

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 8th June, 2006

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

Report of the Departmental Committee on Energy, Communications and Public Works on the Kenya Maritime Authority, Bill, 2006.

*(By Mr. Moi)*

Report of the Departmental Committee on Administration, National Security and Local Authorities on the National Museums and Heritage Bill, 2006.

*(By Mr. Kajembe)*

### QUESTIONS BY PRIVATE NOTICE

#### DESTRUCTION OF CROPS BY ELEPHANTS IN GIKUMBO/KANGAITA AREA

**Mr. Karaba:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware of the ongoing wanton destruction of food crops by rampaging elephants at Gikumbo/Kangaita area on the slopes of Mt. Kenya?

(b) What measures is the Ministry taking to protect the farmers who are under the siege of these animals?

**Mr. Deputy Speaker:** It seems the Minister for Tourism and Wildlife is not here. Mr. Awori, what do you have to say?

**The Vice-President and Minister for Home Affairs (Mr. Awori):** Mr. Deputy Speaker, Sir, may I appeal for your indulgence. The Minister should be here. I have the answer to the Question, but the Minister is coming. In case he does not come, I will be able to answer the Question. So, will you, please, give us a bit of time?

**Mr. Deputy Speaker:** Very well, the Question will be answered later.  
Next Question, Mr. Arungah!

FLOODING OF RIVER YALA

**Mr. Arungah:** Mr. Deputy Speaker, Sir, I beg to ask the Minister Health the following Question by Private Notice.

(a) Is the Minister aware that due to the current flooding of River Yala, residents in Mushinaka area are faced with health risks occasioned by overflow of waste from pit latrines and increased breeding of mosquitoes?

(b) What measures is she putting in place to ensure that the situation is brought under control?

**Mr. Deputy Speaker:** Is the Minister for Health here?

**The Vice-President and Minister for Home Affairs** (Mr. Awori): Mr. Deputy Speaker, Sir, once again, may I appeal for your indulgence. I have just been with the Minister for Health. I think she is concerned

about the HIV and AIDS Prevention and Control Bill. She will be here; failure to which her Assistant Minister will be here to answer the Question.

**Mr. Deputy Speaker:** Mr. Awori, I hope that is the end. We hope to see better results. Next Question, Mr. Munya!

#### NON-COMPLETION OF LAND ADJUDICATION IN MERU NORTH DISTRICT

**(Mr. Munya)** to ask the Minister for Lands:-

(a) Is the Minister aware that the land adjudication process in Meru North District is grinding to a halt and the crash programme launched by the Minister in jeopardy due to corruption by a cartel led by the District Land Adjudication Officer and a Mr. Wachira, who are soliciting bribes from residents in exchange for services?

(b) Why has the Ministry persistently refused to remove these officers from the station despite numerous complaints from leaders in the district?

(c) Why was Mr. Wachira returned to Maua after being transferred from the district after the Minister ordered a mass transfer of officers from the district?

**Mr. Deputy Speaker:** Hon. Members, I will skip Mr. Munya's Question without dropping it in view of what we have already done. However, in the end, we will definitely take a decision.

Next Question, Mr. Keter!

#### IMPORTATION OF TEA PLUCKING MACHINES BY MULTINATIONAL COMPANIES

**Mr. Keter:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) How many tea plucking machines have been imported by each of the two multinational tea companies namely, James Finlay and Unilever and where are they located?

(b) What is the ratio of one machine to human labour?

(c) Could the Minister give an assurance that no worker will be laid off as a result of these machines?

**The Assistant Minister for Agriculture** (Mr. Kembi-Gitura): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The number of tea plucking machines imported by James Finlay are 52 and those by Unilever are 15. They are located on their estates in Kericho District.

(b) The ratio of one machine to human labour is 1:7 in the case of James Finlay and 1:15 in the case of Unilever.

(c) The two companies have assured me that no employees will lose their jobs as a result of introduction of these tea plucking machines.

**Mr. Keter:** Mr. Deputy Speaker, Sir, while thanking the Assistant Minister for that good answer, I would like to know what mechanism they have put in place to ensure that no employee will be sacked as a result of mechanisation.

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, as I said, these two companies have been testing these tea plucking machines for over 20 years now. They have given an assurance that whereas the tea plucking machines will assist them in productivity, particularly in the specialised areas of green and instant tea, there will be no lay-offs of the existing workforce.

**Mr. Mwandawiro:** Bw. Naibu Spika, Waziri Msaidizi hajalihakikishia Bunge hili kwamba hakuna mfanyakazi atakayeachishwa kazi kwa sababu ya utumiaji wa mashine hizo. Yeye amesema tu kwamba kampuni hizo hazitawaachisha watu kazi. Je, Serikali itahakikisha vipi kwamba hakuna mfanyakazi atakayeachishwa kazi kutokana na kuletwa kwa mashine hizo?

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, I have given the assurance that no existing employee of any of these tea companies will be laid off as a result of the introduction of these tea plucking machines.

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, why was it necessary to import and use this machinery when there is abundant labour, in fact, excess labour? We want this labour absorbed because we want to create employment.

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, let me start by saying that the test runs on these tea plucking machines have been going on for the last 20 years. This is not something that has just happened.

**Mr. Deputy Speaker:** Mr. Kembi-Gitura, how many years are you talking about?

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, for the last 20 years, these test runs have been going on at almost all the farms in Kericho District with the knowledge of the Government and the workforce. M/s James Finlay has invested tremendously in this area. However, it must be realised that the percentage of the work the tea plucking machines will be doing is only 2 per cent. In other words, 98 per cent of tea business will still be on manual labour. Only 2 per cent will be on these machines. That is for specialised areas of instant and green tea for export.

Mr. Deputy Speaker, Sir, to answer Mr. Kajwang's question specifically, we cannot stop the development of technology. There is no indication that because of bringing new machines, there will any effect on the labour force in this industry. That is the only assurance I can give at the moment.

**Mr. O.K. Mwangi:** Mr. Deputy Speaker, Sir, the assurance the Assistant Minister has given us is that no existing employees will be declared redundant because of the machinery. He has said the machinery will be brought for the development of the tea industry. Does that mean that the Ministry is putting a stop employment of more employees, and only going to retain those who are already employed? What happens to future employees in the industry?

**Mr. Kembi-Gitura:** Mr. Deputy Sir, when computers were first introduced in this country, for the first time, the sceptics said that there would be no more employment of manual labourers. However, everybody now knows that the introduction of computers has brought about more employment opportunities. The assurance I am giving is this: James Finlay has, for instance, invested US\$20 million in a new factory for processing green and instant tea. As a result, the company has employed more than 500 people in its factory, to enable them carry out the specialised work. I can assure, hon. O.K. Mwangi, who I know has tea grown in his constituency, that the areas where tea plucking machines can be used locally are very few, indeed. It is not in

excess of 2 per cent of the total plantations of tea that can be affected by the introduction of tea plucking machines.

**Mr. Kimeto:** Thank you, Mr. Deputy Speaker, Sir. Before tea plucking machines are introduced in Kenya, I believe that there must be other countries where the technology is being applied. If the technology will assist this country, we need to know what to do with the employees who may be affected by its introduction. What did workers in countries where the machines are already being used do when the technology was introduced because it is also coming to our country?

**Mr. Deputy Speaker:** Mr. Kimeto, do you expect the Assistant Minister to know what the affected people in those countries are doing? Mr. Assistant Minister, will you respond to that?

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, I think it is not possible for me to answer that supplementary question because it is not related to the main Question.

**Mr. Keter:** Mr. Deputy Speaker, Sir, the Assistant Minister has, clearly, said that James Finlay has invested over US\$20 million in the new factory for manufacturing green and instant tea. Is he aware that the Minister for Labour and Human Resource Development, Dr. Khulundu, issued a circular to the company, and as we speak, the company, which is worth over Kshs1 billion is closed down and the employees are on compulsory leave?

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, the only thing I can say is that the issue has to do with the Ministry of Labour and Human Resource Development, as the hon. Member has indicated. However, I appreciate that we are in the same Government, no matter what Ministry we head. My understanding of the issue is that James Finlay has agreed with the trade union that they have a moratorium period within which they can discuss some modalities and find the way forward. However, if we politicise and interfere with private business which helps create development in this country, then we risk a big danger of losing investors on the altar of politics. We will also risk making tremendous losses in terms of development in this country. I hope that an agreement will be reached very soon and that James Finlay's factory will be reopened for production to go on because that is the only way forward for the development of our country.

#### CLOSURE OF UCHUMI SUPERMARKETS

**Mr. Marende:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Trade and Industry the following Question by Private Notice.

(a) Under what circumstances were Uchumi Supermarkets closed on 1st June, 2006?

(b) What urgent measures has the Minister taken to safeguard the public interest in Uchumi Supermarkets Ltd. as represented by the Government, parastatals and individual citizens' shareholding?

**Mr. Deputy Speaker:** This Question is by Mr. Marende. However, Mr. Marende, we have communication from the Permanent Secretary, Ministry of Trade and Industry, that the Minister is out of the country. He requested that the Question be deferred until next week on Tuesday when the Minister will be able to handle it. Therefore, the Question is deferred to Tuesday next week.

*(Question deferred)*

Should we continue with the Questions by Private Notice, Mr. Vice-President and Minister for Home Affairs?

**The Vice-President and Minister for Home Affairs (Mr. Awori):** Yes, Mr. Deputy Speaker, Sir. We can go back to the Questions we skipped.

**Mr. Deputy Speaker:** Very well, let us go back to the Questions we skipped.

Mr. Karaba!

DESTRUCTION OF CROPS BY ELEPHANTS IN  
GIKUMBO/KANGAITA AREA

**Mr. Karaba:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Is the Minister aware of the ongoing wanton destruction of food crops by rampaging elephants at Gikumbo/Kangaita area on the slopes of Mount Kenya?

(b) What measures is the Ministry taking to protect the farmers who are under the siege of those animals?

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, I beg to reply on behalf of the Minister for Tourism and Wildlife.

(a) Yes, I am aware that the area is a migratory route and, occasionally, elephants cross from both Laikipia and Mount Kenya forests and, in the process, they unfortunately destroy people's crops.

(b) The Ministry has put in place several measures to protect farmers. There is a five-kilometres proposed electric fence, out of which every one kilometre from Thirimiti to Ontulili has been completed and is fully operational. There is also a 12-kilometre electric fence from Thirimiti/Kimbo and a 15-kilometre electric fence from Kimbo to Kibirichia. Both of them are fully operational and there is also a Kenya Wildlife Service out-post at Kaitheri/Kangaita with seven rangers to deal with the problem of animal control which is not only peculiar to your constituency but also Gichugu and all along the forest line, all through to Embu.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, that is a very interesting answer. It is also interesting to note that the Minister who has answered the Question also comes from the same area and I believe what she has said will be done. However, when will the plan set aside for Kerugoya/Kutus begin?

**Ms. Karua:** Mr. Deputy Speaker, Sir, the Government is taking comprehensive measures and, where necessary, the electric fence method will also be extended. However, at the moment, rangers are being used to keep the animals in check

**Maj. Madoka:** Mr. Deputy Speaker, Sir, could the Government give us a comprehensive plan ensuring that the animals do not continue to destroy people's crops?

**Ms. Karua:** Mr. Deputy Speaker, Sir, it is not possible to install an electric fence in every area that is close to a game reserve. However, measures have been put in place and, in consultation with more stakeholders, more measures will be put in place at the appropriate time to ensure that wildlife and human beings exist cordially. However, you will notice that, due to human settlement, all migratory routes have been affected by settlement thereby promoting that kind of conflict.

**Mr. Y.M. Haji:** Mr. Deputy Speaker, Sir, I think the question asked was whether the Government will give proper compensation to the affected people. We know that the Government cannot erect electric fences in all national parks and there is no way anybody can stop wildlife from destroying crops. The most important thing is to have a policy of proper compensation.

**Ms. Karua:** Mr. Deputy Speaker, Sir, the Ministry is looking into that.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, what the Minister is talking about is a long-term programme. However, the animals will continue to destroy crops. I was in my constituency yesterday and heard that some crops were destroyed by elephants. What immediate measures is the Ministry undertaking to make sure that farmers who neighbour forests are compensated?

**Ms. Karua:** Mr Deputy Speaker, Sir, hon. Members recall that, recently, we passed a

Private Member's Bill that would have affected compensation. It is expected that there will be resubmission of that Bill and strengthening of measures which will change the manner of Government response when there is wildlife-human conflict. Apart from that Bill, the Ministry is looking into those issues and will soon come up with a comprehensive policy.

#### FLOODING OF RIVER YALA

**Mr. Arungah:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice.

(a) Is the Minister aware that due to the current flooding of River Yala, residents in Mushinaka area are faced with health risks occasioned by overflow of waste from pit latrines and increased breeding of mosquitoes?

(b) What measures is she putting in place to ensure that the situation is brought under control?

**The Assistant Minister for Health (Dr. Kibuguchy):** Mr. Deputy Speaker, Sir, before I answer the Question, I would like to sincerely apologise to the House for having come in late.

Having said that, I beg to reply.

(a) I am aware that there were run-off floods from River Yala during the recent rains which have affected 60 households.

(b) The Ministry has intensified health education, disinfected the pit latrines, mobilized the community to drain stagnant water and the affected areas were put under surveillance.

**Mr. Arungah:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for the answer he has given. Indeed, the measures he has mentioned have been taken. Let me take this opportunity to thank the Ministry for sending its staff to treat the people who were affected at that time. The medical staff provided chlorine to treat water and gave out mosquito nets. They even asked the Ministry of Special Programmes to give the displaced people maize. I take this opportunity, on behalf of the people of Khwisero, to thank the medical personnel for what they did. I am satisfied with the answer the Assistant Minister has given this House.

**Mr. Deputy Speaker:** Very well! I think that is the best Questioner I have ever had in this House. Mr. Assistant Minister, do you have anything to say?

**Dr. Kibuguchy:** Mr. Deputy Speaker, Sir, it is true as the testimony shows, that the Government is working.

**Mr. Munya:** Mr. Deputy Speaker, Sir, before I ask my Question, I apologise for coming late.

#### NON-COMPLETION OF LAND ADJUDICATION IN MERU NORTH DISTRICT

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

(a) Is the Minister aware that the land adjudication process in Meru North District is grinding to a halt and the crash programme launched by the Minister is in jeopardy due to corruption by a cartel led by the District Land Adjudication Officer and a Mr. Wachira, who are soliciting bribes from residents in exchange for services?

(b) Why has the Ministry persistently refused to remove these officers from the station despite numerous complaints from leaders in the district?

(c) Why was Mr. Wachira returned to Maua after being transferred from the district after the Minister ordered a mass transfer of officers from the district?

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

(a) I am not aware that the land adjudication process in Meru North District is grinding to a halt. However, I am aware that the programme is slow due to limited resources.

In addition, I am not aware of corruption cartels by members of staff. Any complaints or allegations of corruption by staff are normally investigated and the complainants advised to report such cases to the Kenya Anti-Corruption Authority (KACC) or the Kenya Police for appropriate action.

(b) My Ministry has not refused to transfer the officers. Officers to replace the two have been identified and action taken accordingly.

(c) Mr. Wachira, the Land Adjudication Officer at Maua office has never been transferred out of Meru North District since he was posted there at the start of the crash programme. He had never worked in the district before. The question of his being returned to Maua, therefore, does not arise.

**Mr. Munya:** Mr. Deputy Speaker, Sir, the Assistant Minister has not taken this Question seriously because there are numerous complaints from members of the public to the effect that they are being asked to pay Kshs5,000 in order for their cases to be heard. The documents from the Kitharene

Adjudication Section have been transferred to the headquarters without following the law. Right now, illegal transfers of land, based on the documents from Kitharene Adjudication Section, are going on in Maua. That section was closed before the process was completed. What are we supposed to do when an Assistant Minister answers a Question like this? The Assistant Minister has said that he is not aware of corruption among the Ministry of Lands officials in the area, and yet it is clear that the vice exists. Could he appoint a special committee to investigate cases of corruption in Maua and take action? This is because corruption will render many people in Meru North District landless.

**Mr. Kamama:** Mr. Deputy Speaker, Sir, these allegations are very serious. I would like to inform the House that the Ministry does not condone corruption. We have received many complaints from that adjudication area. I assure the hon. Member that, from Monday next week, we will appoint an investigation committee to probe those cases. If there is evidence of corruption in that area, those officers will be fired. Again, I request the hon. Member to assist the Ministry by reporting cases of corruption to the KACC and the Kenya Police.

**Mr. Maore:** Mr. Deputy Speaker, Sir, the Assistant Minister is withholding a lot of truth. A Mr. Patrick Kandie, in November, was given treated money by the officers from the KACC. He was suspended for three weeks and the officers claimed that the investigations were inconclusive, and yet they are the ones who gave him treated money. Mr. Kandie was released because of the pressure and the telephone calls made from the headquarters. The Assistant Minister has said that he will send officers to investigate those allegations. Which KACC is he referring to?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, we will investigate those complaints. Appropriate action will be taken against any officer found to have engaged in corruption. The Ministry dealt with the officers, who have been mentioned, in a proper manner.

**Mr. Munya:** Mr. Deputy Speaker, Sir, the KANU Government was voted out by *wananchi* because it was covering up corruption. This Government seems to be following the same footsteps.

*(Applause)*

Mr. Deputy Speaker, Sir, hon. Members raise issues of corruption in this House but Ministers do not do their homework. They come here and give standard answers that were given by

the previous Government. If this trend continues, this Government will have a very rough time. The people in Meru North are suffering because we have corrupt Government officials.

**Mr. Deputy Speaker:** Order! Mr. Munya, what is your question?

**Mr. Munya:** Mr. Deputy Speaker, Sir, the divisional lands offices that handled complaints from *wananchi* have been closed and *wananchi* are forced to go to Maua, and yet it is expensive. Could the Assistant Minister assure this House that he will open a lands office in Tigania North and Tigania Central Divisions immediately?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, I think the Ministry has been very generous to the people of Tigania. As I speak here, about four adjudication sections have been completed and registered with 10,443 title deeds. Eighteen sections are under way. I think the Ministry has done quite a lot. However, on the issue of covering corrupt officers, that is not true. If any evidence is adduced to the effect that they are corrupt, I assure the hon. Member that they will not occupy those offices. We will fire them!

**Mr. Munya:** Mr. Deputy Speaker, Sir, I asked the Assistant Minister whether he will re-open the divisional lands offices that were closed so that *wananchi* can get the services on the ground.

**Mr. Kamama:** Mr. Deputy Speaker, Sir, we will look into that issue.

## ORAL ANSWERS TO QUESTIONS

### *Question No.257*

#### TARMACKING OF GAMBOGI-SEREM ROAD

**Mr. Khaniri** asked the Minister for Roads and Public Works:-

(a) what plans the Government has to complete the tarmacking of Gambogi-Serem Road; and,

(b) whether he could confirm that the road project stalled due to failure by the Government to provide its share of funds required to complete the project.

**The Assistant Minister for Roads and Public Works** (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) My Ministry has made all the necessary plans to complete the tarmacking of the 20 kilometre Gambogi-Serem Road. The Government of the People's Republic of China has provided a grant of Kshs450 million for the completion of the project.

(b) The road project did not stall due to failure by the Government to provide its share of funds required for its completion. The project stalled at 75 per cent completion upon exhaustion of funds. There was a problem of quantity overruns, hence overrun on the contract sum.

**Mr. Khaniri:** Thank you, Mr. Deputy Speaker, Sir. I sincerely thank the Assistant Minister for the positive answer he has given to this House. Also, on behalf of the people of Hamisi, I thank the Government of the People's Republic of China for granting us Kshs450 million for the completion of the project. However, may I know from the Assistant Minister when work on that road will commence?

**Eng. Toro:** Mr. Deputy Speaker, Sir, the Government of the People's Republic of China has asked the Ministry to forward to it the original design done when construction work on the road started. The Ministry has already done that. The Chinese Government will update the design so that it can engage contractors directly from China. It will use the updated design to complete the work.

**Mr. Muriithi:** Thank you, Mr. Deputy Speaker, Sir. This is a very serious matter. Kenyans continue to lose their lives due to the state of our roads, despite the fact that they pay taxes. Could



the Assistant Minister tell us what he is doing to complete the stalled projects around the country, including Sagana-Maua Road, which stalled due to the inability of the Government to pay the contractor?

**Eng. Toro:** Mr. Deputy Speaker, Sir, the Sagana-Maua Road has not stalled because the contractor is still on the ground and we have not terminated his contract. I confirm that the Government has paid that contractor all his dues. So, if work on the road is not going on, it is not because the Government has not paid the contractor.

**Mr. Ligale:** Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House that when the Gambogi-Serem Road project will commence, the Ministry will have a say on the contractor to be awarded the tender? The contractor who did the original work did a very shoddy job. Although the Government of the People's Republic of China will give us the money, we should have a say in choosing the contractor.

**Eng. Toro:** Mr. Deputy Speaker, Sir, the terms of the agreement for this grant are such that China will appoint the contractor. So, the procurement of the contract will be done by the Chinese Government. However, I assure the hon. Member that the work that will be done on the road will not be shoddy like the one done before. That is why the Chinese Government asked the Ministry to forward the original design so that it can improve on it. Once the contractor is on the **[Eng. Toro]** ground, it will be their responsibility to supervise and ensure that the road has been constructed to Chinese standards.

**Mr. Choge:** Mr. Deputy Speaker, Sir, could the Assistant Minister assure this House that when the contractor moves in, he will not only look at the 25 per cent incomplete work, but that he will actually look at the entire road so that every bit of the road that is in shambles is corrected?

**Eng. Toro:** Mr. Deputy Speaker, Sir, the money will be used as follows: The design and supervision is estimated to cost Kshs65 million; construction of the five kilometres is expected to cost about Kshs175 million and repair and re-sealing of the 14 kilometres that had been done before is expected to cost Kshs210 million. The whole road will be looked at afresh and the design improved to cover the entire section of the road.

**Mr. Khaniri:** Mr. Deputy Speaker, Sir, the Assistant Minister has told us that one of the conditionalities that the Chinese Republic is giving is that, the works must be undertaken by a Chinese firm. In the same location there is a project which is going on; the Serem-Kipsigak Road, which is also being undertaken by a Chinese firm and they are doing an excellent job. Since they are already mobilised and they are on the ground, could the Minister consider recommending to the Chinese Republic that they give these works to that same company?

**Eng. Toro:** Mr. Deputy Speaker, Sir, if the Chinese Government asks for our opinion, we will give it to them. The contractor that is undertaking that project is good. The contractor that was there before; that is China Road Bridge Construction is also a very good contractor.

*Question No.206*

CONSTRUCTION OF NYANGWETA  
SUGAR FACTORY

**Mr. Omingo** asked the Minister for Agriculture:-

- (a) when construction of Nyangweta Sugar Factory in South Mugirango will commence to ease congestion at the South Nyanza Sugar Company which has insufficient capacity; and,
- (b) what plans he has to compensate farmers in the area for the loss of crop due to lack of deliveries.

**The Assistant Minister for Agriculture** (Mr. Kembi-Gitura): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Ministry of Agriculture in conjunction with the Kenya Sugar Board is exploring the possibility of a private investor establishing a sugar factory in Nyangweta in South Mugirango.

(b) The Sugar Act (general regulations), which we are in the process of regulating shall provide a blue print for an industry insurance scheme that will address the compensation to farmers for loss of cane. Once adopted, farmers will then be able to claim compensation under the scheme.

**Mr. Omingo:** Mr. Deputy Speaker, Sir, I share the sentiments of Mr. Munya. This is yet a flat standard answer without regard to the plight of farmers in the entire region where we are losing close to 14,000 metric tonnes of cane to be crashed per day for lack of capacity. When the President visited our region, he made a statement to the effect that Nyangweta Sugar Factory will commence construction because the capacity is available. The Ministry has done feasibility studies which confirm that this is achievable. Could the Assistant Minister tell this House and the country whether the President was speaking in his personal and private capacity or as the President of the Republic of Kenya, answerable to Kenyans and Kisiiis?

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, I am sure that the hon. Member who has asked this Question has also read the Sugar Act, 2001 and that he understands that the Government will not initiate new sugar factories or mills. The stakeholders will have to make an application through the Sugar Board for a licence to operate a sugar mill. The hon. Member knows very well that no such application has been made but that the Government, on its own volition, has been trying to seek private investors to invest in that area. At this juncture, let me mention that Trans Mara Sugar Company and Keyan Company have made applications for sugar production in the same zone.

We have not received any application from Nyangweta Sugar growing society because at the moment there is no mill. Once we do that, it will be considered favourably because it is the intention of this Government to assist the farmers as much as possible. As I said earlier, it is only by the economy growing that people will benefit. We cannot develop if we want to flout existing laws and we are not making any effort to follow them. Instead, we choose to place the blame on the Government.

**Mr. Manoti:** Mr. Deputy Speaker, Sir, last year such a Question was asked in this House by Mr. Omingo. He was told that the Ministry was planning to assist the people of South Mugirango to have a sugar factory at Nyangwesa. The people of South Mugirango normally take their sugar-cane to SONY Sugar Company. The Government has promised us that SONY Sugar Company will be expanded. How far have they gone with the expansion of SONY Sugar Company to assist the people of South Mugirango to have their sugar-cane crashed there instead of having it go to waste?

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, Nyangweta, the subject area of this Question is 15 kilometres away from SONY Sugar Company. We do appreciate that there is a lot of cane production at the moment. The Government, through the Sugar Board is doing everything possible to increase capacity. At the moment, SONY Sugar is crashing 3,000 metric tonnes of cane per day. We are moving towards increasing the capacity to 6,500 metric tonnes per day so that we are able to cope with the increased cane production in the area.

Through the Sugar Board, we are also trying to increase the transport unit so that the transport of cane from the farms to the factories is easier and efficient to ensure less loads of cane in the farms.

**Mr. Deputy Speaker:** Last Question, Mr. Omingo.

**Mr. Ahenda:** Thank you, Mr. Deputy Speaker, Sir---

**Mr. Deputy Speaker:** Order! You are not Mr. Omingo. Are you not Mr. Ahenda? There is

a world of difference between Ahenda and Omingo. Sit down, Mr. Ahenda.

**Mr. Omingo:** Mr. Deputy Speaker, Sir, while I appreciate the knowledge and expertise displayed by the Assistant Minister for Agriculture as a lawyer, some of these things are such blatant facts that he cannot just bury his head under the sand because they are statistically proven. He has confirmed that today SONY Sugar Factory has the capacity of crashing 3,500 metric tonnes of cane. The other fact that he knows as well is that the available capacity today is 18,000 TCD. He has gone further to tell me that we wait until this law is enacted so that our farmers problems can be addressed. Could the Assistant Minister tell this House whether anything is being done now to save farmers from loss of sugar-cane in terms of expansion and what is being done on the proposal to have a new factory as promised by the Government, unless they want to retract on the same?

**Mr. Kembi-Gitura:** Mr. Deputy Speaker, Sir, the sarcasm about knowledge and expertise notwithstanding, I do not claim to have any knowledge more than my friend has about the sugar-cane growing belt. However, this process must start somewhere. The people of Nyangweta will have to make an application for a sugar mill. Short of that, they will have to accept that the Government through the Kenya Sugar Board is doing a lot to try and procure an investor for them. Anybody will accept that more cane is being crashed than has been the case hitherto; that the cane industry is resuscitating and, that we cannot possibly push the Sugar Board so much that it breaks its back in the process of trying to make the sugar industry a workable industry.

I would like to reiterate that SONY Sugar Factory is being revamped to build capacity to 6,500 metric tonnes a day. If that is not good enough, then I do not know what is good for the farmers.

*Question No.233*

NUMBER OF KENYAN STUDENTS  
STUDYING IN UGANDA

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

- (a) how many Kenyan students are studying in Uganda;
- (b) why they are opting to go to Uganda for A-levels and university education;
- (c) how much money is paid out to schools and universities as fees annually; and,
- (d) what he is doing to avert aggravation of this situation in view of free primary education in Kenya.

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

(a) There are approximately 21,000 Kenyan students in Uganda. Six thousand are in tertiary institutions and approximately 15,000 in secondary schools. There are a number of reasons that motivate our students to want to go and study in Uganda especially in the universities. First is the limited places that we have in our universities. Those who do not meet the cut-off grade go to Uganda where private university education is relatively inexpensive. Another reason is its proximity to Kenya. I have given the other reasons in the detailed answer which I have given to the hon. Member.

(b) It is estimated that the money paid to schools and universities in Uganda as fees annually is approximately the following: Secondary schools, Kshs1.3 billion and Kshs1.2 million to universities. In order to deal with this problem, we are proposing a programme for university expansion which includes among other factors, support for the private sector. We intend to do this by providing them with incentives to establish universities; completing stalled university projects; upgrading some polytechnics while they still retain their unique character; encouraging partners to

support development to secondary education and so on. The proposals that we are making are detailed in the written reply that we have given to the hon. Member.

**Mr. Bett:** Mr. Deputy Speaker, Sir, the answer is quite exciting, in that, Kenya is losing Kshs2.3 billion annually to Uganda for reasons which have been given by the Assistant Minister, such as less waiting period to join university; aggressive marketing by Ugandan institutions; prestige and pride of studying in a foreign country and; fear of university strikes in Kenya. It is a shame for us, that we cannot provide education for our people because of the time that they take while waiting to join public universities. What is the Ministry doing to reduce the period that our children wait to join public universities?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, we hope that as we expand facilities and are able to accommodate more students, we will deal with the backlog of students and that problem will be solved. Some of the strategies we are proposing will also help in terms of reducing the backlog so that our students can join universities as soon as they are through with their secondary education.

**Mr. Ochilo-Ayacko:** Mr. Deputy Speaker, Sir, one of the reasons given for the migration of Kenyan students to Uganda is that there is a high cut-off points to join Kenyan universities. Is the Assistant Minister satisfied that compelling Kenyan students to get grade B-Plus and above is reasonable, because it allows only a fraction that is less than 10 per cent to go to the next level of learning?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, we would like to do much better. I am personally very concerned that we are leaving a lot of students who attain grade B out of the universities because most of them are from rural disadvantaged schools. I hope that we will be able to resolve this problem because by expanding our facilities to admit students who have grade B and even C-Plus, we will also be dealing with the issue of equity which is a serious problem. I feel pained about this and hope that we will be able to expand our facilities to accommodate the many students, especially those ones from disadvantaged backgrounds to be able to join our universities.

**Mr. Karaba:** Mr. Deputy Speaker, Sir, this is a very serious situation that Kenyans are living in. Kenya is losing a lot of money to Uganda because of the cut-off points. We have also heard that maybe the education system in Uganda is better than Kenya. It has taken a long time for the Government to address this issue. Can we be convinced that what the Assistant Minister is saying is true while we continue losing all this money to the Ugandan Government? The Government should change our system of education because that is where the problem lies.

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, it is not true that the quality of education in Uganda is better than ours. Uganda is attractive in many ways, in that, even when you fail, you can get an opportunity to study there. What is unfortunate is that, we have many qualified candidates that are unable to get admission into our universities. I agree with the hon. Member that we must do something and we are trying. This is why I gave a list of the proposals that we are making to address the problem, if not now, maybe in the next five years, so that we will be in a better position to accommodate most of these students.

**Mr. Deputy Speaker:** Hon. Members, we will have the last question by hon. Bett. I am very sorry, time is not on our side.

**Mr. Bett:** Thank you, Mr. Deputy Speaker, Sir. For quite some time now, we have been promised that Mombasa and Nairobi polytechnics will be upgraded into universities. I am also aware that the public has requested the Government to upgrade other training institutions like Kabianga Farmers Training Centre and Lessos Farmers Training Centre into universities. We are now being told that they are being upgraded, when shall this be done?

**Dr. Mwiria:** Mr. Deputy Speaker, Sir, we are already making quite a great deal of progress. We have got support from the Italian Government and we hope that, in the next one year or so, these institutions will also be admitting students for degree courses. They will also retain their

unique characters as diploma training institutions. This depends on when we complete but we hope that we will do it as soon as possible. This will also apply to other institutions that we would like to upgrade in order to accommodate more students.

*Question No. 214*

COMPENSATION OF MR. NYAGA RWENJE

**Mr. Kagwima** asked the Minister for Health whether she could consider paying Mr. Nyaga Rwenje, P/No. 327412, compensation for having been forced into retirement five years before attaining the mandatory retirement age for civil servants.

**The Assistant Minister for Health** (Dr. Kibunguchy): Mr. Deputy Speaker, Sir, I beg to reply.

This Question was first asked in 1986 as Parliamentary Question No. 664, and it was appropriately answered. Mr. Rwenje cannot be compensated for the following reasons: One, by the time he retired, he had passed the mandatory retirement age of 55 years. He was born in 1927 and retired in 1983. Two, in accordance with Regulation 6 of the Pension Act, he is not eligible for compassionate gratuity or pension by virtue of him having been employed as a subordinate staff. Three, he was advised upon retirement to withdraw his benefits under the NSSF Act.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** This gentleman actually retired 23 years ago. Mr. Kagwima, ask your question.

**Mr. Kagwima:** Mr. Deputy Speaker, Sir, I do not have the benefit of the answer given in 1986. Secondly, I do not have the documents that the Assistant Minister is referring to, especially the age of this person. Could he lay those documents on the Table or bring the documents that indicate that this man was born in 1927?

**Mr. Deputy Speaker:** Do you have a written answer, Mr. Kagwima?

**Mr. Kagwima:** Not what he read out. I have a summary of the answer and not the detailed one that he read out. So, we are not in harmony. I do not have the answer given in 1986. Could he make that answer available to me? I also need the form that he signed when he was employed so that I can see what is indicated therein as his date of birth.

**Dr. Kibunguchy:** I can definitely lay some of the documents I have on the Table. Mr. Rwenje actually signed some of them at the time he was retiring to show that he had reached the retirement age. I have all these documents. Would you like me to lay them on the Table?

**Mr. Deputy Speaker:** It will be appropriate if you lay them on the Table for the benefit of the hon. Member and the House.

*(Dr. Kibunguchy laid the documents on the Table)*

Now, in view of this, I think it is fair that I give hon. Kagwima time to peruse those documents and I, therefore, defer the Question to Tuesday next week. Is that fair, Mr. Kagwima?

**Mr. Kagwima:** Thank you, Mr. Deputy Speaker, Sir. I hope he will also bring all the other documents which are not available. We will deal with the matter and complete it then.

**Mr. Deputy Speaker:** Order! Which documents are you now asking the Assistant Minister to bring? If he has told you that the Question was answered in 1986, you can go to the library to find out that information. But if the Assistant Minister is kind enough, he can share the information

with you. I leave that to you.

**Mr. Kagwima:** I agree with you, Mr. Deputy Speaker, Sir. We will deal with Question on Tuesday, next week.

*(Question deferred)*

*Question No. 218*

ACUTE WATER SHORTAGE IN  
KAJIADO DISTRICT

**Maj-Gen. Nkaisserry** asked the Minister for Water and Irrigation:-

- (a) whether he is aware that there is an acute shortage of water in Kajiado District;
- (b) if the answer to (a) above is in the affirmative, what action he is taking to ensure that this problem is fully addressed; and,
- (c) how much money the Ministry has budgeted for in this financial year for mitigating the acute water shortage in ASAL districts.

**The Minister for Water and Irrigation** (Mr. Katuku): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Kajiado District and other districts in Arid and Semi-Arid Lands (ASALs) suffer water shortage due to prolonged drought. The situation has, however, improved with the onset of rains in March, 2006.

(b) My Ministry has addressed the water shortage in the district by allocating funds for construction of three water pans, rehabilitation of ten dams and pans through the Drought Intervention Programme, drilling and equipping of nine boreholes through the National Water Conservation and Pipeline Corporation (NWCPC). Water supplies have been rehabilitated through the Athi Water Service Board. During the time of drought, my Ministry provided a water tanker and procured ten water tanks for the district.

(c) The budgeted allocation for water facilities in the ASAL districts this financial year, 2005/2006, is as follows: Kshs318 million was allocated for the drilling and equipping 105 boreholes, Kshs417.5 million was allocated for the construction and rehabilitation of 141 dams and pans, and Kshs64 million for the rehabilitation of water supplies and irrigation structures.

Thank you, Mr. Deputy Speaker, Sir.

**Maj-Gen. Nkaisserry:** Thank you, Mr. Deputy Speaker, Sir. I would like to thank the Minister for the answer, but the Government should not take refuge behind an act of God; the rains of March, 2006. I think it is the responsibility of the Government to provide water for the drought-stricken people. Could the Assistant Minister name the boreholes and dams that they have rehabilitated in Kajiado Central, as he mentioned in his answer?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, the following are the dams and pans that were rehabilitated in Kajiado Central: Palewa in Mashuuru Division, Olmogitani and Iparakuo in Central Division and Torosei in Central Kajiado Division. The boreholes are as follows: Mashenani, Risa, Shoninke, ole Sakasi, Kitura and Mashuuru.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. J.K. Kilonzo:** Mr. Deputy Speaker, Sir, the Minister has informed the House that Kitui District will receive budgetary allocations alongside other ASAL districts. Is he in a position to tell the House how much he has set aside for Kitui District?

**Mr. Deputy Speaker:** Mr. Katuku, are you really in a position to answer that question? It is a completely different Question.

**Mr. Katuku:** Mr. Deputy Speaker, Sir, I can confirm that I have done eight boreholes and other dams in his area. If he wants to know how much was allocated to Kitui District, he can bring a Question to the House and I will answer it.

**Mr. ole Metito:** Thank you, Mr. Deputy Speaker, Sir. The reason for the acute shortage of water in Kajiado District is not completely as a result of the last drought. Most of the residents of Kajiado District get their water from the Noolturesh Water Pipeline and Conservation, which comes from a river in Loitoktok. The reason for acute water shortage, especially in Kajiado and Loitoktok towns is because that pipeline was constructed without taking into consideration the population growth in the area. Could the Minister consider providing a new modern pump at the source of the Noolturesh River that can serve Loitoktok and its environs, such that more water can be released to Kajiado District?

**Mr. Katuku:** Mr. Deputy Speaker, Sir, the proposal the hon. Member has made is being considered by my Ministry on how to tap more of the Noolturesh water source to supply not only to his area but also to other areas of Machakos and Kajiado.

**Maj-Gen. Nkaisserry:** Mr. Deputy Speaker, Sir, I do not need any more answers from the Minister!

*(Laughter)*

**Mr. Deputy Speaker:** Order, hon. Members! It is now 3.30 p.m. and we should be finishing Question Time. However, we still have two more Questions and I propose that we continue with them until they are answered.

*Question No.275*

PRIVATISATION OF TELKOM KENYA

**Mr. Kajwang** asked the Minister for Information and Communications:-

- (a) when the Government will privatise Telkom Kenya and free Kenyans from the burden of an expensive, inefficient and uncompetitive parastatal; and,
- (b) what went wrong with the previous attempts at privatization and/or sale of Telkom Kenya.

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

(a) The corporate restructuring programme for Telkom Kenya Limited is on course. It has been provided that Telkom Kenya Limited be privatized by sale of 26 per cent of Telkom Kenya Limited shareholding to a strategic investor, 30 per cent to the public and 4 per to staff through an initial public offer (IPO) in the Nairobi Stock Exchange (NSE) by next year as part of the second phase of the programme. M/s. IFC who are the transaction advisers indicate that the process should be over by April, 2007.

(b) The previous attempt to privatise Telkom Kenya Limited in 2000 failed because the Government did not get acceptable offers from the bidders.

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, first of all, the Assistant Minister seems to have accepted that Telkom Kenya is expensive, it is a burden, it is inefficient and uncompetitive. So why do we restructure or privatise in a limited manner? If we really want to privatise and if we want the service from Telkom Kenya, why do we not go the full hog and just make it an efficient and competitive private enterprise owned by Kenyans? Kenyans can buy shares!

**Mr. Were:** Mr. Deputy Speaker, Sir, we are all aware about that but it would not be

possible to sell Telkom Kenya as it is now when it is making losses. That is why we have gone into the first stage of retrenching workers. After that, we will offer it for sale.

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, it is very expensive to liberalise a corporation like Telkom Kenya simply because---

**Mr. Deputy Speaker:** Mr. Mukiri, if you are short, you may look up!

*(Laughter)*

**Mr. Mukiri:** Mr. Deputy Speaker, Sir, it is very expensive to privatise a parastatal like this one. Eventually, they will bring in a strategic investor, as they are saying, and many Kenyans will lose their jobs. Why can the Government not invest in proper human capital so that we have a corporation that is running profitably? Why can they not invest in proper managers for this parastatal and make it profit oriented?

**Mr. Were:** Mr. Deputy Speaker, Sir, I have indicated that Telkom Kenya is over-staffed. As we speak now the work-force is over 17,000 with 3,000 individual lines only. If you compare this with companies like M/s. Safaricom which are making higher earnings, you will find that M/s. Safaricom employs about 1,000 staff compared to 17,000 by Telkom Kenya. That is why the first step would be to reduce the number of staff because the ratio of lines to the number of staff is not proper. It would only, therefore, be prudent to reduce the number of staff and then get the proper managers to run the corporation.

**Mr. Kajwang:** Mr. Deputy Speaker, Sir, when we were in the Opposition, the Government was in a hurry to privatise Telkom Kenya. In fact, we put a lot of pressure on the then Government to privatise this corporation. We did not even care about the correct cost. We do not care about the cost. We care more about the service and what it can generate. Since the NARC Government took over, it has not taken any action to privatise this corporation. They are left with one year to go. We are hearing about "restructuring", "privatisation", "next year" and "retrenchment". We are just going round and round in circles yet we are not getting the correct service we should be getting from this corporation.

**Mr. Were:** Mr. Deputy Speaker, Sir, I would like to confirm to the hon. Questioner that this time round, the Government is serious about privatising Telkom Kenya. The programme of retrenchment is already on course and about 2,000 staff, between March and June, 2006, have already gone home. By the end of the year, all the planned 11,000 staff will be retrenched. In that process, Telkom Kenya will start saving about Kshs4 billion per annum. By the end of April, 2007, the privatisation process should be through.

*Question No.197*

GOVERNMENT EXPENDITURE ON LAWYERS  
IN GOLDENBERG INQUIRY

**Mr. Ochilo-Ayacko** asked the Attorney-General:-

- (a) who the lawyers representing the Government at the Goldenberg Inquiry were;
- (b) how much they were paid and who negotiated the payment; and,
- (c) whether he could justify the payments.

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, I would like to kindly request that this Question be deferred because it had gone to the Office of the President because it is talking about the Judicial Commission of Inquiry appointed by the Office of the President. However, we have agreed that I should handle it. Therefore, I need time to prepare for the answer.



**Mr. Ochilo-Ayacko:** Mr. Deputy Speaker, Sir, I have had problems with the Attorney-General over another Question that was deferred relating to the referendum and the lawyers involved. I heard the Attorney-General is again asking for deferment of this Question. Would I be in order to ask you to direct that the Question be answered next week? The other Question should also be answered next week.

**Mr. Deputy Speaker:** I would like to deal specifically with this Question and not the other one.

Mr. Attorney-General, when do you want to answer this Question?

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, I have the answer for the other Question. It was Question No.144.

**Mr. Deputy Speaker:** That is not on the Order Paper.

**The Attorney-General (Mr. Wako):** Yes, Mr. Deputy Speaker, Sir, but I could answer it now for my learned friend.

**Mr. Deputy Speaker:** When do you want to deal with this one?

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, if I could get, at least, seven days, I will be ready because I need to get all the information from the Office of the President.

**Mr. Deputy Speaker:** I will give you up to Wednesday afternoon.

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, I would prefer Thursday afternoon.

**Mr. Deputy Speaker:** Not on Thursday because there could be something else going on.

**The Attorney-General (Mr. Wako):** That is okay, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** We will, therefore, defer it to Wednesday afternoon.

*(Question deferred)*

**Mr. Deputy Speaker:** Hon. Members, that brings us to the end of Question Time. Next Order!

## POINT OF ORDER

### DEMOLITION OF REDEEMED GOSPEL CHURCH AT UHURU PARK

**Mr. O.K Mwangi:** On a point of order, Mr. Deputy Speaker, Sir. I stand to seek a Ministerial Statement from the Minister for Local Government following demolition of the Redeemed Gospel Church at Uhuru Park on Wednesday Morning, 7th June, 2006, during which the Minister for Environment and Natural Resources and his body guard were injured in a fracas. Could the Minister explain the circumstances that led to the demolition of the church, and why it had to be done at night? He should bear in mind that the christian community is greatly concerned about this incident. I am wondering whether there are concerted efforts to destroy christian institutions, taking into account that---

**Mr. Deputy Speaker:** Mr. O.K. Mwangi, you have now started debating the matter! Could you raise specific issues?

**Mr. O.K Mwangi:** Mr. Deputy Speaker, Sir, could the Minister tell the House why the Minister for Environment and Natural Resources was attacked at the scene, who authorised the demolition and how many other churches are targeted for destruction in Nairobi?

**Mr. Deputy Speaker:** Do we have the Minister for Local Government here?

Deputy Leader of the Government Business, what do you have to say?

**The Minister for Justice and Constitutional Affairs** (Ms. Karua): Mr. Deputy Speaker, Sir, the matter will be communicated to the relevant Ministry, and a Ministerial Statement will be issued in the next seven days.

**Mr. Deputy Speaker:** Very well; next Order!

## BILLS

### *Second Reading*

#### THE HIV AND AIDS PREVENTION AND CONTROL BILL

**The Minister for Health** (Mrs. Ngilu): Mr. Deputy Speaker, Sir, I beg to move that the HIV and AIDS Prevention and Control Bill be now read a Second Time.

The HIV and AIDS Prevention and Control Bill was first published in the year 2003, but has not been debated since that time. I am happy that it has now been put on the Order Paper, and we are debating it. It is now 22 years since the first case of HIV/AIDS was diagnosed in this country. This disease has continued to spread in the country, causing much suffering and breakdown in our socio-economic status. To date, over 1.5 million Kenyans have died due to HIV/AIDS and other related diseases. Over 1.2 million adults and 100,000 children are living with the disease. This epidemic has now become a development problem, and is a major concern to the Government. The Government has taken the fight against HIV/AIDS with the seriousness that it deserves. In November, 1999, the Government declared HIV/AIDS a national disaster, and, subsequently, the National Aids Control Council was established to co-ordinate a multi-sectoral national response to the epidemic.

In March, 2003, after the NARC Government came to power, the Government intensified the national response to the epidemic and declared total war against the disease at the community level and at all other levels in the country. These efforts are now bearing fruit. The HIV/AIDS prevalence rate declined from 13 per cent in the year 2000 to 6.1 per cent in the year 2004. Today, we have 72,000 people living with HIV/AIDS who are on treatment. When the World Health Organisation (WHO) launched the Three by Five Initiative in December, 2003, we had only 2,000 people on treatment. Since then, this effort has been scaled up, and we have been able to put 72,000 people on treatment out of the 220,000 people eligible for treatment. Our target at the end of this year is to have 140,000 people on treatment. Among those on treatment are about 5,000 children.

Mr. Deputy Speaker, Sir, a new Kenya National HIV/AIDS Strategic Plan, 2009/2010 has been developed through a highly participatory approach that is designed to bring down the HIV/AIDS prevalence rate to 5.5 per cent by the year 2010. This has been possible because of the measures that we have taken as a Government, by increasing the number of the voluntary counselling and testing (VCT) sites from 35 in the year 2003 to close to 665 throughout the country. We have also increased the number of PMCT treatment sites. We have increased drugs that are available in the market.

This has been possible with the support of some international organisations like the President Bush Fund that has assisted in treatment and purchase of drugs. It has supported us also in the employment of more health workers. Indeed, it is good news for Kenyans once again to learn that they can be treated for free. Initially, treatment of HIV/AIDS was inaccessible by many people;

many people were not able to afford it. Initially it cost US\$1000 per month. The cost then came down to US\$500 per month by early this year. Now, treatment is available for free.

Mr. Deputy Speaker, Sir, over the past two decades experience has shown that there is need for a regulatory legal framework to guide the national response to HIV/AIDS. As a result of this experience, the Government established a task force in 2002, on legal issues related to HIV/AIDS. This effort culminated in the preparation of the HIV/AIDS Prevention and Control Bill, 2003. This Bill was then republished and I hope we will pass it.

Mr. Deputy Speaker, Sir, the purpose of this Bill is to provide measures for prevention, management and control of HIV/AIDS, provide for protection and promotion of public health, provide for appropriate treatment, counselling support and care for people infected with HIV/AIDS, or at the risk of HIV/AIDS infection and for connected purposes. The Bill contains, first and foremost, measures for prevention, management and control of the HIV/AIDS epidemic. Such measures include education and information to the general public, institutions of learning, work places and health care service institutions.

Secondly, the Bill establishes safe practices and procedures and at the same time, provides guidelines on testing and screening for HIV/AIDS and access to health care services.

Thirdly, the Bill provides guidelines on confidentiality which is a major issue in HIV/AIDS prevention and control as well as human rights. Related to this, the Bill underscores the need to eliminate discrimination and stigma in the society in order to make progress in the fight against this epidemic. At the same time, the Bill legislates against transmission of HIV to others knowingly.

Mr. Deputy Speaker, Sir, fourthly, the Bill establishes an HIV/AIDS tribunal to hear and determine complaints arising out of any breach of provisions of this Act. You realise that the measures that this Bill intends to put in place will protect people who knowingly or unknowingly engage in sexual behaviour with people who are aware of their HIV positive status. This Bill is going to protect and care for people infected with HIV/AIDS.

This Bill takes cognisance of all Kenyans. We are aware of the number of people who have contracted this disease from their own spouses. Even before we put this law in place, we are encouraging every Kenya--- I would wish to challenge hon. Members of Parliament to be the first ones to be tested. They should show the way to others. That is the only way we will encourage people to come forward to be tested otherwise we will not be able to reduce effectively the number of HIV/AIDS cases that we are seeing today. With the increased resources that we have gotten in the Ministry of Health this is now possible. I hope that hon. Members of Parliament can make use of the resources that have been made available by the Government through their constituency HIV/AIDS committees to ensure that their people get totally involved in the HIV/AIDS work.

Each one of us has been affected in one way or another. Top on the list of those people who are mostly affected and infected by HIV/AIDS are women. These are the people who look after their sick, either their children or husbands. In fact, some children do not go to school because they have to look after their sick relatives. Therefore, this is a very important Bill and I hope every hon. Member of Parliament will support it.

Mr. Deputy Speaker, Sir, with the help of the Departmental Committee on Health, Labour and Social Welfare we spotted a few contentious issues that were contested. I am happy to report that with all the stakeholders coming together issues in this Bill have been ironed out. They have proposed amendments to this Bill and which will be brought to this House. The stakeholders comprised of the Ministry of Health, Ministry of State for Special Programmes, Office of the Vice-President and Ministry of Home Affairs, Non-Governmental Organisations (NGOs), civil societies, faith-based organisations, development partners, people living with HIV/AIDS, the private sector and so on. All these stakeholders are interested in ensuring that this Bill passes without problems. They took time to go through the Bill and came up with amendments.

Mr. Deputy Speaker, Sir, I wish to ask hon. Members to understand that HIV/AIDS truly has the face of women. I say so because it is women who are mostly affected. It is about young girls and their mothers looking after the sick. It is them who cook and take care of the sick in hospitals. I hope that hon. Members will pass this Bill with the amendments that have been proposed. I would also like to encourage hon. Members of Parliament to start talking openly and without fear about the causes of death. I have hardly heard anybody who is aware of the cause of death of a person say that the person died due to HIV/AIDS related complications. In this Bill, I argued a little bit in the morning with our officers in the Ministry of Health that we should make it mandatory that any young people wishing to get married be tested first before starting family life. However, I am told that that will cause problems. In my view, it is the only way. This has been done in other countries and I truly believe that it should be done here too. This Bill also addresses issues on research in HIV/AIDS, including biomedical research.

Finally, since 2003 when this Bill was first published, major changes have taken place in the fight against HIV/AIDS, both locally and internationally. This has necessitated amendments to be brought to the original Bill. The Government has worked closely with all stakeholders including the Departmental Committee on Health, Housing, Labour and Social Welfare. In this regard, in addition to introducing the HIV/AIDS Prevention and Control Bill, I am also going to table the amendments that they have proposed so that hon. Members can also see what they came up with.

Mr. Deputy Speaker, Sir, I wish to thank all those people who have worked tirelessly in support of this Bill. I now want to ask hon. Members to support and pass this Bill as presented.

With those remarks, I beg to move and ask Mr. Wetangula to second this Bill.

**The Assistant Minister for Foreign Affairs** (Mr. Wetangula): Thank you very much, Mr. Deputy Speaker, Sir. This Bill is long overdue. We have been moving backwards and forwards on the legislation on HIV/AIDS. I congratulate the Minister for finally bringing the Bill to the Floor of this House. As you know, this is the third legislation since Independence, that seeks to bring a legal framework on the prevention of a disease or a combination of diseases. The only previous laws are the Public Health Act, Cap.242 of the Laws of Kenya and Malaria Prevention Act, Cap.246.

Mr. Deputy Speaker, Sir, HIV/AIDS is a scourge that, each and everyone of us here, has either been affected or encountered in the course of our duty as Members of Parliament. Our constituents, friends and relatives have been affected in one way or another. We all know that, so far, HIV/AIDS has no cure. It is a disease that has far reaching implications to an economy, particularly of a developing country like Kenya.

It is with that in mind that we need a legal framework for prevention, education and management of all other related issues regarding HIV/AIDS. This Bill is very comprehensive. It has all the needed provisions to deal with HIV/AIDS. As we deal with HIV/AIDS, I want to encourage the Minister not to forget about the resurgence of other deadly diseases like Tuberculosis (TB). I am told that TB is on the rise at a very alarming rate. We all know that TB is one of the opportunistic diseases that claim HIV/AIDS patients. Malaria remains the biggest killer in tropical countries in the whole world. Even as we have the Malaria Prevention Act, its management has not been effective.

So, I hope that, once we pass this Bill, we will rejuvenate the process of public education, management and caring for HIV/AIDS patients. The Bill provides for free flow of information under various circumstances on issues affecting HIV/AIDS patients. It is absolutely important that persons who deal with the management of HIV/AIDS patients like doctors, those who embalm bodies, those who run massage parlours and so on are able to have legal protection. It is provided for in this Act.

Mr. Deputy Speaker, Sir, Clause 9(1) of the Bill suggests that a person who offers to donate any tissue shall, immediately before such donation, undergo an HIV/AIDS test. That may

discourage people from donating tissues. People fear stigmatising issues. Perhaps, we should say that any tissue donated should be subjected to a test, so that those who want to donate tissues can do so without fearing that they will later discover they have HIV/AIDS. Many people, whether we like it or not--- Even among our colleagues here, if you tell them to go through that door for a test, you will see how many will go through it! It will be good if we test tissues after donation, just like they do in blood. If you donate blood, it is tested. If it is infected, it is thrown away. By that time, the donor has already left. That would be a much better way for our society to donate tissues, rather than subjecting people to tests before donation.

Mr. Deputy Speaker, Sir, Clause 10 provides that all donated blood must be subjected to a test. That is very important and necessary because we have heard of cases where HIV/AIDS has been transmitted through blood transfusion. The Bill also provides for the protection of those who deal with patients on a day-to-day basis like dentists, mid-wives and embalmers by giving them the necessary surgical equipment. Once you have that, it becomes incumbent upon those who run those facilities to ensure that their workers and professionals are protected. If you go to rural clinics, or to many homes for the sick called private hospitals, once one is employed there, he or she is forced to do whatever the owner wants. But the law is here now. You cannot force a nurse to attend to a patient without providing gloves and other protection. That is absolutely important because it removes our professions, nurses and others from the line of danger. That is good foresight on the part of the Minister because we need to protect our people.

In Clause 11, I would have liked the Minister to provide that any owner of a hospital, a nursing home, a massage parlour or any of those generic places who forces an employee to work without protection, commits a criminal offense and should be punished. That is the only way that you can provide a deterrent against money-hungry investors who do not care whether the workers are protected or not. Indeed, safe practices are the cardinal principles and cornerstones of medical practice. At the Committee Stage, I would like the Minister to consider expanding Clause 11, so that we can provide a penalty to offending owners and proprietors of hospitals, massage parlours, nursing homes, beauty care homes and all those institutions that have a skin interaction between the customers and the people who work there.

Mr. Deputy Speaker, Sir, the Bill also deals with the issue of compulsory testing. That is in conformity with the Constitution. I laud those who drafted the Bill because the Constitution protects the people from being forced to do anything that would amount to giving evidence against yourself, except in cases of defilement or rape, where the offender can be forced by the court to be forcefully tested to find out whether the accused is HIV+ or not.

Mr. Deputy Speaker, Sir, one very important Clause in this Bill is Clause 16, which provides for testing centres. Without offending the rules of *sub judice*, you know the scandal about a lady who proclaimed herself a prophetess, and the ring of fraudulent testing centres. They were pretending to pray for people and cure them of HIV/AIDS. After the prayers, you are taken to a fraudulent clinic where you are given a false certificate showing that you are now cured.

Mr. Deputy Speaker, Sir, I am happy that this Bill now takes care of those kind of fellows. You cannot have a ring of dishonest Kenyans; so dishonest to the level of preying on the plight of the sick. If a fraudster pounced on a healthy man like my colleague here, we can understand. But if you commit a fraud on a sick person, especially if you are a professional, it is a shame. Whoever calls himself a prophet or prophetess and enters an extortion ring and issues certificates to anybody pretending that you have been cured when you have not, you will be dealt with by this law. This is wonderful. I hope there will be enough capacity to enforce this law in order to stem this vice. In fact, the case of the prophetess in court is just one. There are so many others. And it is not just about HIV/AIDS. You remember the foreigner who came to Uhuru Park, hired some boys from the streets, folded their legs, prayed, unfolded their legs and said they had been cured from their

disabilities. We have had these kind of issues. In the process, they make money from our people. It is important that we have a law that protects our people from those kind of things. I would wish that the penalty provided for offenders under this section is made even stiffer than it is provided in the draft Bill.

Mr. Deputy Speaker, Sir, because we all know that AIDS has no cure, those who are diagnosed to have it become helpless and desperate and they turn to any available avenue where a cure is promised. You have heard stories about even doctors; some even who have attained professorship, pretending that they have found a cure. We have heard of Pearl Omega and many others. They sell these drugs to Kenyans and defraud them of millions of shillings. This Clause should be widened, not just to deal with testing centres, but also all persons, including doctors and those professors that we all know, who have been pretending to have concocted cures for AIDS.

There is an enterprise called Makini Herbal Clinic. Every Thursday and Friday, they announce on radio that they are appearing in Kisii or Bungoma and that all people with AIDS should turn up, they have a cure. The Minister for Health must rein in these fraudsters because we know, unless we are not being told the truth, that AIDS has no cure. Then, why do we allow persons who are not even trained doctors to announce on public media that they are going to cure people of AIDS. When they go there, the first thing you are asked is how much money you are carrying. We must expand this Clause to cover all those dishonest people. We must urge the Ministry to investigate, visit and check on these so-called herbal clinics that we see everyday being advertised. In fact, they even advertise in the print media. So, the Minister will not have a problem getting evidence; it is all there. If you go to KBC, you will get the clips of the advertisements every Thursday and Friday. You can rein in and we will be there to support you, Madam Minister.

Mr. Deputy Speaker, Sir, the Bill also, as it should, provides for confidentiality. AIDS being a disease that carries a terrible stigma, I think it is important that the identity of those who are diagnosed be protected, unless accentuating circumstances. For example, if you are a paedophile and you are HIV positive, I think it is absolutely necessary that you be published as duly as possible for everybody to know you. In the UK, for instance, once you are convicted of paedophilia, you are branded so that everywhere you pass, it is clear that you are a paedophile. This should happen to rapists. There was the case of someone in the mid-eighties; a gentleman who took a co-operative loan and went to Nyeri and feasted on women, keeping a record while he was sick. When he was eventually arrested, he was taken to court. But he died before he was convicted. If he was convicted, one would have expected the court to order, and it has to be within the law, that such a fellow must be branded so that everywhere he passes, everybody knows who he is. That gentleman, and many who think like him, will now be caught up by this law, because the Bill provides a penalty for people who knowingly and wilfully infect others. This is good because we have many people who are so devious that they will always say "I cannot die alone".

Mr. Deputy Speaker, Sir, on the provisions of Clause 24, I want to urge the Minister that while we need to deal firmly with those who transmit the disease, the penalty provided on page 157 is a bit too harsh. Generally, we know AIDS is a poor man's disease. I always share in the views of President Mbeki of South Africa, that AIDS spreads fastest in poor circumstances. Where you have poor people, you will find that their only source of recreation sometimes is sexual activity and nothing else. That is how AIDS spreads very quickly. When they drink *chang'aa* or other intoxicants, even if you distribute to them free condoms, a helplessly drunk person will not even know how to use it. So, when you proscribe a punishment of Kshs500,000 to a person who has transmitted AIDS, I think it is like giving a death sentence to a poor person. Perhaps, what we should do is to graduate the penalty. Although we are saying "not exceeding Kshs500,000", magistrates will always think that since Parliament thought of Kshs500,000, if I was to give half of it, it would be Kshs250,000. That is a lot of money to an ordinary poor person, by any standards. I

think we need to look at that to see whether that sentence is appropriate within all the circumstances of Kenya. If you come to Sirisia and you fine any of my constituents Kshs500,000, you are just sentencing them to death because they will go to jail and die there.

Mr. Deputy Speaker, Sir, I also want to mention something about the provision on insurance. This is really good. This Bill now says that insurance companies cannot deny you insurance or credit simply because of your HIV status.

Mr. Deputy Speaker, Sir, I saw in my legal practice before I came to this House that when one is borrowing money or taking a mortgage, he or she is subjected to a compulsory HIV test. If one turns out positive, he does not get the mortgage. This is unconstitutional. It is good that this Bill says one's status of HIV should not exclude him or her from getting even a life insurance. The insurance providers can qualify the policy to take care of one's special status. It cannot disqualify one from getting a mortgage. They can only qualify ones condition to fit his or her special status. This is good, considerate and constitutional because we have been letting insurance and mortgage providers to act on Kenyans unconstitutionally. The Constitution says that one cannot be discriminated against purely on an issue of being in a condition like that, and many other conditions. But this Bill now is in conformity with the Constitution. I laud it. I hope its enforcement will be vigorous. Even if one is HIV positive and he has a family, he can take a mortgage. The family will live in it, even after he is gone. Why should one be denied a mortgage simply because he is HIV positive. This Bill is really laudable.

Mr. Deputy Speaker, Sir, one of the most important clauses in this Bill to me is Clause 39. It talks about research on persons by professionals who are dishonest. They just want to make their names. We all know the Majengo case where doctors from the United Kingdom (UK) in collusion with those from our own hospitals have been carrying out illegal and fraudulent tests and researches on women. If we want to turn any human being into a guinea pig, we should explain the circumstances, consequences and all attendant factors, including a payment for people subjecting themselves to those indignities. If we all recall, a month ago, there was a test of new drugs in the UK. People were called to volunteer and the research had not been properly done. One of the volunteers died immediately after an injection. The pharmaceutical company is now paying millions of pounds to the estate of that person. But here we have doctors from outside Kenya in collusion with our own doctors, under the noses of the Ministry of Health, walk to Majengo and Mathare slums and give women Kshs5,000, or sometimes a beer, and turn them into guinea pigs. This Bill now takes care of that. I would like the Minister to, in fact, provide for a very stiff penalty on any fellows who come to this country and do such things to our people. This is against human rights. It is dishonest, profiteering and fraudulent. We must stop it and take care of our people. Of course, the women they do these things to are poor. They will take anything. So, we must make it known to them that a law is now here to protect them. They should know that they can subject themselves to medical research knowingly and wilfully, but they must be paid for it. The public must know, especially the Ministry of Health. The Ministry will then advise them, first, of the consequences of that research and the benefits that should come to them, should the research be successful in any event. I think if that clause is enforced, that will be great.

Mr. Deputy Speaker, Sir, equally important is the creation of the Tribunal that will deal with all matters related to the administration of this Bill when it is passed. This is important because matters of this nature are better off dealt with in a specialized tribunal, instead of taking them to normal secular courts where facts take too long. Secondly, it is too public and sometimes the evidence adduced is embarrassing. But if it is within the Tribunal and limited audience, people will be free to talk what they want and assist each other.

Mr. Deputy Speaker, Sir, on the whole, this is a good Bill. I want to urge my colleagues to support it. For heavens' sake, as a country, Government and leaders, let us not pay all our energy

and attention to HIV/AIDS pandemic and forget other diseases that are killing Kenyans. Malaria is killing Kenyans in their thousands. Likewise, Tuberculosis is back, killing Kenyans in their hundreds. We also have diarrhoea, dysentery and many other diseases. We must also address the issue of other diseases with the same strength and enthusiasm with which we are addressing HIV/AIDS.

Mr. Deputy Speaker, Sir, I would like to urge the Minister at the Committee Stage to find a clause to deal with fraudulent Non-Governmental Organizations (NGOs) that are fleecing the entire public of funds in the name of pretending to be educating people on the HIV/AIDS pandemic and providing all manner of activities for the same. Many people out there are carrying briefcases; talking about the HIV/AIDS scourge even when they do not know what it is all about. I think we need to protect the public from such people. The funds from the National AIDS Control Council (NACC) are sent out there to the Community Based Organizations (CBOs) and NGOs, but they end up in the pockets of the officials. They do not help the HIV/AIDS patients and victims. I think it is important that we have a clause in this Bill that deals with persons who pretend to be educators.

Mr. Deputy Speaker, Sir, we have been told over and over again that Kenyans are 98 per cent aware that the HIV/AIDS scourge is real and it kills and has no cure. However, everywhere we go, there are seminars about HIV/AIDS awareness. If we are 98 per cent aware, why do we have endless seminars about awareness? This has to be checked and controlled. The only way to do so, is by law. We should rein in those fraudulent characters carrying briefcases and pretending to be educators on the HIV/AIDS pandemic when they educate on nothing. All they are looking for is money.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to second this wonderful Bill.

*(Question proposed)*

**Maj. Madoka:** Thank you, Mr. Deputy Speaker, Sir. I rise to support this Bill. Indeed, it is long overdue. We are glad that it is now before us. Obviously, Kenya has done a lot to try and ensure that we reduce the HIV/AIDS prevalence. The fact that we came down from 13 per cent to 6.1 per cent prevalence rate is a clear indication that the Government and the Kenyan people have been doing a lot. I believe there is still a lot more to be done. I am glad to say that I have witnessed in many areas, the chiefs, district officers and other leaders speaking openly about this pandemic. I think we should continue to do so.

The Bill is well set out and it contains a lot of issues which have been affecting us and which will now be taken care of by it. I think the Bill covers education and information extremely well. I agree with the previous speaker, that we need to take care of the CBOs or people who are supposed to be talking about HIV/AIDS awareness. We know there are many people who really know about it, but these CBOs and NGOs go round talking about it. They do not provide any new or valuable information at all.

Mr. Deputy Speaker, Sir, the area which concerns me is the question of confidentiality. This is an area which we have to think about very carefully. For example, we say that when blood is tested and it is found to contain the HIV/AIDS virus, then it is disposed of and left at that.

Mr. Deputy Speaker, Sir, if blood is tested and found to contain the virus that causes HIV/AIDS, I think the institution handling that blood must have the responsibility to inform the individual donor, of that finding, so that he can start taking the necessary precautions to safeguard himself and others. So, I would like to see some sort of amendment to Clause 10(2) to make provision for the individual who has been tested to be informed of his or her HIV positive status. The blood should not just be disposed of and the matter left at that,



because it is our aim to eventually encourage everybody to know his HIV status, so that people who are HIV positive can stop spreading HIV/AIDS.

Mr. Deputy Speaker, Sir, there is also need for us to ensure that HIV testing is made a pre-condition for individuals to be considered for certain engagements. In fact, the Bill states that HIV testing should not be made a pre-condition for certain things. However, I think, for instance, we should provide for HIV/AIDS pre-testing of would-be couples before marriage to avoid the spread of HIV/AIDS. I know that this will not be a very popular provision but if I was going to get married - thank God I will not at this age - I would tell my partner: "You must get tested before we get together." So, I think there is need to look at this particular clause.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, Clause 16 provides that no person shall carry out an HIV test except in a testing centre. I know that there are personal kits for testing HIV/AIDS. So, personal kits for testing HIV/AIDS should be allowed. Obviously, certain people would not want to go out and get tested for HIV/AIDS.

I am not very sure about the role of the proposed Tribunal. I know that various regulations are set out for the Tribunal but I think we need to look at it a little bit more carefully with a view to spelling out its real functions. Unless its functions are clearly spelt out, the proposed Tribunal will not serve any useful purpose.

Mr. Temporary Deputy Speaker, Sir, we must also state how funds from the Global Fund will be used. Today, we hear that so much money has been channelled to Kenya for the fight against HIV/AIDS but they are now being withdrawn, or not being disbursed, because of poor management. I think the Ministry and the National AIDS Control Council need to look at their management systems to ensure that such funds are used for the benefit of all Kenyans.

Mr. Temporary Deputy Speaker, Sir, I do not want to repeat what has been said by my colleague, Mr. Wetangula, who covered many areas of this Bill. So, I will end there.

I beg to support.

**Mr. G.G. Kariuki:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Bill. The Bill is long over due. It ought to have come here, maybe, immediately after the HIV/AIDS scourge was detected. This was the time that most people did not want Kenya to be known to have people who were infected with HIV/AIDS, whereas this is the time the spread of this disease would have been controlled.

Mr. Temporary Deputy Speaker, Sir, between 1984 and 1995, people did not believe that the HIV/AIDS virus existed. Its spread continued until everybody came to know that, indeed, there was a problem. This problem ought to have been followed by a legislation like the one we are dealing with now although it is my submission that no legislation in this world will stop human beings from doing what they want to do. The time human beings would have been guided by legislation would have been long before we were born.

The management of HIV/AIDS involves asking yourself several questions such as why people get infected and how they get infected. Even today, it is hardly known whether the HIV/AIDS virus is only transmitted through sexual acts. This cannot be explained by our medical doctors or professors. No one can determine how it happens. Even in the developed nations, no one is willing to explain how HIV/AIDS came about. We are fed with information that HIV/AIDS was genetically created from

a laboratory. We are told that this was intended for the African communities to be killed by HIV/AIDS. I may be called a propagandist for saying something like that, but that is what has been said in the developed world as well as in the developing countries.

Mr. Temporary Deputy Speaker, Sir, if HIV/AIDS is, indeed, a laboratory occurrence, the people who have that same knowledge of creating the virus should be able to detect and discover the treatment of HIV/AIDS. Trying to cure the disease without dealing with its causes and how it is infecting people is the beginning of our failure. I believe that what the Government should have done is to set aside a sufficient amount of money for research just like any institution in the world.

Without dwelling so much on the history of this scourge, I think it is important for the Ministry of Health - I am happy the officers are here - to educate the people on matters of HIV/AIDS. Everyone knows how people get infected with the HIV/AIDS virus. For instance, most people who have other venereal diseases can easily contract the HIV/AIDS virus. What are we doing to provide our people with healthcare? Are we just waiting to get money from overseas to fight HIV/AIDS, whereas the HIV/AIDS virus came from that end. The virus has become nothing but commercial. It is an international business which we must be careful about. Let us provide our people with facilities that can treat them.

Mr. Temporary Deputy Speaker, Sir, for instance, in some parts of this country, you find that a mother of 25 years has to travel for 15 kilometres to seek medical attention and yet, we pretend that we are the most affected by this situation as if we have just come from the moon. We belong to this country and we surely know that we are not taking care of our people's medical needs.

Mr. Temporary Deputy Speaker, Sir, we have failed to protect our people against minor diseases, through which HIV/AIDS thrive. If somebody does not suffer from any other illness, it is not easy for him or her to die from HIV/AIDS. Many people are dying from opportunistic diseases because they have no access to treatment. We have put a lot of money into the HIV/AIDS campaign, and yet we are not treating the minor illnesses. This is very disappointing!

I agree with the Minister that education is part of the curative method because it enlightens people about what may happen when they engage in careless sexual activities. Every citizen of this country knows about the HIV/AIDS scourge. However, what are we doing to help our people? First of all, we have demonised the HIV/AIDS positive persons. That is why it is very difficult for people to go for the HIV/AIDS test, even the hon. Members. If we are genuine and honest, we should lead the country by voluntarily going for the HIV/AIDS test. That is the only way that we can change the perception that if you are HIV positive, you are on your deathbed.

Mr. Temporary Deputy Speaker, Sir, there are some other diseases, like diabetes, which are worse than HIV/AIDS. Many people are suffering from diabetes, but this is not a scare disease because it is not being marketed by the Americans and the developed world. When it will be marketed by the developed world and said that it is dangerous and it is killing millions of people, experts will come out to say that, that is true like they will just have discovered the disease. We need to put more money into the treatment of the opportunistic diseases.

Mr. Temporary Deputy Speaker, Sir, the money which is being spent on the fight against HIV/AIDS is spent through the Executive. Even in America, this money is not controlled by the Ministry of Health, but by the Executive. That is why HIV/AIDS is more or less a political disease. Why should we let the Executive control the HIV/AIDS money? Why is it so important? Is it not political? There is a lot to be desired in this exercise. African specialists go to the best universities in the world, but they still wait to be advised or directed by experts from outside. They wait until they are told that a certain disease is going to finish Africans and they start singing the same song. The time has come for our specialists to discharge their duties.

Mr. Temporary Deputy Speaker, Sir, we witnessed the launching of a drug called Kemron.

The Head of State was deceived and he attended the launching of a drug that was not there. We have become extremely money-minded! We know so well that at the moment, we do not have a cure for HIV/AIDS. Even today, we have a professor who claims to have found a cure for HIV/AIDS. When a certain Prophetess Nduta claimed that she could cure HIV/AIDS, she landed in a police cell. Why should we allow people to behave the way they are behaving? Something is very wrong!

I would like to request the hon. Members and Kenyans at large to go for the voluntary counselling and testing, so that we can show the world that we know that this disease exists. This will also help the infected people to access treatment. This Bill is only encouraging people to go for the voluntary counselling and testing. All institutions should require their employees to go for the HIV/AIDS test. This is the only way that we will solve this problem. Employees should be made to account for their health. Let us not shed crocodile tears in this Bill. Let us encourage institutions like Parliament, universities and others to require their employees to go for the HIV/AIDS test.

Mr. Temporary Deputy Speaker, Sir, the other point which I would like to comment on, and the Minister has covered it very well, is about people who infect others knowingly. There was a time when people were trading with this virus. HIV/AIDS positive people were paid to have sex with people who were not infected, so that they could infect them. This was business! The Bill states that if an infected person infects another person knowingly, he should go to jail for not less than seven years or pay a fine of Kshs5,000. This penalty is so light that it cannot deter other offenders from committing the offence. The victim should serve a life imprisonment. If an infected person infects another person knowingly, he should be got rid of from the society. He is a murderer and should be treated like any other criminal!

It is important for us to conduct compulsory HIV/AIDS tests, starting with this Parliament. The voluntary counselling and testing (VCT) centres are available in many places and we need to have one in Parliament Buildings where people can quietly go and be tested, so that they can know their status.

Mr. Temporary Deputy Speaker, Sir, we are trying to hide as if HIV/AIDS does not exist. Some people, when infected, pretend they are not. That is just a waste of time. It will catch up with them! I think that is very important. We should be concerned about opportunistic diseases. The Minister promised to introduce an amendment to this Bill. The Secunder of the Bill was also very eloquent. I think we do not need to waste a lot of time on this Bill. We expect the amendments on this Bill to go through.

With those few remarks, I beg to support.

**The Assistant Minister for Planning and National Development** (Mr. Serut): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to align myself with the sentiments that have been expressed by my colleagues. This Bill has been long overdue. So many people have died since 1984. That is when we started hearing of people suffering from signs and symptoms of HIV/AIDS. HIV/AIDS is a disease which has no boundaries. The reason why we are having this Bill is because HIV/AIDS has affected the entire world.

Mr. Temporary Deputy Speaker, Sir, I listened to the Minister for Health when she presented this Bill. I have also listened to the Secunder of the Bill. Personally, I am impressed by the way the Secunder expounded on the Bill. Part (ii) on page 144 deals with HIV/AIDS education in institutions, especially in schools. During the Committee Stage, we should introduce some amendments, particularly on prevention. Students must be taught about support and care for patients at home. Students and pupils live with people who suffer from HIV/AIDS. The best place to relay that information is right at the classroom.

Mr. Temporary Deputy Speaker, Sir, on Part (iv) about marriage, although the Minister is trying to say that there should be no pre-condition to marriage, what is currently happening is that,

before people get married, most of them insist on tests. Most parents are saying that they do not want their children to get married unless there is proof that the purported spouse is not HIV positive. I am of the opinion that, that should be left to those aspiring to get married to decide. If a man wants to marry a lady and feels that she is not willing to go for a test, he has an option of not marrying her.

Mr. Temporary Deputy Speaker, Sir, I have also looked at the penalties being prescribed in some of the sections. I think the option of penalties, especially the minimum and maximum, should be left to the courts. That way, the courts will have a leeway of deciding, depending on the evidence adduced.

Generally, I want to say that the Bill is good. It covers all the areas. It covers the diseases that accelerate death as a result of HIV/AIDS. I urge my colleagues not to waste so much time on this Bill. Let us pass it today. Let the Minister come up with the few amendments that have been suggested. That way, we shall have an Act of Parliament to deal with HIV/AIDS.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister for Trade and Industry** (Mr. Miriti): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to support this Bill. This Bill is long overdue. But when you look at HIV/AIDS, you will see a hidden agenda in it. You will see an economic disease. You will see a disease introduced in the world, so that certain people can make money out of it. The way we handle it locally is as if we have been brainwashed. I am saying that because, for example, in protecting our people against the disease, we are buying condoms worth millions of shillings. It is as if we are encouraging it. Indeed, such things are bought, most probably, from the people who introduced the disease.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on Clause 40(1)(b) on research. It is on page 166. It reads:-

"No person shall undertake HIV or AIDS-related biomedical research on another person or any tissue, or blood removed from such a person except.

That other person is a child with a written informed consent of a parent or legal guardian of the child".

We know of cases in this country where parents have sold their children. We also know that people can make money out of such a clause. I would suggest that this clause be deleted, so that our children are protected.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on Clause 13(2)(a) on page 148. It deals with the issue of employment. It says that people who want to get employment cannot be forced to undergo testing. I do not think we want to employ sick people in our institutions. Take, for example, the armed forces. Those people cannot deliver services. We cannot do that just because there is a law protecting them.

I would like to support the hon. Member who suggested that we have compulsory testing for everybody, including you, Mr. Temporary Deputy Speaker, and me. That way, we will know the extent of that disease in the country. If we cannot test everybody, how else can we prepare for the disease? How can we know how many people have the disease? How else will we know how many people can infect others?

Mr. Temporary Deputy Speaker, Sir, I would like to comment on Clause 2(g) which provides for health care services in the Ministry like physiotherapy, speech therapy, occupational therapy and other types. I would like to include psychotherapy and counselling psychology so that such services are also available. I would also request the Ministry of Health to list counselling psychologists as professionals who are employed in the Ministry so that they can offer their services. This service is not recognised and is ignored, and quite a number of universities are now producing such professionals and most of them are not engaged, thus they are suffering out there.

Mr. Temporary Deputy Speaker, Sir, on the question of confidentiality, as I have talked in terms of compulsory testing, I do not know why this disease is treated as a unique disease. We have so many other terminal diseases like cancer and others which, when people suffer from them, they undergo almost similar circumstances like those of HIV/AIDS, and their confidentiality is not protected the way HIV/AIDS is. I think the confidentiality of HIV/AIDS is protected so that the economic opportunists can make profit out of it because once such protection is offered, so many people are infected. In fact, so many people have died in the world from HIV/AIDS confidentiality. In fact, so many people are now admitted in hospitals and they are incurring such high expenditures that all those people who are manufacturing HIV/AIDS drugs are making a kill out of it.

With those few remarks, I beg to support.

**Capt. Nakitare:** Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to applaud the Minister for Health for coming up with the HIV and AIDS Prevention and Control Bill. The Bill is long overdue as has been said by my colleagues. I would like to pose a question. In most cases, our people believe that this is a sexually transmitted disease. Is it really? I beg to differ with these people. We have had cases where blood transfusion has been the cause of transmitting this disease. This is a blood infected transmitted disease which the medical department, medical officers of health and other medical practitioners must look at very carefully.

When you look at our hospitals in this country, you will find that we do not have enough laboratories to determine the cause of diseases. It has been highlighted that tuberculosis, malaria and diabetes are opportunistic diseases leading to HIV/AIDS. Much as we can say that, there is a lot left to be desired. Across this country you cannot even get a person who has been vaccinated for Hepatitis "A" "B" or "C", and yet this is the immediate killer disease of mature people. Therefore, we should disregard the fact that this is only a sexually-transmitted disease. When you look at cancer, you will find that it is not a single killer disease since there are many opportunistic diseases that lead to it. So, a solution should be found for HIV/AIDS. There has to be an answer.

Mr. Temporary Deputy Speaker, Sir, a lot has been talked about sex education in schools and homes. It is, of course, immoral to have sex and again more immoral not to abstain from sex. We should have protective measures to practise sex. This has to be looked into because counselling itself is not enough for a people who have been infected because they know their days are numbered. I will tell you, with due respect, a case where a female university student from Moi University in Eldoret came out and said that she had infected more than 200 students with HIV/AIDS.

**Mr. Kipchumba:** On a point of order, Mr. Temporary Deputy Speaker, Sir. If you listen to the tune of the debate, you will realise that we are actually repeating the same issues. Would I be in order to request that the Mover be now called upon to reply?

*(Applause)*

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

**The Minister for Health** (Mrs. Ngilu): Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to reply.

Mr. Temporary Deputy Speaker, Sir, first, I would like to thank all those hon. Members of Parliament who have made their contributions to this debate and who have supported it. I also thank the Departmental Committee on Health, Housing, Labour and Social Welfare for the work that they have done, the input they have put into this Bill and the support they have given to us. I want to assure all hon. Members of Parliament that they have raised certain concerns and we have

noted them. We are going to ensure that in the amendments, they will be taken into account.

Mr. Temporary Deputy Speaker, Sir, in particular, hon. Members of Parliament have talked about other diseases and research. I do agree with hon. Members that HIV/AIDS has almost taken the centre stage of diseases in this country and has actually brought in a lot of money and support. I also want to assure hon. Members that we are not forgetting other diseases. I know that diseases like tuberculosis, malaria, sexually-transmitted diseases and non-communicable diseases form part and parcel of the work that we have got to do and, therefore, we cannot ignore them.

Mr. Temporary Deputy Speaker, Sir, part of the eight Millennium Development Goals (MDGs) that must be achieved by 2015, which is only nine years from today, is the reduction of HIV/AIDS infections, which we are doing, and indeed treating the same, which we are also doing. We are ensuring that we can reverse the trends of the heavy burden of diseases in this country. I want to assure hon. Members that we are looking into that.

Mr. Temporary Deputy Speaker, Sir, hon. Members of Parliament are, of course, concerned about the poor infrastructure that we have, acute shortage of health workers, among others, but I want to say here that over the last one year, the Government has increased our budget by 30 per cent, and this year we are going to ensure that we actually rehabilitate most of our health facilities in the rural areas. I am sure that hon. Members of Parliament know that we have actually started by sending resources direct to the villages. This is in line with our National Health Sector Strategic Plan 2005/2010, whose theme is: "Reversing the Trends" and, therefore, ensuring that we focus our promotive and preventive health care to the communities. We are going back to the villages.

Mr. Temporary Deputy Speaker, Sir, an hon. Member, in his contribution to this Bill, talked about research. In particular, he talked about a drug that was developed by the Kenya Medical Research Institute (KEMRI). This drug was popularly known as Kemron. We, as a country, erred by not developing it at that point in time. It is a pity that other people took it up, improved on it and patented it. For example, last year, in Geneva, some people had already taken up the drug from Egypt and patented it. It is the same drug. They have now put it in the market to treat Hepatitis B. So, we erred and that should not have been the case. Research takes a long time. Had we continued in that way, we may have come up with a drug that could be treating patients today. At the moment, we are getting generic drugs from India and the Far East. This is why we have been able to treat as many people as possible.

Mr. Temporary Deputy Speaker, Sir, we can effectively address the HIV/AIDS pandemic if we do attend to the issues of adolescent health. We all know that many people who are suffering from HIV/AIDS-related diseases are between the ages of 14 and 39 years. These are young people. They are at their productive age group. Therefore, we need to understand that unless we reverse and ensure that there is no further transmission of the HIV/AIDS virus, this country will not experience economic growth.

I would like to assure hon. Members that we will do everything we can to deal with all the diseases that have made things very difficult for our nation. I know many of us here have contributed money to treat or bury a loved one or a constituent. That is why we are taking this issue very seriously. I want to thank all hon. Members for the support they have been giving my Ministry. We will look at all the amendments and we shall share them with the House during the Committee Stage.

Mr. Temporary Deputy Speaker, Sir, 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)*

*Second Reading*

THE NATIONAL MUSEUMS AND HERITAGE BILL

**The Minister for National Heritage** (Mr. Shakombo): Mr. Temporary Deputy Speaker, Sir, I beg to introduce the National Museums and Heritage Bill No.2 of 2006, for Second Reading.

The principle objective of the Bill is to amend and consolidate the law relating to the national museums and heritage. The Bill will reflect the Antiquity and Monuments Act, Cap.215, and the National Museums Act, Cap.216. It will update and enhance the legal framework of the museums and heritage management and make them consistent with international standards and treaties. The two Acts that I have mentioned; that is, Cap.215 and Cap.216, were enacted in 1983. For more than a decade, those two Acts have made a strong and positive impact on both national museum development and cultural heritage management in this country. However, during the last 10 years, museum activities have expanded and grown both in scope and geography. The two Acts have led to a very big shortfall.

Mr. Temporary Deputy Speaker, Sir, if this Bill is enacted into law, it will give the museum a strong mandate and make it an effective organisation. It will also develop institutional development, create ability to attract skilled professionals, and also create potential development of revenue generating activities, investments, partnerships and financial independence. Up to now, we only depend on donors and those who wish to give us a helping hand. Other than that, if we are left alone, and because we do not have any instruments that can enable us raise our own finances, then we shall be left in the limbo.

Mr. Temporary Deputy Speaker, Sir, if this Bill is enacted, it will clear all outdated activities. It will also remove the weak and unclear powers for effective heritage preservation in our country. This Bill will also give us a clear, harmonized legal framework and procedures for heritage management and development of museums in Kenya. We need a proper organisation, institutional development and capacity for national museums. This can only be achieved if this Bill is enacted into law.

Mr. Temporary Deputy Speaker, Sir, the other objective of this Bill is to consolidate the present Acts into one for a clear, properly controlled framework for heritage management and development in Kenya. It will also create better conditions for national museums and create development for potential increased revenue base, more authority and flexibility of operations, and capacity to attract and retain competent staff. It will also enable us update the legal framework of heritage management to comply with the current revolution in heritage management, both nationally and internationally.

If we enact this Bill, we will be able to help the national museums enhance its activities, identify, protect, conserve and transmit the cultural and natural heritage of Kenya. It will also promote cultural resources in the context of social and economic development. When this Bill is enacted into an Act, it will also extend the aspect of heritage to include monuments, antiques and ship wrecks in lakes and waters within Kenya, or the sea belt within territorial waters of Kenya. At the moment, we do not have legal instruments to enable us go beyond the normal earth's face into the water. We are now seeking the authority, so that we are able to protect whatever is our heritage which is under the waters, both in the seas and the lakes.

Mr. Temporary Deputy Speaker, Sir, the Bill will also enhance the penalties for those who break the law. As it is now, one of the penalties stipulated in the two Acts I have mentioned, Caps. 215 and 216, is a fine not exceeding more than Kshs10,000. However, in this Bill, we intend to be

more punitive and raise the fine to about Kshs1 million or 12 months imprisonment, or both. The Bill will also empower the Minister of State for National Heritage to be the only one who can allow people to open museums. Without the introduction of that law, right now, everybody can open their own museum. Those museums which have already been opened, yet the Minister has no power to control them, are used to take artefacts, which form part of our heritage, out of the country. We have discovered that we are losing quite a lot, and this Bill will enable us to control and make sure that nothing goes out of this country without the authority of the Minister.

This Bill will also enable us to ensure that the natural features consisting of physical and biological formations; groups of such formations which are of outstanding and irreversible value, from the aesthetic and scientific point of view; and geological formations of special significance and features of beauty are preserved. We can only do that if this Bill is passed. It is precisely delineated areas which constitute a habitat of precious species of animals and plants of outstanding universal value from the point of view of science and conservation of natural beauty. The Bill will also enable us to protect the areas which have been of religious significance like the *kayas*. We shall also be able to protect open spaces. However, right now, we cannot do that. So, that is why we are asking this House to pass this Bill so that what we cherish as our heritage can be protected.

The Bill will also enable us to protect the buildings we have because some individuals may, in future, declare certain buildings private and demolish them so as to build sky scrapers. The Bill will enable the Ministry to protect and ensure that any structures that are considered as monuments are preserved. We have heard many of our people complaining that colonialists took away very important artefacts which belonged to some of our famous leaders like Chief Kinyanjui, Mekatilili wa Menza, Koitalel arap Samoei and skins of the man-eater lions. There is nothing we can do now, apart from knowing that the former leaders existed. We know where the skins of the man-eaters are because they form part of our heritage. The events surrounding the leaders took place when the railway line from Mombasa to your place was being constructed.

**The Temporary Deputy Speaker** (Mr. Khamasi): Mr. Shakombo, please, address the Chair.

**The Minister of State for National Heritage** (Mr. Shakombo): I am sorry, Mr. Temporary Deputy Speaker, Sir. The Bill will enable us to reclaim all the artefacts, articles and monuments of importance that were taken away from us. The Bill will also allow us to approach those who are holding such artefacts and ask them to return them, since they will have been declared as monuments which are important to our heritage. We can only do that if we have a legal instrument to guide us. At the moment, we can only request those who are holding artefacts and monuments to return them. However, if they decline, there is nothing much we can do.

### QUORUM

**Mr. Keter:** On a point of order, Mr. Temporary Deputy Speaker, Sir. We are discussing a very important Bill. Therefore, would I be in order to say that we do not have a quorum?

**The Temporary Deputy Speaker** (Mr. Khamasi): Yes, I can see that we do not have a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Mr. Khamasi): Hon. Members, since we are not able to



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raise a quorum, we will now interrupt our business. The House is, therefore, adjourned until Tuesday, 13th June, 2006, at 2.30 p.m.

The House rose at 5.40 p.m.