.

With those few remarks, I beg to move.

(Question put and agreed to)

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

The Temporary deputy Speaker (Dr. Laboso): Next order!

THE RATIFICATION OF TREATIES BILL

(Mrs. Odhiambo-Mabona on 29.11.2011)

((Resumption of Debate interrupted on 30.11.2011))

The Temporary Deputy Speaker (Dr. Laboso): Mrs. Milly Odhiambo-Mabona, you have 42 minutes left.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I will probably take way much less than that.

Madam Temporary Deputy Speaker, Sir, as I had indicated previously, the main reason for this Bill is to ensure that when laws are ratified, international laws are developed and ratified internationally and that when Kenya ratifies those treaties, Parliament as provided by law, has a say.

What this Bill seeks to do is to ensure that we are in conformity with the Constitution so that we do not have the Government or the Executive ratifying things that are contrary to the Constitution of this country or that are contrary to the laws of this country.

Madam Temporary Deputy Speaker, we have received a lot of contributions from different organizations, from different sectors and Government Ministries that are seeking to improve on this Bill which we will consider at the Committee Stage. I do not want to speak to all of them but I want to say that one of the suggested amendments is on the issue of domestication. Right now, what the Bill talks about is only ratification. It does not say what happens after ratifications. One of the things we are going to do is include the aspect of domesticating the Bill once it is passed through Parliament.

One of the things that the Bill also seeks to do is that it provides a schedule so that whenever the Executive seeks to ratify, then Parliament will indicate through that Bill that is passed, which areas of that international law we are seeking to ratify have been approved and which parts Parliament has not approved. The parts that have not been approved by the Parliament of Kenya, the Executive can put reservations if they are allowed under international law.

I think with those few remarks, I beg to move and call on Mr. Ababu Namwamba to second.

The Temporary Deputy Speaker (Dr. Laboso): Mr. Namwamba! I can see the Chief Whip is engaging you.

Mr. Namwamba: Madam Temporary Deputy Speaker, my apology. When the Chief Whip calls, you have to obey.

Madam Temporary Deputy Speaker, it is my pleasure to second this Bill. Let me start, of course, by congratulating my eminent attorney sister Milly Odhiambo-Mabona for bringing this Bill. This Bill is very much like her in terms of its progressive outlook, its reformist credentials and in terms of its every attempt to advance the letter and spirit of the new Constitution.

The Constitution of the Republic of Kenya vests in this House the power to make law. Article 109 of the Constitution is absolutely clear that the exercise of legislative power in the Republic of Kenya--- Let me just read it for the record:-

Article 109(1) – “Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President”. Therefore, the Constitution vests in this hon. House the responsibility, the duty, the power to enact law. In the enactment of that law, it has to extend to every possible limits. I also want to remind the House that the Constitution has duly recognized international law. Indeed, when you look at Article 2(5), again if you allow me to put it on record, reads:-

“The general rules of international law shall form part of the law of Kenya”.

This means that the general rules of international customary law and legislative law at the international arena form part of the law of this country. However, most instructive for this debate is Article 2(6) that reads:-

“Any treaty or convention ratified by Kenya shall form part of the laws of Kenya under this Constitution”

Madam Temporary Deputy Speaker, that is the crucial Article in the Constitution that this House needs to be alive to as we debate this Bill. This means that the Constitution has now provided a framework and platform for this House to ratify the application of treaties and conventions within our jurisdiction. This is fundamental especially for those of us who know that in the past this country has ratified conventions and treaties in a manner that has really not been properly thought out. Some of the treaties and conventions we have ratified have later on raised issues and questions as to whether this country really did think through the ratification process before we ratified the said laws.

There are also several treaties and conventions that should ideally have been ratified by this country that would have been beneficial to this country. However, because this hon. House has not had the opportunity to do so, such conventions and treaties never got to be ratified. Therefore, by providing a platform and a framework for this House to consider for ratification any treaty, any international convention, this Bill will hand this House the responsibility, the duty and the power to determine ultimately what kind of international laws become part of our jurisdiction and how exactly those treaties and conventions enter this jurisdiction.

Madam Temporary Deputy Speaker, it is instructive to know that Section 44 of the Bill indicates clearly that any Bill that seeks the ratification of any treaty or any convention shall include the following things. One, that Bill has to explain how joining the treaty advances or threatens the interests of Kenya in the short-term or long-term. That is fundamental and it is basic that before we make any steps to ratify any convention or treaty, we have to be absolutely clear how such a treaty or convention advances the interest of our republic, both in the short-term and in the long-term.

The Bill must also indicate the constitutional implications of the ratification, including an indication as to whether an amendment of the Constitution is required. We may enter a treaty or a convention that would have such far-reaching implications that would necessitate the amendment of our constitution. It should also include affirmation that ratification by Kenya, of the treaty, would be in keeping with or otherwise, advances constitutional values and objectives. Again, we do not want to rush headlong to ratify any treaty or convention that would appear to be at variance or not in consonance with the spirit and letter of our dear Constitution. That Bill must also indicate whether the treaty

sought to be ratified permits reservations and the proposed text of any reservation that should be entered when ratifying the treaty in order to protect or advance national interest or ensure conformity with the Constitution.

Madam Temporary Deputy Speaker, these requirements will keep the House and the whole country alert. Indeed, Section 44 of the Bill is like a checklist. It will be our legislative checklist or our statutory checklist that before we commence any process of ratification, we can check to find out whether it is in consonance with the Constitution. Yes. Would it require any amendment of the Constitution? Yes or no. Does it advance the best interests of the republic? Yes or no. This checklist is essential and will ensure that this country advances surefooted in regard to any business of ratifying any treaty or convention.

The other important section of this Bill is Section 10 which talks about the requirement for registry of treaties. This is essential again because, today, if you wanted, at the click of a button, to flip through a file just to confirm the treaties or conventions this country has ratified since we became a Republic almost 50 years ago, you may not be able to access that information. However, through this section, it will be possible to have a registry that easily tells you the treaties that we have ratified and their implications.

I am convinced that this Bill will, certainly, advance the aims of our constitutional implementation process and place Kenya firmly within the family of nations that advances the interest of international law.

With those remarks, I do second.

(Question proposed)

Mr. Abdikadir: Thank you, Madam Temporary Deputy Speaker. In view of time, I will be very brief. When we were selling the Constitution to the people of Kenya, there was propaganda to the effect that once we passed the Constitution, that would open the country to all sorts of international laws, treaties or accords. The fact that we are passing this Bill is a very clear indication that international laws or treaties do not automatically become part of our laws. They are either customary laws of international nature that are accepted by everybody or they have to be ratified through a statutory process. This Bill provides that statutory process because laws in this country are made by the Parliament of this country. By ratifying international accords, the Parliament of this country is giving its approval to that law and, therefore, adopting and domesticating it.

The second issue is that the Constitution is supreme. If you look at the Bill, you will see that it says that the international treaties we are ratifying must meet our constitutional thresholds, must be in line with the constitutional values and must be acceptable by our Constitution which again means that our Constitution is supreme. For example, this country has had a lot of talk about abortion. It had a lot to talk about other issues. The Constitution is very clear that abortion is not allowed. If there is a treaty out there that says that abortion will be on choice, you or this Parliament may not ratify because that is contrary to the Constitution. So, the fact that this law gives the procedure and clearly states the structure of adoption of those processes is very useful.

In the interest of time and that of my colleagues, I support.

Mr. Mututho: Madam Temporary Deputy Speaker, I rise to support this Bill and thank hon. Odhiambo- Mabona for such a thoughtful piece of Bill. In saying this, I would

persuade her to look at the transitional clauses so that we give a clear timeframe not exceeding nine months because we believe that some of the treaties that are in force now might be some that originated during the colonial days. For some of them, the content, style and the spirit under which they were designed may not necessarily be in harmony with the new thinking in Kenya. In doing this Bill, I realise that she has, thoughtfully, looked at what happens in real practice and I would urge her to propose a further amendment at the Committee Stage so that we are able to annul the many treaties that may be placed in people's shelves that either were not presented before the new dispensation or in nature do not meet international standards or the spirit of the new Constitution.

I support.

Mr. Njuguna: Madam Temporary Deputy Speaker, very quickly, let me take this opportunity to thank hon. Millie Odhiambo-Mabona for this critical Bill. It is clearly stipulated that the international accords or treaties, from now henceforth, will not be done by the President and the Cabinet but the approval will be given by this Parliament. This is a very good development and it is, therefore, important that even members of the public would have participation in the whole process. Regarding the fines on those who are likely to contravene the law, the Bill proposes a fine of 15 years. I think this fine is very little and propose that it is enhanced to 20 years.

Concerning the appointment of the Registrar, the Bill stipulates that those to be appointed and those found qualified should, at least, have seven years experience. I would like to say that we have very many graduates tarmacking in this country and our public universities continue to produce many graduates who are jobless. I request that the seven years experience be reduced to five years experience so that our graduates from the universities, who are exposed and who would be interested in this very critical appointment are considered.

Therefore, I fully support this Bill because even our pupils and students in our institutions will also have an opportunity to learn and even experience what has been happening, for instance, when the East African Community, Southern African Development Community (SADC), Intergovernmental Authority on Development (IGAD), the African Union and even the United Nations were formed. This is a law that will bring a lot of awareness to the minds of the Kenyan people.

Therefore, this is a much desired law and I fully support it.

The Temporary Deputy Speaker (Dr. Laboso): There seems to be no more interest, I call upon the Mover to respond.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, Sir, even as I respond I do notice, though, that there is no Government response. However, I am aware that the Ministry of Foreign Affairs is supporting.

The Temporary Deputy Speaker (Dr. Laboso): The Deputy Leader of Government business is here. Therefore, the Government is represented.

Mrs. Odhiambo-Mabona: Madam Temporary Deputy Speaker, I do not know if they would want to comment, even though I know the Ministry of Foreign Affairs, which the parent Ministry, is supporting.

The Minister for Transport (Mr. Kimunya): Madam Temporary Deputy Speaker, I am aware there is support for the Bill. I do not need to take any more time supporting what has already been supported.

Mrs. Odhiambo-Mabona: Thank you, Madam Temporary Deputy Speaker. This Bill is fairly straight forward. It basically just provides for ensuring that Parliament plays a role in the ratification of international treaties.

I want to thank hon. Members for their contributions. I want to thank hon. Namwamba, hon. Abdikadir, hon. Mututho, and hon. Njuguna for their contributions.

I have noted the issues that they have raised for amendments which we would consider at the Committee Stage. I wish to note that we have suggested amendments to give nine months timeframe for consideration of treaties and to look at the past treaties and conventions that have already been ratified by the country. I also notice what hon. Njuguna has raised about the reducing the years required for experience from seven years to five years, so that we can take into account young, brilliant people, who have proven themselves and who can do a lot to help this country.

With those few remarks, I beg to move.

(Question put, and agreed to)

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

The Temporary Deputy Speaker (Dr. Laboso): Next Order!

Second Reading

THE CONSUMER PROTECTION BILL

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, this Bill has been deferred.
Next Order!

(Bill deferred)

Second Reading

THE MICRO AND SMALL ENTERPRISES BILL

The Temporary Deputy Speaker (Dr. Laboso): This Bill too has been deferred.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Dr. Laboso): Hon. Members, it is now time to adjourn the business of this House. This House, therefore, stands adjourned until Tuesday, 6th December, 2011, at 2.30 p.m.

The House rose at 6.30 p.m.