

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 15th November, 2006

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

Sessional Paper No.6 of 2006 on Employment Policy and Strategies for Kenya.

*(By the Assistant Minister for
Labour and Human Resource
Development (Ms. Mwau)*

The Report of the Departmental Committee on Health, Housing, Labour and Social Welfare on the Tobacco Control Bill (2006).

(By Dr. Manduku)

NOTICE OF MOTION

ABOLITION OF 8-4-4
SYSTEM OF EDUCATION

Mr. Karaba: Mr. Speaker, Sir, I beg to give notice of the following Motion:-
THAT, considering that the country spends over Kshs400 million in form of foreign currency when parents take their sons/daughters to other countries for "A" level education; considering further that students from Kenya are at times required to undergo "A" level studies before proceeding to universities abroad; this House urges the Government to abolish the 8-4-4 System of Education and re-introduce the 7-4-2-3 System.

QUESTION BY PRIVATE NOTICE

HIGH MOBILE PHONE CHARGES

Mr. C. Kilonzo: Mr. Speaker, Sir, I beg to ask the Minister for Information and Communications the following Question by Private Notice.

- (a) Is the Minister aware that mobile phone charges (air time) in Kenya are too high?
- (b) Is he further aware that mobile phone companies are making abnormal profits as a result?
- (c) What is the Minister doing to protect mobile phone users from exploitation?
- (d) How many more mobile phone companies does the Government plan to license and when?

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

(a) I am aware. However, it should be noted that these charges have continuously been coming down due to several measures taken by the Government to address service affordability. The charges are also comparable to those in the East African region where the average charges are Kshs12 to Kshs15 within the same network and Kshs25 to another network.

(b) The profits by mobile companies are high, though not necessarily abnormal. Investment in telecommunications infrastructure involves high initial capital outlay and it takes sometime before any returns on investment is realised. Most of these investments involve sourcing of huge financing facilities with definite repayment periods.

(c) The Government has taken several steps to protect consumers through regulating inter-connection charges among operators as per the Kenya Communications Regulations (2001) to ensure that the charges are consistent with the law. The Government has also licensed two mobile service providers, and competition is deemed to be the most effective tool of rationalising prices as is the practice worldwide.

The Communications Commission of Kenya (CCK) is currently conducting a case study, the results of which will assist in among others, identifying the appropriate connection rate, the rationalisation of charging mechanisms and new regulatory approaches towards making telecommunications services more affordable to consumers.

(d) Currently, two mobile phone licenses are operational; that is Safaricom and Celtel. Once the litigation issues surrounding Econet Wireless are resolved, the country will hopefully have three mobile providers. Moreover, as earlier indicated sometime early this month, the Government recently awarded a tender to Vitel Consortium to operate both fixed and mobile services.

In essence, therefore, Kenya will have three or four mobile phone operators very soon.

Mr. C. Kilonzo: Mr. Speaker, Sir, I am not convinced. The profits being made by these companies are abnormal. One of the companies made Kshs11 billion in one year; after taxes it came to Kshs8 billion. In business, if you break even, you are a good businessman; if you make profit, you have the welfare of your customers. But when you make abnormal profits, then you become an unscrupulous business man.

Can the Assistant Minister tell us how fast he is going to register more companies and how many?

Mr. Were: Mr. Speaker, Sir, I have just said that one new company has been licensed to do mobile business and fixed line business. We already have Econet Wireless which is having problems with the shareholders. As soon as these ones are operational, we will go to the option of licensing another operator.

Capt. Nakitare: Mr. Speaker, Sir, we have difficulties with this Ministry. There is a creation of monopoly here by these mobile phone companies. We thought we were going to get a relief after Telkom Kenya decentralised this business.

Right now, we subscribers under Telkom Kenya landline are being charged Kshs500 per month for services they have not provided. The reason is that the cables have been stolen. When

the Assistant Minister says that they are considering to have a third mobile phone company and yet the existing ones are making abnormal profits, what protection is he giving to the citizens of Kenya in terms of international technology?

Mr. Speaker: Capt. Nakitare, you are moving a Motion!

Capt. Nakitare: I am asking a question.

Mr. Speaker: I thought so! Mr. Were, would you like to respond?

Mr. Were: Mr. Speaker, Sir, there is no monopoly as we have two mobile phone operators and a third one has been licensed. When it comes to Telkom Kenya, we have already registered a second national operator who will do both mobile and landline.

Mr. Midiwo: Mr. Speaker, Sir, sometime back, the Assistant Minister came to the House and told us that he was going to rein in the mobile industry as regards the fake mobile phones which are flooding the market. I wonder what became of that. Could I know from the Assistant Minister if he thinks that the way the mobile phone companies are giving lines to subscribers is not a security threat in this country, as they give them to anybody at will for as low as Kshs40 a line? Could he do what every other civilised country is doing by making mobile phone companies register everybody who buys a mobile phone line, because people are using them to commit crimes and intimidate Kenyans?

Mr. Were: Mr. Speaker, Sir, the Member has asked three questions in one. First, he has asked about what the Ministry is doing in relation to the standards of mobile handsets that we have.

The last time I answered this question in this House, I indicated that the CCK tamper-proofs all the handsets that come into the country. But as you know, with the free market and the porous borders, it is a bit difficult for us to study each mobile phone that comes into the country.

On the issue of cost, I believe it is for the good of all the citizens of this country to afford telephone lines. So, if we are going to make them exorbitant, it would mean that we are letting only the rich to have access to mobile phones.

On the issue of ensuring that all people who buy mobile phones are registered, that is something we are looking into and I believe in the future it will be taken care of.

Mr. C. Kilonzo: Mr. Speaker, Sir, without protection laws, the mobile phone companies, even if they were four, will still form cartels to exploit mobile phone users. This Government is very keen on collecting taxes. So, they are very happy when they receive fat cheques. But they are not looking back to see at what cost. What is the Government going to do to ensure that the companies which are already there and the new ones do not form cartels and exploit mobile phone users?

Mr. Were: Mr. Speaker, Sir, in my answer, I indicated that CCK is carrying out a study on the cost of making calls. As soon as the study is completed, action will be taken.

ORAL ANSWERS TO QUESTIONS

Question No.394

INSECURITY IN TALA/ KANGUNDO TOWNS

Mr. M. Maitha asked the Minister of State for Administration and National Security:-

(a) whether he is aware that many robberies have occurred in Tala and Kangundo towns, leading to loss of lives and property;

(b) what steps he is taking to beef up security in the towns and their environs; and,

(c) when Tala Police Post will be up-graded to a police station and supplied with a vehicle to enhance crime prevention.

Mr. Speaker: Mr. Maitha, there has been a problem with the Ministers in the Office of the President. I think Mr. Kingi is "marooned" by floods in Ganze and hon. Michuki is out somewhere else. So, can I put it to tomorrow?

Mr. M. Maitha: Yes, Mr. Speaker, Sir.

Mr. Speaker: Thank you.

(Question deferred)

Question No.579

NON-SETTLEMENT OF CONTRACTOR'S
DEBT BY DRC EMBASSY

Mr. Ojaamong asked the Minister for Foreign Affairs:-

(a) whether he is aware that Mr. Okiya Dindi Victor, a contractor for Nachimo Enterprises, has an outstanding payment of US \$12,500 from a contract signed between him and the Embassy of the Democratic Republic of Congo (DRC) on 9th September, 1999 for undertaking renovation works at the Ambassador's residence at Muthaiga; and,

(b) what steps he is taking to ensure that the Embassy of DRC settles the outstanding contract sum.

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

(a) I am aware that a Mr. Okiya Dindi Victor, of Nachimo Enterprises claims that he is owed US \$12,500 for renovation work which he undertook for the embassy of the DRC. However, the embassy observed that Mr. Okiya had been paid in full, for his services. According to information available, Mr. Okiya signed a contract with the embassy on 9th September, 1999 to undertake renovation work at the ambassador's residence. He was to construct a security wall around the ambassador's residence and the contract was worth US \$25,000.

(b) The embassy confirmed that he was paid US \$12,500 for the renovation and repair works at the residence. The embassy maintains that he did not complete the works he had been contracted to do, which could have entitled him to the US \$25,000. The embassy, has further informed us that on several occasions, it invited Mr. Okiya with his lawyer, and the representative of the Kenya Quarry and Mine Workers Union, whose support he sought to get paid, to carry out a joint inspection of the work he had done. However, he has not done anything about it. So, there is no indication that he has accepted the invitation.

Mr. Speaker, Sir, consequently, the embassy says that he is not entitled to any payment.

Mr. Ojaamong: Mr. Speaker, Sir, the Assistant Minister has said that Mr. Okiya claims---

However, in its correspondence, the Ministry of Foreign Affairs responded to Victor Okiya in a letter dated 19th April, 2002, reference number MFA168/121/1/182. The letter was written by a Mr. Tuikong, the then Permanent Secretary.

Mr. Speaker, Sir, I will table it because---

Mr. Speaker: Mr. Ojaamong, why are you using this House as a court? Will we use this House as a court to collect debts?

Mr. Ojaamong: Mr. Speaker, Sir, we are just trying to expose some Government officers who are trying to sit on---

Mr. Speaker: I think that is a wrong move. The correct procedure would have been for you to proceed to court. This is a contract. I do not think this is a matter that concerns this House.

Mr. Ojaamong: Mr. Speaker, Sir, this Kenyan had taken a loan and invested his money in the renovation of---

Mr. Speaker: I appreciate that, Mr. Ojaamong. However, besides taking into account what the Assistant Minister has said, what more can we do to help him? It is the court that has the finality.

I am just trying to be helpful to you and to your constituent. I do not think we will help him on the Floor of the House.

Mr. Ojaamong: The DRC is a friendly nation and I wanted the Assistant Minister to talk to its embassy and the Legal Department in his Ministry because there is enough correspondence to show that this Kenyan is owed money by the embassy.

Mr. Speaker: Mr. Wetangula, would you like to say anything more to that?

Mr. Wetangula: Mr. Speaker, Sir, I have already said that Mr. Okiya sought the services of a lawyer who wrote to the DRC embassy. He has, in fact, been to my Ministry and the DRC embassy has suggested that he goes with his lawyer to talk to them. Let him go there first, and he will be welcome to come to my office, then we can see what to do for him.

Mr. Speaker: The Question is incompetent. This is not a matter in which the the Assistant Minister has a responsibility. It is a private issue and we will leave it altogether.

Question No.480

HARDSHIP ALLOWANCE FOR TEACHERS
IN GATUANYAGA LOCATION

Mr. Speaker: Where is Mr. Gitau? Is he not in? That Question is dropped.

(Question dropped)

Question No.527

ISSUANCE OF TITLE DEEDS
TO BURETI RESIDENTS

Mr. Bett asked the Minister for Lands:-

(a) whether he is aware that the residents of Kusumek, Arorwet, Chematich and Kipsaongon villages of Tinet in Bureti District have not been issued with title deeds since 1967; and,

(b) if the answer to (a) above is in the affirmative, when the title deeds will be issued.

*(Mr. Murungi was applauded as
he walked into the Chamber)*

The Assistant Minister for Lands (Mr. Kamama): Mr. Speaker, Sir, I would like to join my colleagues in congratulating hon. Murungi for being reappointed.

*(Several hon. Members walked
into the Chamber)*

Mr. Speaker: What is happening? Why did they all have to walk in at the same time?

(Loud consultations)

Order, hon. Members! Could you organise and bring them all together so that we can give them a round of applause?

Could we now move on to business? **The Assistant Minister for Lands** (Mr. Kamama): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that the residents have not been issued with title deeds because the area in question is part of land reserved for forest use.

(b) No title deeds may be issued for the time being since the land is still gazetted as forest land.

Mr. Bett: Mr. Speaker, Sir, I am happy that the Assistant Minister is aware that the residents of the four villages have not been issued with title deeds. I also want to believe that the same Assistant Minister is aware that the same people have occupied the same land for the past 40 years. I also want to believe that the same Assistant Minister is aware of the law; that, when a person becomes a resident of a certain piece of land at least for 12 years, he or she becomes an owner of that land.

Mr. Speaker, Sir, so, could the Assistant Minister tell this House that in accordance with the law, those people will be allocated the parcels of land they occupy today?

Mr. Kamama: Mr. Speaker, Sir, unless the land is degazetted, we would be committing a crime by allocating forest land to private people. At the moment, we will liaise with the leaders of that district and explore ways of assisting those affected. We know the position of the law; that, if you have been an occupant of land for the past 12 years, then you become an owner. However, we still need to degazette the land first.

Mr. Cheboi: Mr. Speaker, Sir, the land in question borders my constituency. The Government registered primary schools in that area. One of them is called Chemabich. Surveyors have gone and demarcated quite a large part of that area, yet the Government is telling us that it cannot give out land until it is degazetted. What steps is the Government taking to degazette that land and regularise the ownership to those people who have been there for the past 40 years?

Mr. Kamama: Mr. Speaker, Sir, the Ministry is not aware of the issue of registration of the said schools. Although we sympathise with those people, we will not allocate them forest land. We will let them stay there for some time, but we will resettle them elsewhere when we get alternative land.

Mr. Rotino: Mr. Speaker, Sir, this issue of title deeds is a very common problem. We have asked several Questions about when the Government will speed up the issuance of title deeds in certain areas. The Assistant Minister has given the same answer again. In my constituency, we have done surveying but title deeds have not been issued. When will the Assistant Minister speed up the exercise to ensure that title deeds are given for these areas?

Mr. Kamama: Mr. Speaker, Sir, the issue of title deeds is not only confined to some sections of this country. It is not confined to Bureti or West Pokot. It affects all parts of the country. We know that this is a big problem and the Ministry is trying to look for resources to make sure that issuance of title deeds is fast-tracked and that Kenyans are given title deeds in the most suitable way.

Mr. Bett: Mr. Speaker, Sir, the issue of land is very crucial and emotive. It has led to loss of lives and property. The Ministry has given replies to various Questions on issues as if it is storing problems and not dealing with them conclusively. I am aware that the Ministry is considering the formulation of a land policy. When will this be concluded so that this country can

know who owns a particular piece of land?

Mr. Kamama: Mr. Speaker, Sir, the Ministry is on track on the issue of land policy. At the moment, we have only about two stages. In the next two weeks, the Ministry will organise for a national symposium where all stakeholders will bring their views which will be factored in the policy. After that, we will come up with a Sessional Paper that will be brought to this House for discussion and adoption. We are on course. I hope that as soon as these two processes are through, we should be able to have a land policy sooner rather than later.

Question No.538

RE-CARPETING OF MALINDI-GARSEN ROAD

Mr. L. Maitha asked the Minister for Roads and Public Works:-

(a) whether he is aware that Road B8 from Malindi to Garsen is in a very bad state; and,

(b) when this road servicing the North Coast tourism industry will be re-carpeted.

The Minister for Roads and Public Works (Mr. Nyachae): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Road B8 from Malindi to Garsen is in a bad state.

(b) The above road has been programmed for thorough repair and resurfacing during the current financial year. Kshs95 million has been allocated for the works which will start before the end of this month, November.

Mr. L. Maitha: Mr. Speaker, Sir, I wish to thank the Minister for indicating that money has been allocated for this road and that work is about to begin this month. I am sure the Minister is well aware of the bad state of the road, especially in the last two weeks when the rains have caused havoc in Coast Province.

Mr. Speaker, Sir, however, I wish to draw the attention of the Minister to the fact that part of the problem has been the increase of heavy duty lorries carrying salt and relief supplies to the northern part of this country. I am sure that during the design stage of this road, this factor was not taken into account. The Minister has indicated that Kshs95 million has been set aside for the works. Does it include changing the design of the road to allow more load because now there are heavy lorries plying the road and they are causing a lot of damage?

Mr. Nyachae: Mr. Speaker, Sir, we are aware that this road has to be done better than it was done in 1994/95 when this heavy traffic was not expected. Now, we are aware that the traffic has increased and, therefore, the repairs that will take place will take this into account.

Dr. Ojiambo: Mr. Speaker, Sir, could the Minister tell the House whether he has a similar programme for the road between Gilgil and Kisumu? This is a very important road and we know that there is work going on, on this road. The stretch between Nakuru, Kericho and Kisumu is very bad and yet this is an important road that is used by a lot of people and heavy vehicles.

What programme does the Minister have in place to recarpet the road while we are waiting for the major works to be done?

Mr. Nyachae: Mr. Speaker, Sir, first of all, this is a different question covering another area. But for the benefit of this House, I want to confirm that consultants have been given an assignment to work on the road from Mau Summit, Kericho, Kisumu and from Kisumu to Kisumu Airport. That is being done.

Mr. L. Maitha: Mr. Speaker, Sir, this road B8 passes through the centre of Malindi Town. The heavy duty lorries that pass through this road have caused a traffic menace within the town.

There was a proposal to create a bypass which will join Road B8 around Mijikenda and leave off B8 from Sadaha. Could the Minister clarify whether he is aware of this? Are there any plans to do that immediately during the rehabilitation of that road?

Mr. Nyachae: Mr. Speaker, Sir, the hon. Member's Question was on the Malindi-Garsen Road. The by-pass that he is talking about is being covered by the contract between Kilifi Township and Malindi.

Question No.409

TARDA-FUNDED PROJECTS IN
KIRINYAGA DISTRICT

Mr. Karaba asked the Minister for Regional Development Authorities:-

- (a) what projects TARDA has funded in Kirinyaga District to date; and,
- (b) what the value of these projects is.

Mr. Speaker: Where is the Minister? Ms. Karua, what do we do about this?

The Minister for Justice and Constitutional Affairs (Ms. Karua): Mr. Speaker, Sir, first of all, let me apologise that the Minister is not present. May we request that this Question be answered tomorrow afternoon. I will communicate the same to the Ministry.

Mr. Speaker: Is that okay with you, Mr. Karaba?

Mr. Karaba: Yes, Mr. Speaker, Sir.

Mr. Speaker: The Question is deferred to tomorrow afternoon.

(Question deferred)

That is the end of Question Time.
Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. M'Mukindia) took the Chair]*

THE WESTERN UNIVERSITY OF SCIENCE
AND TECHNOLOGY BILL

*(Clause 2 agreed to)
(Clauses 3, 4, 5, 6, 7, 8, 9, 10,
11, 12, 13, 14, 15, 16, 17, 18,
19, 20, 21, 22, 23, 24, 25
and 26 agreed to)*

Title

The Temporary Deputy Chairman (Mr. M'Mukindia): Hon. Members, there is an amendment to the Title which has been notified to the Chair by Mr. Khamasi. I understand Mr. Osundwa will move it on behalf of Mr. Khamasi.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, Mr. Bifwoli also has a further amendment to Mr. Khamasi's amendment.

The Temporary Deputy Chairman (Mr. M'Mukindia): We need to first tackle the amendment by Mr. Khamasi.

Mr. Osundwa, could you move the first amendment as proposed by Mr. Khamasi?

Mr. Osundwa: Mr. Temporary Deputy Chairman, Sir, on behalf of Mr. Khamasi, I beg to move:-

THAT, the Title be amended by deleting the word "Western" and inserting in place thereof the word "Kakamega".

The reason for moving this amendment is because the university is located in Kakamega Town, which is the Provincial Headquarters of Western Province. The name "Western" is common all over the world. If we use the word "western" we will not know whether it is the Western University of Ohio or another university by that name.

The people of Western Province have requested us to include the name "Kakamega" as the main Title to the Bill. We are aware that some people wanted the name to be changed to Masinde Muliro, but we have the Muliro Gardens in Kakamega. We feel that is enough.

*(Question of the
amendment proposed)*

The Temporary Deputy Chairman (Mr. M'Mukindia): Yes, Mr. Bifwoli!

Hon. Members: That is Mr. Bifwoli!

The Temporary Deputy Chairman (Mr. M'Mukindia): Hon. Members, I understand there is a further amendment to the amendment by Mr. Bifwoli.

Mr. Bifwoli, what is your proposal?

Mr. Bifwoli: Mr. Temporary Deputy Chairman, Sir, I beg to move a further amendment to the amendment as follows:-

THAT, the title be further amended by deleting the word "Western" and inserting in place thereof the words "Masinde Muliro".

After the further amendment, the Title should read as follows: The Masinde Muliro University of Science and Technology (MMUST). The reason for this is that Mr. Muliro was a national figure. When we were constructing the Western College (WECO) at that time, we also wanted to construct Sang'alo Institute of Science and Technology (SIST). However, Mr. Muliro advised us to use that money to construct the current Western University of Science and Technology (WUST). For us to remember such a nationalist who fought for the whole province, we need to name this university, the MMUST.

*(Question of the amendment to the
amendment proposed)*

The Minister for Science and Technology (Dr. Wekesa): Mr. Temporary Deputy Chairman, Sir, I want to support the further amendment that has been moved by Mr. Bifwoli. I support that the WUST be called the MMUST.

Mr. Temporary Deputy Chairman, Sir, I do not have to remind my fellow hon. Members who are quite aware of the role that Mr. Muliro played in the advent of multiparty politics in this

country. Mr. Muliro is in the cadre of Mr. Daniel Arap Moi and late Mzee Jomo Kenyatta. Therefore, it is befitting for this university to be called the MMUST.

In any case, we have always talked about recognising the work that our national leaders did. We have, for example, the Jomo Kenyatta University of Agriculture and Technology (JKUAT), Moi University, named after the late Jomo Kenyatta and retired President Moi. It is befitting that we call this university, the MMUST.

The Assistant Minister for Education (Dr. Mwiria): Thank you, Mr. Temporary Deputy Chairman, Sir. I mainly want to support the further amendment because I am against national institutions being given regional names like Kakamega or Maseno. These are national institutions. In the same breath, I am against national institutions being necessarily led by individuals from the areas they are located. We have become completely local about our universities such that if you are a Vice-Chancellor of Moi University, because it is in the Rift Valley, you have to be a Kalenjin. If the university is in Central Kenya such as the JKUAT, the Vice-Chancellor, must be a person from Central Kenya.

Mr. Temporary Deputy Chairman, Sir, basically, I am arguing against the idea of universities being local in name as well as in management. Therefore, the naming of the institution after a national hero should not just be because he fought for Western Kenya, but because he fought for Kenya. This will be the only reason for naming the institution after Mr. Muliro.

Mr. Cheboi: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. M'Mukindia): What is your point of order?

Mr. Cheboi: Mr. Temporary Deputy Chairman, Sir, is it in order for Dr. Mwiria to insinuate that universities in the Rift Valley Province are being managed by Kalenjins because they are in Rift Valley Province when, in fact, he knows that the Vice-Chancellors are interviewed and they succeed in the interviews? They merit those positions!

The Temporary Deputy Chairman (Mr. M'Mukindia): Mr. Cheboi, that is not a valid point of order. As you know, people have the freedom of opinion. That is Dr. Mwiria's opinion.

The Assistant Minister for Education (Dr. Mwiria): Mr. Temporary Deputy Chairman, Sir, I did not say that they are not qualified or that they were not interviewed. Maybe we are also to blame because we have a system where we encourage this. I am just saying that this is a bad precedent. It has nothing to do with the individuals, but it is important to realise because there are other consequences in terms of what takes place. Anyway, that is a side show. I want to make my point and say that Mr. Muliro is a national figure who fought for this country, maybe, more than some other people after whom universities are named.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Mr. Temporary Deputy Chairman, Sir, I want to support the further amendment as moved by Mr. Bifwoli. Every country immortalises its great leaders. This is not an exception. We have named universities after our founding President and the second President. If you go to Hungary, you will find Carl Marx University. In South Africa, you will find institutions named after Mr. Mandela. We have the Ahmed Beloo University in Nigeria. This is just in keeping with the spirit to immortalise our great leaders. I want to support that this university be called the MMUST in recognition of Mr. Muliro's nationalistic outlook to life and the contribution he made to the liberation of this country, both the first and second liberation.

I beg to support the further amendment.

Mr. M.Y. Haji: Mr. Temporary Deputy Chairman, Sir, I recall when I was the District Commissioner in Kiambu in 1983, I was sent as an impartial District Commissioner to go and supervise elections in Kitale District, where Mr. Muliro was elected. When he came to this House, and this is reflected in the HANSARD, he said a lot of good things about me. Today, I feel I am obliged to support that this university be called the MMUST.

The Minister of State for Defence (Mr. Karume): Bw. Naibu Mwenyekiti wa Muda, ningependa kuunga mkono pendekezo lake mhe. Bifwoli kwa sababu mimi nilimfahamu vema hayati Masinde Muliro. Yakini, kama kuna mtu alipigania haki za nchi hii basi ni hayati Masinde Muliro. Wakati ambapo wabeberu walikuwa wamekatalia humu nchini, ile kazi ambayo hayati Masinde Muliro alifanya ilikuwa muhimu sana. Yeye, hata akiwa huko Kitale, hakuwa mkabila.

Labda itakuwa vema ikiwa tutatenga mahali pakuweka picha na majina ya mashujaa ambao walipigania Uhuru wa nchi hii wakiongozwa na hayati Mzee Jomo Kenyatta. Ninayo imani kuwa jina lake hayati Masinde Muliro litawekwa katika kumbukumbu hiyo. Kwa hayo machache, naunga mkono pendekezo kwamba hiki chuo kikuu kiitwe jina lake. Aidha, siku za usoni, tuweze kubuni namna ya kumkumbuka hayati Masinde Muliro hapa Nairobi.

Mr. Biwott: Mr. Temporary Deputy Chairman, Sir, I rise to support the amendment that the Western University of Science and Technology be named after the late hon. Masinde Muliro.

Masinde Muliro is the name of an individual who is no longer with us here and that name lives with us. I believe that we can immortalise the bearer of that name who was amongst the first, eight Africans to be elected as Members of the Legislative Council (LEGCO). I happened to know the late hon. Masinde Muliro as a great nationalist; he was not a tribalist. That name must be immortalised because he loved education and his tribe. We, should, therefore, allow the Western University of Science and Technology to be named after him.

Mr. Temporary Deputy Chairman, Sir, Moi University was named after the former President, hon. Moi. I am sure that so many things were named after the former President of this country. We have the Moi International Sports Centre in Kasarani and so on. So, there is no reason why the name "Muliro" should not be everywhere. It is high time we became nationalistic. We need to immortalise all our heroes. They include great personalities like the hon. Otiende, the late hon. Moses Mudavadi and the late hon. Musa Amalemba.

Mr. Temporary Deputy Chairman, Sir, with those remarks, I beg to support the second amendment.

Mr. Omondi: Mr. Temporary Deputy Speaker, Sir, I think that this idea of naming national monuments after the names of political leaders is getting outdated. This is because even now we are thinking of removing---

The Assistant Minister for Foreign Affairs (Mr. Wetangula): On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the hon. Member in order to describe a university as a national monument? A university is not a monument!

Mr. Omondi: Thank you, Mr. Wetangula. I just wanted to indicate that this idea of naming national monuments or institutions after political leaders is getting outdated. For example, currently we are thinking of removing the portraits of some political leaders from the national currency. I think that even President Kibaki is very lucky that we have his portrait on our national currency because he is friendly to the former President, hon. Moi. If it were not so, we would have done away with Moi's name and used Kibaki's. When another leader comes forth, we still would use his or her name and portrait. So, institutions like universities should not be named after political leaders. I, therefore, support the amendment by hon. Osundwa.

Mr. Khamasi: Mr. Temporary Deputy Chairman, Sir, I appreciate what hon. Members have said here. However, the fact of the matter is that institutions, in this country, are now being named after cities, towns and after people who have actually donated land.

As I speak now, there are certain people who feel very strongly against institutions that have been named after individuals because they bear certain perceptions about those individuals. This institution should be named after the town in which it is situated, which is the capital city of Western Province.

Mr. Deputy Speaker, Sir, it is, therefore, necessary that we avoid naming institutions or

monuments after individuals because already the proposed name, which is an amendment to my amendment, has been used in naming gardens, roads and so on. So, what we really want is to name this institution after the town in which it is situated. I think that is a wise idea.

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the words to be
inserted in place thereof be
inserted, put and agreed to)*

(Title as amended agreed to)

(Clause 1 agreed to)

The Minister for Science and Technology (Dr. Wekesa): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Western University of Science and Technology Bill and its approval thereof with amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE WESTERN UNIVERSITY OF SCIENCE AND TECHNOLOGY BILL

Mr. M'Mukindia: Mr. Temporary Deputy Speaker, Sir, I beg to report that a Committee of the Whole House has considered the Western University of Science and Technology Bill and approved the same with amendment.

The Minister for Science and Technology (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Education (Dr. Mwiria) seconded.

(Question proposed)

Mr. Bifwoli: Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to thank my colleagues that have supported me to rename the Western University of Science and Technology (WUST) as Masinde Muliro University of Science and Technology because "Muliro" is still a very good name in this country. We hope that the university will emulate Muliro's way of life. I also hope that those students who will study there will be as patriotic as Muliro himself.

Thank you, Mr. Temporary Deputy Speaker, Sir.

(Applause)

Mr. Midiwo: Thank you, Mr. Temporary Deputy Speaker, Sir. I think this is a good Bill to have been passed by this House. It is high time western Kenya got a university to augment the services we are getting from Maseno University. I think the Ministry needs to do more to fast-track a university in Coast Province and another university in the city centre of Nairobi to free the pressure off Nairobi University.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, I want to thank the Ministry of Education for bringing this Bill. It is high time we had more than eight public universities. We are all aware that children of this country are unable to access education in public universities and are all over the world looking for opportunities. So, we should have many such Bills.

Mr. Temporary Deputy Speaker, Sir, I would also encourage our colleagues on the other side particularly in FORD Kenya not to forget the spirit of Wamalwa Kijana. I think he was an Official Leader of the Opposition and the first Vice-President of the Third Liberation.

The Assistant Minister for Lands (Mr. Kamama): Mr. Temporary Deputy Speaker, Sir, I also join my colleagues in actually supporting the creation of Masinde Muliro University of Science and Technology and also wish to say that Masinde Muliro did very many good things for this country but there is a part that has not been mentioned.

Masinde Muliro actually participated in the expulsion of Pokots and Sabaots from Trans Nzoia District and that was not patriotism. However, we have forgiven him. He did those good things on behalf of Kenya and he also did bad things but we have forgiven him.

(Laughter)

*(Question put and
agreed to)*

The Minister for Science and Technology (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I beg to move that The Western University of Science and Technology Bill be now read the Third Time.

The Assistant Minister for Foreign Affairs (Mr. Wetangula) seconded.

(Question proposed)

(Question put and agreed to)

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

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

BILLS

Second Reading

THE REFUGEES BILL

*(The Minister of State for Immigration
and Registration of Persons
on 14.11.2006)*

*(Resumption of Debate
interrupted on 14.11.2006)*

The Temporary Deputy Speaker (Mr. Khamasi): Who was on the Floor? Mr. Ethuro, you still have 15 minutes to go.

The Assistant Minister for Planning and National Development (Mr. Ethuro): Thank you, Mr. Temporary Deputy Speaker, Sir. As I was saying yesterday, this particular Bill will give a legal framework in which the refugees are protected but also give emphasis on the protection of the host community. I think this House needs to appreciate the problems that refugees go through. We need to appreciate the genesis of the refugee problem in the whole world.

Mr. Temporary Deputy Speaker, Sir, I was about to appeal to the hon. Members of this House in particular and the Kenyan public in general to check our utterances. I also want to say that some of the ways in which we do things that do not take into consideration principles of fairness and justice will only create an environment in which the refugees become a big problem in this world.

Mr. Temporary Deputy Chairman, Sir, I think we should use this opportunity as a country to learn lessons of hosting refugees who are running from their countries because of political instability and poor governance. We do not have to go the same way in order to appreciate these kinds of problems because at least we have seen them. We have been able to contribute to them. This Bill and especially the situation of refugees in our own country should be a permanent reminder to all of us that we should never allow Kenya to go the same route. This is my honest and sincere appeal to fellow hon. Members of this House.

Mr. Temporary Deputy Speaker, Sir, when you look at the state of insecurity especially in this country; that is both internal insecurity and external aggression from Uganda, Sudan, Ethiopia and from the Somalia border being revisited on our people, you will realise that there are many other people who are *bona fide* citizens of this Republic who live similar lives to that of refugees. Due to the politically-instigated clashes in the early 1990s, we have had over 300,000 internally displaced persons in the Republic. We owe it to posterity to create a country that each one of us resident in the Republic will feel extremely comfortable and not to engage in acts that can result into what we have seen the refugees go through.

Mr. Temporary Deputy Speaker, Sir, we need to ensure that the refugee situation does not become the new phenomenon in the world especially in Africa. We need to put a stop to utterances that will incite our various populations. Let us not assume that because Kenya is an island of peace relatively. We are sitting on a powder keg can that can explode any time if we do not check our political statements. We should make Kenya, first and foremost, the country that wants to remain united. We should watch each and every step. We should watch each and every action that we take, in order to protect this country for all of us so that we can boast that this country can actually entertain refugees from other countries that are insecure.

Mr. Temporary Deputy Speaker, Sir, refugees from other countries can play a major role in the development of this nation. However, we need a proper framework within which they can interact with Kenyan nationals. We need a framework that will bar them from competing with Kenyan nationals. We do not mind them investing in Kenya. We should not have a problem with the money they bring into this country. However, we should not allow any refugee who has committed an act of terrorism, or any act against humanity, to stay in Kenya. This country must

cleanse itself of such persons.

We get very bad publicity when it is said that we are hosting certain refugees who are wanted by international tribunals. It is important that we ask the Government security agencies to ensure that such individuals are flushed out of this country. We have enough problems trying to make our economy grow faster, so that Kenyans can become richer. We are trying to implement our economic blue print for wealth creation and poverty reduction. We do not need more problems that we have nothing to do with.

Mr. Temporary Deputy Speaker, Sir, we need to remain as a country that is respected internationally, as a centre of peace in this region. Such attribute has an enormous economic potential for this country. It happens every other day that we host an international conference in Nairobi. We are now hosting the UN conference on the global climatic change at Gigiri. Several international conferences have been held at the Kenyatta International Conference Centre (KICC). Come January, we will be hosting the World Youth Summit.

Mr. Temporary Deputy Speaker, Sir, this country needs to attract peace dividends that can be translated into tangible economic returns that will bring prosperity to this country and enable us to align ourselves with the Asian Tigers. So, we need to invest in our local peace promoting structure. The areas where pastoralists live are in a permanent state of turmoil. People there are afflicted by insecurity. They are Kenyans who, most of the time, live as if they are refugees. We need to invest in peace promoting structures and good governance.

Mr. Temporary Deputy Speaker, Sir, we should appreciate the fact that good governance is the most critical aspect of ensuring that Kenyans live in peace. Our court system should operate fairly and the police only arrest someone because he has committed a crime, not because they imagine that he has committed a crime. This is actually an invitation to the Government to look at the whole paraphernalia of the instruments and institutions that we have created to promote peaceful co-existence among Kenyans.

We need to closely examine the instruments that will make us feel comfortable that, indeed, we have an apparatus of governance that will help us in governing and ensure that social justice is realised in this country. With the help of such instruments, we can eradicate poverty.

With those remarks, I beg to support.

The Assistant Minister for Water and Irrigation (Maj. Sugow): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this Bill, which is long overdue.

Kenya is a host to very many refugees from various parts of this region. For a long time, we have not had any legislation within which to manage the affairs of refugees in this country. It is high time, therefore, that this House takes responsibility to ensure that proper legislation is put in place.

As an hon. Member from an area which is currently hosting refugees, I know that there are quite a number of responsibilities bestowed upon us, as a member nation of the international community, in terms of caring for those people who are not lucky enough to have peace in their countries. However, in the course of undertaking such responsibility, we must ensure that the rights, welfare and respect of Kenyans are not infringed in any way.

It is in this light that I feel that this Bill has come at an opportune time, to ensure that we provide laws to protect the rights of Kenyans hosting our guests. We must balance between taking care of the welfare of our guests and ensuring the rights, welfare and aspirations of Kenyans who live in areas designated for hosting refugees. I am happy that, to a large measure, the Bill has catered for this aspect.

Mr. Temporary Deputy Speaker, Sir, there are certain aspects I feel the Ministry concerned should always consider when establishing refugee camps. The first and most important aspect is

whether the environment in that area can sustain the population envisaged. There are areas in this country with very fragile ecosystems, which cannot sustain huge populations. Most of the people in ASAL areas are nomads because they cannot live in those areas for a long time.

Normally, most of our guests from our neighbouring countries come with their property, especially those being hosted in areas neighbouring their countries of origin; particularly livestock. Their livestock normally compete for the limited pasture and other resources, with those of the host communities. These are aspects that, in future, the Government should always consider when locating a refugee camp.

Mr. Temporary Deputy Speaker, Sir, I strongly recommend that we should always locate refugee camps in the opposite side from where the subjects have run away, instead of keeping them only 100 kilometres away from our border with their country of origin. That way, they can have the incentive of remaining in the camps, instead of involving themselves in other activities and mixing up with the local communities with whom they have common identity.

Mr. Temporary Deputy Chairman, Sir, I am speaking here today with full knowledge of the responsibilities, difficulties and disadvantages of hosting refugees. Refugees are our neighbours. They are our fellow Africans. Most of us share blood with them but they are also a problem at the local level. As I speak, there are certain areas in my constituency which Public Service Vehicles (PSVs) cannot access. I am talking about a whole division. If you host one refugee camp, which the Government saw it fit to close to PSVs, all the population in that division cannot travel.

Mr. Temporary Deputy Speaker, Sir, Jarajira Division is one of the three divisions in my constituency. Hagardera is in that particular division. In order to go to Jarajira Division from Garissa, you have to pass through Hagardera. The refugee camp is sited in such a way that it is just astride the road, leading to Jarajira Division. To-date, nearly nine centres belonging to this division are not accessible by PSVs. Our people are suffering in the interest of curbing refugee movement.

There are better ways of controlling and taking care of State interests and national security other than infringing on the rights and freedoms of our people. It is very important to ensure that where such interests and freedoms of our people are infringed, then we must reconsider our decision to host the refugees in the first place.

The decision by the Government to close up that area to PSVs has sown seeds of discord between the communities hosting the refugees and the refugees themselves. It has created hatred. The local people feel that they are suffering for hosting the refugees, whose movement the Government is trying to curb. So, that has become a problem.

Therefore, in the light of this fact, we must find ways of ensuring that in future, we host refugees and locate refugee camps in such a manner that problems of this kind do not arise. We must locate refugee camps away from main routes, leading to shopping centres. Refugee camps must be located away from established shopping centres, so that when need arises for them to be closed down, we do not disrupt the lives of Kenyans.

Mr. Temporary Deputy Speaker, Sir, our actions and attitudes towards refugees in this country should purely be dictated by the interests of this country and the international protocols to which we subscribe, not by nations trying to fight their own proxy wars across the world. We must be very careful in determining the destiny of refugees in this country. We must look at our own interests, as a nation, and we must look at the international protocols, for example, the United Nations High Commission for Refugees (UNHCR), the African Union (AU) and other protocols that bind us, as a nation, to the international community, but not more than that.

Currently, what is happening in Somalia is purely propagated further by other countries outside Somalia. Kenya has been an island of peace and it has tried its best to export the peace that we have in this country by mediating the warring parties in our neighbouring countries. We must continue with that trend and we must always be seen to be neutral regarding the conflicts in our

neighbourhood. But, today, Kenya is the most affected country by the conflict in Somalia. We are hosting the largest number of refugees from that country. Actually, we are hosting all the refugees from that country. It is, therefore, in the interest of this country that peace prevails in Somalia. The only way we can do this is to be, as much as possible, neutral in the conflict. Where we can, and there is the possibility, we need to mediate between the warring factions rather than taking sides.

Our foreign policy should be such that it does not create refugees in our neighbourhood. We already have enough problems. Therefore, we must endeavour to get peace in our neighbourhood so that the pressure that exists in our country and which is brought about by refugees subsides. We should not create fresh pressure or refugee influx out of policies or practices coming from this country. Our foreign policy and our actions should go together as a nation.

Mr. Temporary Deputy Speaker, Sir, all the Ministries concerned, for example, the Ministry of Administration and National Security, the Ministry of Foreign Affairs and the Ministry of Immigration and Registration of Persons, should work together. One Ministry should not say one thing and then another Ministry practises a different matter in the field, because that is what is currently happening. Our actions should go together.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): I will give this opportunity to the Chairman of the Departmental Committee on Defence and Foreign Relations.

Mr. Nderitu: Thank you, Mr. Temporary Deputy Speaker, Sir. I am actually not the Chairman. The Chairman is hon. Kajembe, who is absent today. He has some problems and he had to fly back to Mombasa.

Mr. Temporary Deputy Speaker, Sir, first and foremost, I would like to say that it is high time that the Government introduces a Bill which controls the issue of refugees in this country. Secondly, we also have to note that the Government entered into and signed protocols way back in 1967. I do not think whether those protocols were debated exhaustively. Those protocols are the ones which are hurting this country today.

Mr. Temporary Deputy Speaker, Sir, the requirements of this Bill cannot be over-emphasized. Today, the Government is not involved in the vetting and registration of the refugees who are coming into this country, other than the UNHCR, Non-Governmental Organizations (NGOs) and other related bodies. Today, the communities where these refugee camps are located are not protected. Today, the Government is not responsible for the number of refugees who are here, but the multi-nationals, and Kenya is a sovereign State. So, the biggest question is: Who knows that, among those refugees, we do not have murderers, rapists and all sorts of people? They have been left alone. It is as if we have abrogated our duties to somebody else. It is high time now that Parliament and the Government takes control of who enters into the boundaries of this land.

Mr. Temporary Deputy Speaker, Sir, going by what has been happening, and you have heard hon. Members who come from the areas where these refugee camps are located state in this august House that some communities in those areas wish to be in those refugee camps. Why? They are provided with basic necessities, like food and clothing in the refugee camps. The multinationals also look for jobs for them and repatriate them to Third World countries. This country also has professionals, and the multinationals never get concerned with people from the host communities by looking for jobs for them. If we compare the schools in the refugee camps with the ones in those localities, it is just like going into a high-class primary school. We will be comparing them to a village primary school, which has no doors, floors or windows and has a leaking roof. The refugee camps also have better health centres and health care than our people. This Bill is trying to harmonize all these situations.

We have sat down, as the Committee, and we have come up with quite a number of amendments to protect our people. When the time for the Committee Stage comes, these

amendments are going to be brought to the Floor of the House, and we are urging all hon. Members to assist us to make sure that this Bill harmonizes the situation on the ground. We would like that, when a refugee camp is being designated, it should be gazetted and the communities surrounding that area should be consulted, whether they agree or not. But at the moment, if you asked my dear Assistant Minister here, Maj. Sugow, whether he would want that refugee camp to be located in his constituency, he would say that he would rather the camp is relocated from the constituency, because it does not benefit his people.

Mr. Temporary Deputy Speaker, Sir, why do we allow refugees to bring along their animals? That question can only be answered if we have an Act of Parliament or if we have our own law. That is why we are bringing this Bill to protect our resources, land and the people of Kenya. I was very surprised to hear that even the Government does not know the exact number of refugees who are in this country. We have more than 280,000 refugees in the country, and some of them are here in Eastleigh. They are the ones who have been allowed to do business. But how can the Government act or follow them when they are not registered? They do not have identification documents showing that they are refugees and they were not vetted by the Government. This was only done through the UNHCR and the Refugees Consortium of Kenya (RCK), which is an NGO. That is why we are saying that this responsibility should be squarely owned by the Government. We should vet the amount of money the multinationals pump into these refugee camps. I stand to be corrected by the Minister when he responds, but this year alone, the United Nations High Commissioner for Refugees (UNHCR), World Bank and other multinationals have spent more than Kshs38 billion. Where is this money? Where has it gone? If we had a law to check this, then the Government would have known where every shilling has gone.

The importance of this Bill needs not to be overemphasized. However, I would urge the Minister, who has really worked with the Committee, to expedite the amendments. These amendments are in the formation of the committee. We should bring in, not necessarily the Ministries to be represented by the Permanent Secretaries, but a community person. We want a community person to be able to ascertain the demarcation of the land. He will be protecting the interests of the community. We also want the Office of the Attorney-General to follow up on behalf of the people of Kenya and make sure that all the laws appertaining to refugees; their entrance and registration, are put in place. As much as we would want to remove the Provincial Administration from this matter because they failed us in past, we would want the Minister to put his foot on the ground and not to allow *Al Qaeda* operatives in the disguise of being refugees to come to our country.

Mr. Temporary Deputy Speaker, Sir, on the other hand, if we look at the climatic conditions of the areas where these refugee camps are, they are worsening day by day. This is because the refugees have depleted all the forests and water catchment areas. They have done so, by cutting trees for fire wood and erecting up their structures. It is high time the Government took over and pushed the International Environmental Committee, UNHCR and World Bank, to do afforestation in these areas because very soon the desert will catch up with us. The acceleration of the desert has been created by us trying to play good boys by following the international laws of protecting refugees. The international community is not helping Kenya. It is only good at pointing fingers at us and telling us how destructive we are, and yet, partly, it is the one which has helped the refugees to come and destroy our land, forests, rivers and water catchment areas.

Mr. Temporary Deputy Speaker, Sir, the co-ordinator and mainly the chairman who will be appointed by the Minister, if necessary, let him be a retired Judge of the High Court. He should be a person of high integrity and one who will serve and protect this nation from the vagaries of *Al Qaeda*. Also, his team will be working round the clock with sound mind. It should be ready to protect this country. I do not know where we will get people with no glue in their hands; who will

not be bribed here and there, to allow unwanted refugees into the country.

Mr. Temporary Deputy Speaker, Sir, I would also like to address the issue of the Kenya/Somalia border. I would want to see this Bill, at least, create entry points on our porous borders, such that it makes the environment, so conducive that when a refugee is coming in, he will not hide. It will make them free to come in, because they will be protected under the international and Kenyan laws. In so doing, we will be able to register more refugees. Also, criminals will have no way to penetrate the country and kill our people as it happened in the Northern Frontier.

Mr. Temporary Deputy Speaker, Sir, implementing this law is a tall order. The Government will require a lot of money in this process. Tanzania and Uganda have passed a similar law. I know that the taxpayers' money will be used in the implementation of this law. It will be used to employ this committee. It is now the responsibility of the Ministry to discuss with the multinationals, like what Tanzania and Uganda did, and get the programme of refugees to be funded directly by the UNHCR. I would also urge that signing of protocols not be done without involving Parliament. This is because today our hands are tied. The faster we enact this Bill into law, the better for the country because it will be protected from so many vagaries around the world.

The Minister has a responsibility also to initiate collaboration with the development partners who promote peace and harmonization. That way, our neighbours will cease warring among themselves and we will curb the influx of refugees in our country. The Government also has to ensure that these refugees become productive in the sense that in their own areas, through the help of multinationals, they pay tax for enjoying the sun, water and protection of this land. Some of them have destroyed their own countries and they have come to hide in Kenya.

Mr. Temporary Deputy Speaker, Sir, the Ministry also has to ensure that the resources of where these camps are situated, are taken care of. Refugees are using water in those areas and even the majority of them, are now farming. We need to know what type of chemicals they are using. Are these areas going to be used as guinea pigs for imported chemical products? This Bill is important because it will enable the Government to take control of all utilities in these refugee camps. We can dwell so much on this Bill, but on behalf of the Departmental Committee on the Administration of Justice and Legal Affairs, I urge for expediency in passing this Bill. We will allow all participants to participate effectively in deliberations on this Bill.

To wind up, rape in refugee camps is so rampant that you will get men raping men, men raping girls and men raping other people's wives. We would like these people to be accorded the protection that they deserve. We would like to see young girls who come to these camps with their mothers being offered protection. That protection will only come from the Kenyan Government, if we enact this Bill.

With those few remarks, I beg to support.

Mr. M.Y. Haji: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I would like to support this Bill.

*(Mr. Mwenje stoop up in his place
and leaned on his walking stick)*

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order!
Could orderlies come and take away hon. Mwenje's walking stick?

(Mr. Mwenje waved his walking stick)

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Mwenje!

(An orderly took away Mr. Mwenje's walking stick)

Mr. M.Y. Haji: I would also wish to commend the Minister for coming up with this very important Bill, which is overdue. In actual fact, we needed this Bill yesterday and not today. This is because, as we all know, without proper policy guidelines, it is always very difficult to manage any situation, more so, the question of refugees.

Mr. Temporary Deputy Speaker, Sir, the plight of the refugees is a very sad thing. It is similar to a tree, which has grown for many years and then it is uprooted completely. Refugees are people who are displaced socially, economically and in every other respect. Some of them were business people while others were politicians. Today, most of them have lost all what they worked for, for life. They need sympathy and management of their affairs in a very prudent manner.

The appointment of a Commissioner for Refugees will be something commendable. At the moment it is very unfortunate that our Government has almost abdicated its responsibility to the United Nations High Commissioner for Refugees (UNHCR). I remember that when I was the Provincial Commissioner for Rift Valley Province, I had to ask for permission to visit Kakuma Refugee Camp. I had to ask for permission to visit an area for which I was a Provincial Commissioner. I have seen in the Bill that the Commissioner for Refugees will be assisted by Provincial Commissioners and District Commissioners, who are the representatives of the Government in their areas. This is a very noble idea that needs the support of everybody.

Refugees go through a lot of trauma. Besides being displaced, you can imagine being confined to a place which is foreign to you and to a culture which you are not used to. In the process many refugees actually become depressed. It is very unfortunate that the UNCHR has not put in place any mechanisms for helping refugees to overcome depression. I am talking out of experience, because we live with these people in North Eastern Province. I hope that the hon. Minister will instruct the Commissioner for Refugees, once he is appointed, to discuss this issue with the UNCHR. Even rape occurs as a result of depression. Some of the refugees do not know what they are doing when they rape. Due to depression they are likely to be involved in undesirable actions like rape of small girls and married women.

I would be failing in my responsibility if I do not mention the unfairness with which the UNCHR is handling local people in areas where refugees are settled. For instance, we all know that Dadaab and Kakuma areas are deserts. The UNCHR does not provide gas or electricity in these refugee camps. The refugees are left to fend for themselves and find firewood. You can imagine, 200,000 people in one place, going out in the morning to fetch firewood in a place where there is hardly any tree! I hope the Minister for Environment and Natural resources will address the issue of lack of trees together with others who are concerned. It would be important for the Government to have a programme of replacing all trees that have been cut down by refugees to make firewood. Unfortunately, this is not being done.

To make it even worse, the local people do not benefit in any manner; they do not even get employment opportunities. The UNCHR recruits its workers from Nairobi. Its officers employ their friends, including girls to work in refugee camps. This is a very unfortunate situation. People in refugee camps are not offered any kind of employment. Even drivers are imported from Nairobi and other places. This is a kind of marginalisation of the people in North Eastern Province and Turkana District. I hope that the Commissioner for Refugees will have power to address this kind of problem.

I do not agree with anyone who suggests that refugees should pay taxes. Where will they get money from to pay taxes when they are fed by UNCHR? They do not have any employment

from which to earn a living. Nobody should talk ill of refugees, who are doing business in Eastleigh. The economy of this country is actually thriving because of the presence of refugees who get money from their Somali kinsmen in the diaspora. Those in business employ Kenyans to run their businesses. Refugees doing business should be protected. If the Government wants taxes it should allow refugees to open up businesses in Kiambu, Eldoret, Kisumu and other towns. Out of such businesses they will be able to pay taxes. But those who are in refugee camps are not able to pay taxes. It is only a person who does not know the agony refugees go through, who would ask them to pay taxes.

Mr. Temporary Deputy Speaker, Sir, I recall that when I was the District Commissioner, Kiambu District, we had many teachers from Uganda and Rwanda. Sometimes Kenya has benefited from her neighbours' problems by getting expatriate teaching in her schools. This happens even when our professors and lecturers leave this country.

People talk about brain drain, yet these foreigners have replaced our Kenyan brothers and sisters who leave this country for greener pastures. We benefited from them because they taught in our schools. Some of them were very good teachers, who were teaching at Makerere University and other institutions before coming to Kenya.

Mr. Temporary Deputy Speaker, Sir, we should, therefore, appreciate and allow refugees to get legitimate employment whether in business or other areas. This will sustain them and their families.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): I would like to draw the attention of hon. Members to the provisions of Standing Order No.87. We would like to hear new arguments for and against the Bill. Please, do not repeat what we have heard! If you were not here, I will remind you that what you are saying has already been said on the Floor of the House.

Mrs. Mugo, please, proceed!

The Assistant Minister for Education (Mrs. Mugo): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. I would like to congratulate the Minister for bringing it to this House at this very timely moment.

Mr. Temporary Deputy Speaker, Sir, Kenya has been host to refugees for a very long time. This has certainly contributed to stability and security in this country. We have offered our neighbours a home at times of distress. Since the early 1970s this country has supported refugees in big numbers from one neighbouring country or the other. However, all this time, we have not had a law to regulate refugees affairs and protect them as well as the citizens of this country.

Mr. Temporary Deputy Speaker, Sir, while I thank the Minister, I would like to ask him to make sure that when this Bill is passed and implemented, it will essentially go a long way in protecting the very vulnerable refugees. These are women and children.

Mr. Temporary Deputy Speaker, Sir, in most refugee camps, there are very many women and children who are vulnerable in many ways. We hear of terrible things, especially regarding rape, defilement and so on. This is done even by officers who are supposed to be taking care of the refugees.

Mr. Temporary Deputy Speaker, Sir, it is one thing to have a law and another one to implement it. There is need to make sure that those charged with the responsibility of looking after refugees are all properly trained. They should understand the law, as we will pass it here, and the international law which regulates and protects refugees.

There is a booklet for Parliamentarians on the international refugee law. This booklet was authored by the Inter-Parliamentary Union (IPU). It is available to hon. Members. I would urge that this Parliament acquires it from the IPU and distributes it to hon.

Members. We, as the lawmakers, need to internalise the international law and make sure that it

complements what we are about to pass as our refugee law. The world is very small today and laws on international matters should be harmonised.

Mr. Temporary Deputy Speaker, Sir, this country has suffered a great deal because of our few resources, which have been used by the whole of East African Community (EAC). Small developing countries have ended up shouldering the whole burden of refugees with very little support from the developed world. I would urge that our voice be heard. We are asking the developed world to play its role in supporting this very worthwhile cause. There has been a lot of strain on what is available in our country. It is no wonder that sometimes there are conflicts with the host communities in areas where refugees are hosted. While we take care of the refugees, first and foremost, we must take care of our communities living within those localities.

Mr. Temporary Deputy Speaker, Sir, there is also the question of training or imparting skills to these refugees so that they could also be engaged in gainful employment, whether in community or personal enterprise. They then will be well prepared to be repatriated back to their countries when law and order is established. That will reduce the need for them to keep coming back. Unless they are able to fend for themselves in their countries and are properly prepared, crises will erupt again. Instead of reconstructing their countries, there will be flair-ups and they will head back to Kenya.

Therefore, Mr. Temporary Deputy Speaker, Sir, as we design this law, we must put emphasis on training and capacity building in these refugees, so that they make use of their time as refugees productively.

Mr. Temporary Deputy Speaker, Sir, sometimes refugees have promoted crime and insecurity in the host country. The unchecked entry of refugees into our country has led to insecurity. Some of these refugees come with small arms which are used to perpetrate crime in our country.

Mr. Temporary Deputy Speaker, Sir, in my Dagoretti Constituency, there are many small guns in the hands of the civilian and a lot of crime is going on. The residents say that the guns are in the hands of the foreigners in the area. I am not saying that the guns are only in the hands of foreigners, but refugees have contributed towards insecurity in this country. We must put enough checks and balances to govern the entry of refugees into our country. They should be screened, so that we can know who are the *bona fide* refugees and who are criminals. Small arms should never be allowed to come into our country.

This is the only way that we can beef up security in our country. Whereas we have security problems being caused by our own people, refugees are making it difficult and almost impossible to deal with the security situation. As we pass this Bill, we should ensure that, first and foremost, the security of our country is taken care of and the security of the refugees is also taken care of.

Mr. Temporary Deputy Speaker, Sir, there are other resources which are very scarce, for example, water. We should ask the international community to drill many boreholes in these areas, so that we can have water for our people who live in those areas as well as the refugees. School facilities should also be improved. What curriculum should children in refugee camps follow? Should they follow the curriculum from their country, so that when they return home, they can fit back into their systems or should they use the curriculum of the host country? These are areas that we should look at as an international community. Even as we host refugees, our emphasis should be on repatriation. We should emphasise that as soon as there is law and order in their countries, they can go back home and reconstruct their countries.

Mr. Temporary Deputy Speaker, Sir, as we discuss the issue of the externally displaced people, we should also consider our internally displaced persons, who are very many. It is only after we have taken care of our internally displaced persons that we can take care of the externally displaced persons. We should look at this problem as one. Despite the fact that one group comes

from outside the borders and the other is an internal group, the suffering is the same. We should not just pass this Bill because it has been demanded by an International Refugee Law or so that it can fit within the international refugee statutes, but we should pass it to serve humanity. We should ensure that refugees enjoy their human rights, they are secured and well taken care of. However, charity begins at home.

As we talk of the externally displaced people, we should also consider having a law to protect our internally displaced persons.

Mr. Temporary Deputy Speaker, Sir, the United Nations High Commissioner for Refugees (UNHCR) in partnership with the host country, has a responsibility of taking care of refugees. Sometimes, I feel like the Commission leaves a very big burden to the host country. It is time the UNHCR took a greater responsibility in taking care of refugees regardless of where they are. If that happens, then the burden would be equally shared between the host country and the international community. This is the body that is entrusted with regulating the number of refugees in any country.

Mr. Temporary Deputy Speaker, Sir, it is also the UNHCR which should reduce the burden of a host country by moving some refugees to other countries. As much as we want to host refugees and we are friendly to them, there has been too much conflict for many years as to how many refugees a country can host at one given time. This is a very heavy burden and we should be assisted in solving the problem of refugees.

In conclusion, when we read about the sufferings that women and young girls face in refugee camps, it makes us very sad, indeed. These are people who are locked up somewhere and they have nowhere to run to. I would like to request everybody who is concerned with the welfare of refugees to protect women and children in refugee camps. When rapists are apprehended, they should face the law as provided in the Sexual Offences Act, which we passed recently.

With those few remarks, I beg to support.

Mr. J. Nyagah: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to support this very important Bill that has been brought to this House.

This is such an important Bill and I hope that all of us will support it fully. It is long overdue and it should have been brought to the House many years ago. Historically, it is obvious that this country has hosted refugees from almost every neighbouring country since Independence. We have hosted people from Rwanda, Burundi, Uganda, Ethiopia, Sudan and Somalia. It is for that reason that Kenya has gained great experience in dealing with the issue of refugees. It is important for us to have a proper Kenyan law to deal with the issue of refugees in our country. It is biblical, and I am sure that the Quran would also support this; that, we have a responsibility to look after refugees.

They are human beings and we must look after them.

Secondly, today, we might complain that we have very many refugees. Indeed, we have very many refugees. I am not suggesting that what happened to them will happen to us, but it can happen to us. There is no country which is run by angels. Countries are run by human beings and the mistakes that other countries have made could one day be made by this country. I hope that we do not make those mistakes. It is, therefore, important for us to have appropriate laws so that in the unlikely event that we also found ourselves in a situation like that, we would also be treated properly by the host countries; where we would find ourselves.

Kenya has signed many international agreements that deal with this subject. Therefore, it is important for us to domesticate some of those laws and agreements that we signed and that we have been working under in an unstructured manner. As we move to this field, it is good to learn from our experience. The best contribution is for us to continue to play the positive role that we have played, of a peace keeper in the region. Kenya must never give up the responsibility of

encouraging our neighbouring countries to live in peace, no matter what it takes, and no matter what costs are involved. It is cheaper for us than to allow a country to get to the point of Somalia, where we are then left withholding big numbers of refugees in this country. I would like to encourage Kenya to continue working in its foreign policy under this Ministry, to ensure that we are seen to continue playing that role. Part of the reason why we have not suffered as much as we could have is because of the active role that the Government has played and we would like to encourage it to continue doing so. The Government should not take positions that would be unfavourable for Kenya. It is very easy for neighbouring countries to influence a few people in Government, and for the Government to make the wrong decisions which can be dangerous for the entire Kenyan nation. So, I hope that the Minister, working with his colleague in Foreign Affairs, will work along those lines.

We keep refugees on behalf of the world. We keep them on behalf of the international community. It is only fair, therefore, that the international community helps us in a big way and not just by giving us temporary tents and food for the refugees, but by going further and developing the infrastructure around the areas occupied by refugees. I would have expected that by now, the Government would have negotiated with the donor community and the UN agencies to ensure that we have real facilities around Kakuma, Lokichoggio, Dadaab and in other places where refugees are found. I would have expected, as some of my colleagues have said, that there would be water, electricity and health facilities of higher standards than we see, in areas occupied by refugees. I would have expected that as Sudan becomes normalised, the international world would help us in developing Lokichoggio as a major hub of trade and airlines so that it does not die once the Sudanese have gone back home.

Mr. Temporary Deputy Speaker, Sir, I would have expected the Government to extend negotiations, not only in areas where there are refugees, but in areas beyond. It is a pity that after we have looked after the Sudanese for so long, Lokichoggio could die. Why should it die when we have been very good to them? I hope that the Government will look into that issue so that it can help us.

There are many educated refugees. We benefited in the early 1970s from Ugandan doctors and teachers who educated our people to become doctors. They played a very important role. As we tighten the rules on refugees, I also want Kenyans to know that refugees have played important roles in the development of the country in the past. The educated ones should help this country. We should not be very tight in dealing with them and fail to take advantage. Countries like America have benefited from foreigners, some of them refugees. We should also take advantage of the productive ones, especially the ones who can run big businesses or be professionals to help us develop our country.

Mr. Temporary Deputy Speaker, Sir, I wish to conclude by supporting this Bill and look forward to it being enacted into law. I hope we will have a Commissioner in charge of refugees; a man highly qualified in conflict resolution; of international reputation; and a man who can play the role well.

With those few remarks, I beg to support.

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. We have been debating this Bill for the past two days. Therefore, would I be in order to request that the Mover be called upon to reply?

The Temporary Deputy Speaker (Mr. Khamasi): We must follow the procedure. In any case, I have been presiding over the House during which this Bill has been debated and I think all I am hearing are arguments which have been put across this Floor.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, I respect your decision. However, I am planning to move at least 14 to 20 amendments on this Bill. I feel that if I am not given the

opportunity to let the House know, for which reasons I will be moving the amendments, it will not be fair. Would you like to reconsider your decision?

The Temporary Deputy Speaker (Mr. Khamasi): Order, Ms. Ndung'u. I appreciate what you have said. At the Committee Stage, when we will be moving the amendments, you will have the opportunity to explain---

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

Order, Mr. Weya!

I was saying that at the Committee Stage when you are moving the amendments, you will be able to explain all your reasons for moving them. I now call upon the Mover to reply.

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

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Thank you, Mr. Temporary Deputy Speaker, Sir. Allow me to respond to this Bill now.

QUORUM

Mr. Weya: On a point of order, Mr. Temporary Deputy Speaker, Sir. As you can see, there is no quorum in the House.

The Temporary Deputy Speaker (Mr. Khamasi): It is true that there is no quorum in the House. Please, ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! We now have a quorum. You may proceed, Mr. Konchella!

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, I hope I will not be interrupted because of the interests of other hon. Members.

Mr. Temporary Deputy Speaker, Sir, I want to thank the hon. Members who have contributed to the debate on the Refugees Bill. This is a very important Bill for this country. Kenya is the only country in the world that has abrogated its national sovereignty to the United Nations agencies through the lack of a law to manage refugees. These refugees come to Kenya to seek safety and protection because of various situations in their own countries. This particular Bill will enable the Government to take charge of the management of refugees who have run away from their countries because of insecurity. We want them to live comfortably like all of us. The Bill will enable the refugees to be protected. It will also enable them enjoy various rights as entrenched in various United Nations' charters.

Mr. Temporary Deputy Speaker, Sir, listening to the contribution by hon. Members, I am happy that they are prepared to pass this Bill, so that we can protect refugees in this country.

Mr. Temporary Deputy Speaker, Sir, I have looked at some of the issues raised by hon. Members, particularly those from hosting communities like Messrs. Ethuro and Dahir and, indeed, they bore the brunt of the refugees. This is the opportunity for these communities to address these

problems, so that they are able to live comfortably. We want a law that can protect them. The host communities have never been taken care of. Some hon. Members expressed fear that if those refugees go back to their countries, some of the towns will cease to exist. It is true because the purpose for which these funds were being utilised and spent by the United Nations High Commission for Refugees (UNHCR) and other United Nations agencies, was simply for the interest of the refugees. However, the Kenyan communities who are the hosts and who have protected these people do not benefit.

The issue of permanent residence of refugees has been provided for in the Bill. In future, refugees who stay long enough in the host country and feel that due to threats on their lives, they are unable to go back to their countries. If they have stayed long, the laws of the country must address the issue of permanent residence, so that they are able to live like any other Kenyans. We expect them to work and pay taxes as was suggested by hon. Members.

Early this year, we started registering refugees. We registered over 50,000 aliens in Eastleigh alone. That exercise will go on throughout the country. It is so crucial that this House should give enough funds to the Ministry, particularly when we establish the National Commission for Refugees (NCR), so that they can register all aliens in this country. This registration is very crucial for the protection and security of this country. We do not want them to acquire illegal documents, like they are doing and then end up in prison once they are discovered. The Immigration Department is arresting a lot of people who have falsified documentation. Some of these refugees do this because they want to live in this country.

Mr. Temporary Deputy Speaker, Sir, some of the issues raised include that of employment of the locals, particularly the host communities. This Bill will address that particular area through regulations which we will follow to operationalise this Bill. We will have a percentage of locals who must be employed, for example, drivers and cleaners as opposed to importing people and not allowing the local people to benefit out of the funds.

There is also the issue of the movement of refugees which was raised, particularly by the Minister of State for Administration and National Security. This issue is very crucial because, when you visit Dadaab Refugee Camp, it was rightly said that the refugees move in and out of the camp even crossing back to Somalia. This is how we end up getting a lot of firearms into our cities and towns because these people are not confined to camps and they are also not restricted. They should be confined so that they are not able to trade and acquire firearms to sell for their survival. We, as a Ministry, want to register these refugees, give each of them an identification card and allow them to live anywhere in the country. They should also be able to seek employment anywhere in the country. Since we have a record of them, they are not likely to engage in thuggery because they also need protection and security for their families.

Mr. Temporary Deputy Speaker, Sir, I believe there are issues of human rights, which Ms. Ndung'u brought up. She indicated that she will bring them up in form of amendments. The Bill also allows some of the refugees to be relating with their families, so that they do not suffer the indignity of being separated from their families in accordance with the Geneva Convention and other conventions.

Mr. Temporary Deputy Speaker, Sir, there is a lot of interference from the Front Bench!

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Let us listen to Mr. Konchella!

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Mr. Temporary Deputy Speaker, Sir, I said that there are about 50,000 registered refugees. Kenyans have also run to these camps to seek food because of the vagaries of nature such as drought. In Dadaab Refugee Camp, for example, there are more than 4,400 people who are registered as refugees. We know some of them are Kenyans. We have their documents within our Central

Registry. They had to run away because of problems. These problems are due to the destruction of the environment by the refugees moving from wherever they come from with their cattle. They have caused a lot of overgrazing. This proposed law will specify who can come to Kenya, how they should come to Kenya and what they should bring along with them. By so doing, we will control and provide for our people. What is happening now is that most refugees do not want to go back to their countries because they are very comfortable in Kenya. Indeed, we tried to move some Sudanese out of Kakuma Refugee Camp. Out of the 10,000 we requested to go back to Sudan, 7,000 came back. Why? Because they are more comfortable here. They have schools for their children, including teacher training colleges and universities. These facilities are not there in their countries. The proposed law will address some of these issues where, if there is no reasonable ground for them to be staying as refugees, the Government can ask them to go back. If they refuse to do so, they will be taken back by force. Right now, there is little we can do about it because we have no law to forcefully repatriate them. Most of them deliberately refuse to go back to their respective countries simply because they are very comfortable here.

Refugees, while they are protected in every right, must also feel obligated to go back to their respective home countries to develop them. This is because staying behind and idling will not help this country or the refugees themselves. Those refugees who have skills and are able to contribute to the development of this country should be given the opportunity to apply for jobs and even work in our institutions.

Mr. Temporary Deputy Speaker, Sir, our brothers and sisters from Uganda worked in this country for a long time during their stay here as refugees. They manned some of our big hospitals, including Kenyatta Hospital until we were able to train our own doctors to run the hospitals. So, those who have the skills, and can be employed in our market, should be allowed that opportunity.

We also recognise the fact that members of the Somali community are contributing to the economy of this country in terms of remitting money to their own people. We want to encourage those who are remitting money for the purpose of helping refugees. We realised that up to Kshs60 billion is remitted in a year for the purpose of supporting refugees in Kenya. This money is used to buy goods and services that are required by refugees in Kenya and by extension, Somalia. We should allow these people to work in Kenya so that they can be useful to this economy.

This is the second time this Bill is being debated. Previously, we addressed the issues that were raised by hon. Members. Yesterday, I read out the concerns that hon. Members had raised and which this Bill, seeks to address. The amendments that had been proposed by the Departmental Committee on Administration, National Security and Local Authorities, which met in Mombasa for two days to deliberate on this Bill are part of the many amendments which our Ministry has looked at. We shall include those amendments in order to enrich this law so that it serves to protect this country and refugees.

With those 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 TOBACCO CONTROL BILL

The Assistant Minister for Health (Dr. Kibunguchy): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Tobacco Control Bill be now read Second Time.

Mr. Temporary Deputy Speaker, Sir, the object of this Bill is to provide a legal framework for the control of production, manufacture, sale, labelling, advertising, promotion, sponsorship, use and exposure to tobacco smoke and its products. The reasons for this are to protect the health of the individual and the public in general; to shield the public from misleading and deceptive inducement to the use of tobacco and its products.

(Mr. Weya confronted Mr. Sungu)

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is the National Assembly of Kenya and we are discussing a very important Bill, which reflects on the health of Kenyans. Could I, please, get your protection from Mr. Sammy Weya who has literally almost attacked me?

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order, Members! We have to respect ourselves and the House as well. Mr. Weya, if you know that there are any differences between you and Mr. Sungu, please, sit elsewhere. Let us not express our personal differences here and yet they have nothing to do with the debate on the Floor of the House. So, please, restrain yourselves.

Mr. Weya: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Sungu has been saying very dirty things about me. I want to state here that I have not been compromised by anybody. He kept shouting out there that I have been compromised and that I was going to debate on this matter after being compromised. I take that as an offence from the hon. Member and---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Weya!

The Minister for Justice and Constitutional Affairs (Ms. Karua): *Toboa!*

The Temporary Deputy Speaker (Mr. Khamasi): Order! There is no business of *toboa* here. We are in the business of discussing the Tobacco Control Bill here and if there are certain things that have taken place outside there, I will not allow them to be brought on the Floor of the House. So, if there are certain things that have been discussed outside this Chamber without my knowledge or permission, I will not allow that exchange to be brought before this House. Let us be serious because we are discussing a very important Bill which I want us to discuss with the seriousness it deserves.

The Assistant Minister for Health (Dr. Kibunguchy): Thank you, Mr. Temporary Deputy Speaker, Sir. Before I was interrupted, I was listing some of the objects and purposes of the Bill.

The fourth area that we want to cover in this Bill is to inform, educate and communicate to the public the harmful, health environmental, economic and social consequences of growing, handling, exposure and the use of tobacco and tobacco products and to smoke. Fifthly, we want to protect the rights of non-smokers to live in a smoke-free environment; to protect and promote the interest of tobacco growers by progressively phasing out tobacco growing and providing alternative crops; and to promote rehabilitation and sessional programmes for consumers of tobacco.

The Government of Kenya signed and ratified the Framework Convention on Tobacco Control (FCTC) in June, 2004. The principles of this treaty are captured in this Tobacco Control Bill. This allows Kenya to discharge her obligations and rights under international law. It sets the minimum and our efforts to domesticate the treaty should not go below the minimum set by FCTC.

Mr. Temporary Deputy Speaker, Sir, in the proposed amendments, the highlights consist of

inclusion of farmers. This is a very important constituency whose rights and health concerns have been largely ignored in the past. In this proposed Bill, their health shall be protected and policy on alternative cropping shall be promoted.

Those who wish to replace the tobacco products shall also be assisted. The fact is that most farmers would rather that they did not plant tobacco because they have experienced, first-hand, the negative health, environmental and economic effects of growing tobacco.

Mr. Temporary Deputy Speaker, Sir, the second area is legislation for public education on the dangers of tobacco and this will include specific studies in schools curricula. This will ensure that the public receives the correct information and in a timely fashion. This will ensure that any decisions being made regarding tobacco production and use is based on true and correct information.

Mr. Temporary Deputy Speaker, Sir, thirdly, it outlaws the sale of tobacco and its products to and by minors. Children, when exposed to tobacco and its products early in life, stand the danger of getting addicted and thus growing up imprisoned by nicotine. In the process, the longer they are exposed to tobacco and its poisonous chemicals, the higher their chances of dying prematurely. The fact is that if you start smoking early, you get sick sooner and may therefore die much faster than a non-smoking colleague. Our children need our protection and this Bill provides it in adequate measures.

Mr. Temporary Deputy Speaker, Sir, the fourth item is that it provides guidance on the sale of cigarettes only in packets of 20 sticks. This serves to restrict access by minors and the youth resulting in fewer smokers in the long-run. It also protects the very poor from unfair exposure to disease-causing products. The desired effects will be that the poor will also smoke less and thus have less chance of getting sick.

Mr. Temporary Deputy Speaker, Sir, fifth, it also legislates for prominent and factual warning signs on all packets and packages of tobacco products in the principle displayed surfaces. This ensures that a clearer and more focused message is sent to the smoking and non-smoking public alike. The 50 per cent requirement for the size of this warning is within the minimum limit of the FCTC.

Mr. Temporary Deputy Speaker, Sir, sixth, it separates smokers from non-smokers by setting up clearly marked smoking areas. The principle here is to separate tobacco smoke from the majority of Kenyans who are non-smokers.

Mr. Temporary Deputy Speaker, Sir, seventh, it completely bans advertising, promotion and censorship and this is an avenue used to misinform; especially the youth.

Mr. Temporary Deputy Speaker, Sir, eighth, it sets up the Tobacco Control Fund which will ensure that a dedicated budget is available to meet the objectives of this Bill. The Bill is designed to promote health and not meant to be a punitive measure against those who smoke or use other tobacco products. That is a very important message that I would like to be passed to the House and the general public.

This Bill's main aim is to promote health and not to be punitive to either the smokers or the people who are in the tobacco industry.

(Applause)

Mr. Temporary Deputy Speaker, Sir, tobacco kills about five million people every year worldwide. That is to say that we lose 570 people per hour or that ten people die every minute as a result of the use and exposure to tobacco. If we do not reverse this trend, tobacco will kill 10 million people annually by the year 2030. This is twice the number that we are currently losing needlessly. That is worldwide.

Mr. Temporary Deputy Speaker, Sir, the problem with Kenya is increasing tobacco use and with it, increasing health, environmental and societal costs. The facts as they stand today are as follows and this relates to Kenya: 13 per cent of our primary school children smoke. This translates to about one million children below the age of 15 years already imprisoned in the jail of nicotine. They have embarked on a career whose reward is illness, disease, disability and death. These children need our protection.

Mr. Temporary Deputy Speaker, Sir, the rate at which young girls are taking up this habit is now almost the same as that of boys. This means that the number of women smoking will increase exponentially and with it, some very unpleasant negative health effects including unintended abortions, infertility, giving birth to underweight and still-born babies. This is the reality of tobacco use to our reproductive health.

Mr. Temporary Deputy Speaker, Sir, 42 per cent of students in secondary schools and colleges smoke. To make matters worse, one out of every five girls, that is 20 per cent in this group smoke and 57 per cent of students in our universities smoke and yet these are the young men and women who shortly will form the backbone of Kenya's leadership in different professional fields. The future of this nation is in very shaky hands.

Mr. Temporary Deputy Speaker, Sir, however, the good news is that the majority of Kenyans do not smoke. In fact, it is only 3 per cent of women who smoke and 39 per cent of men who smoke. In general then, 22 per cent of people living in Kenya smoke tobacco. Unfortunately, they are smoking just over 7 billion sticks of cigarettes that are sold in this country annually.

The health costs related to treating illnesses and diseases caused by exposure to tobacco are increasing every year as the number of smoking people in Kenya increases. The health sector, both public and private, spends over Kshs18 billion annually treating these diseases. Hon. Members, this is only the cost of treatment. We have not yet factored in the cost of absenteeism from work, the cost of looking after the sick by the relatives and friends, social support, missed opportunities and other long-term effects.

It does not include the environmental cost including fires caused by cigarette butts, cutting down of trees to cure tobacco, pollution of water sources by the chemical used in the tobacco farming especially at the nurseries, damage to the soil and infertility of the soil after planting of tobacco and the effect that the smoke from curing has on the air around the tobacco farms. It does not include the damage caused to the future of our children that are being pulled out of schools to tend to the tobacco plants and the curing process. It certainly does not include the costs of the new Ministry of Health initiative; to set up clinics that will help current smokers quit the habit.

As you can see, the cost of sustaining this habit is huge. This has in effect led to greater poverty levels in tobacco growing areas.

Mr. Temporary Deputy Speaker, Sir, the Government has acknowledged that tobacco use and exposure to tobacco smoke is extremely injurious to the health of both smokers and non-smokers and, therefore, warrants taking protective measures to public health. To this end, we have taken the following measures:-

(i) We have established the National Tobacco Free Initiative Committee to spearhead advocacy and share with the Kenyan public, pertinent issues related to the effects of tobacco on the society. The Secretariat is housed at Afya House.

(ii) The Head of the Public Service and Secretary to the Cabinet banned smoking in all Government facilities in the year 2002.

(iii) We are all familiar with the work of the National Agency for the Campaign Against Drug Abuse (NACADA).

(iv) In June, 2004, we signed and ratified the FCTC, which is the first global public health treaty. The Government is committed to meeting its obligations under this treaty.

(v) Tax on tobacco products has continued to increase as this is a proven way of reducing access of the products by young people, while increasing Government revenue. We are looking forward to another increase in the forthcoming Budget.

(vi) The Minister for Health signed a Legal Notice banning smoking in public places and strengthening regulations of advertisement of tobacco products. The Government has shown good leadership in addressing the tobacco problems.

Mr. Temporary Deputy Speaker, Sir, these actions by the Government are not adequate to address the health, economic and social problems that are brought about by smoking and exposure to tobacco. Indeed, our obligation as a country to the health of our citizens is now to the FCTC. It means that we must do more. It has now become necessary to establish a comprehensive legal framework, which will provide a solid basis for effective control of tobacco and its products in Kenya. The Tobacco Control Bill is such a vehicle.

Mr. Temporary Deputy Speaker, Sir, this Bill has been in the House since the year 2000, and has been lapsing after every Session. It is due to those lapses that we now have two Tobacco Control Bills in the House: One by the Minister for Health and another one by my friend, Mr. Sungu. However, as we all know, Government Bills take precedence over Private Members' Bills. That is why I am initiating debate on the Government Bill. Nevertheless, I would like to inform the House that we have worked very closely with Mr. Sungu, and that some of the amendments we intend to bring at the Committee Stage contain a lot of his input.

This Bill was read the First Time here and committed to the Departmental Committee on Health, Housing, Labour and Social Welfare, which discussed it with other stakeholders. The Ministry has also held wide consultations with stakeholders, and we appreciate some of the proposed amendments that will subsequently be incorporated into this Bill. We have the responsibility of protecting the health and wealth of this nation. This Bill has been in this House for too long and I call upon hon. Members to give it the attention it deserves.

Mr. Temporary Deputy Speaker, Sir, tobacco comes in many forms, shapes and colours. All these forms are harmful to the health of human beings. Tobacco kills over five million people every year worldwide, comprising of both smokers and non-smokers. Let us protect our children and place public health above individual and private profit. I look forward to hon. Members making informed contributions to this Bill and eventually passing it.

This Bill raises pertinent issues that must be addressed with sobriety and a clear mind. The House is being asked to walk a tightrope. On the one hand, we have a vibrant tobacco industry that gives livelihood to thousands of Kenyans, right from the tobacco farmer through to the manufacturer, wholesaler and retailer. Of course, the tobacco industry gives a cheque to the Exchequer every year. On the other hand, we must be alive to the many health hazards associated with tobacco and tobacco products. The House must be alive to these two sides of the same coin and find a delicate balance. I implore fellow Members of Parliament to walk the tightrope as we consider various amendments to this Bill.

Mr. Temporary Deputy Speaker, Sir, two very critical issues have been raised in this Bill: The issue of secondary or passive or involuntary smokers, who comprise people who do not smoke but other people in their neighbourhood force them to smoke. We are saying that we must protect those people. The second issue is that of smoking by our very young boys and girls. This is a vulnerable lot of people who can be manipulated easily. They live in a world that has been described as "bling bling".

Sometimes, some of the advertisements that we see on our television screens and read in the newspapers resonate very well with this bling bling life. Again, we are saying that these young people must be protected.

Mr. Temporary Deputy Speaker, Sir, it must be very clear to hon. Members that this Bill

does not seek to ban smoking but to protect non-smokers as well as the young and vulnerable people in society. Further, the Bill seeks to compel dealers in tobacco and tobacco products to responsibly advertise their products. In the long-run, we must change the culture and the ways of our people with regard to tobacco use. We envisage to develop in smokers a culture of responsibility, such that before one lights a cigarette, one looks around to see who is around. We hope that in future, one will be alive to the fact that his children are present as he thinks about lighting a cigarette, and that his wife could be pregnant. We intend to change the way Kenyans view all the aspects of smoking tobacco and tobacco products.

Mr. Temporary Deputy Speaker, Sir, as I conclude, Mr. Temporary Deputy Speaker, Sir, I said earlier that the Bill seeks to provide for a comprehensive legal framework to regulate the manufacture, sale, labelling and advertisement of tobacco. It will establish a Tobacco Products Regulatory Board. It prohibits the supply or sale of tobacco products to the very young in public places. It also makes it mandatory to manufacturers, retailers of specified tobacco products to label the products with such information as may be specified by regulation.

Mr. Temporary Deputy Speaker, Sir, I beg to move.

I would like to ask hon. Wetangula to second this Bill.

Thank you.

The Assistant Minister for Foreign Affairs (Mr. Wetangula): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to second this Bill. When Dr. Kibunguchy asked me to second this Bill, one of my immediate reactions was that, I have a feeling that the Bill does not go far enough in dealing with smoking and the problems that smoking causes. I say so because the statistics that we all know about smoking are frightening.

Mr. Temporary Deputy Speaker, Sir, I want to start by congratulating hon. Sungu, who brought a Motion that triggered the chain reaction that accelerated the Ministry of Health to bring this Bill. Equally, I want to congratulate the Ministry for taking the lead in the war against smoking. You and I know that this Bill is just among other things that try to domesticate the World Health Organization (WHO) Framework Convention on Tobacco Control. We subscribe to WHO as a country and as a member of the world community. Some of the cardinal clauses in that Convention are very clear. The Convention says in part:-

"---recognizing that the spread of the tobacco epidemic is a global problem with serious consequences for public health that calls for widest possible international co-operation and the participation of all countries in an effective, appropriate and comprehensive international response---

So, it is an international problem; it is not a Kenyan problem. The Convention goes on to say:-

"Seriously concerned in the worldwide consumption and production of cigarettes and other tobacco products, particularly in developing countries as well as about the burden this places on families, on the poor and on the national health systems---

You can also see that tobacco consumption is a Third World problem affecting families, the poor and the national health systems.

It also says:-

"Recognizing also that cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependency and that many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic, carcinogenic, and that tobacco dependence is separately classified as a disorder in major international classifications of diseases---

This is very critical.

Mr. Temporary Deputy Speaker, Sir, you can see that those who manufacture tobacco, knowingly, wilfully and deliberately engineer the contents of tobacco to create dependence. This is

very dangerous!

It further says:-

"Acknowledging that there is clear scientific evidence that pre-natal exposure to tobacco smoke causes adverse health and developmental conditions for children---"

So, by continuing to recklessly expose young and pregnant mothers to tobacco smoke, we are endangering the lives of unborn children. This is also very dangerous!

It also says:-

"Deeply concerned about the high levels of smoking and other forms of tobacco consumption by indigenous people---"

The Convention is very detailed and it has many things.

Mr. Temporary Deputy Speaker, Sir, you know about the big case in Los Angeles recently where a tobacco company, it is either Aspen or JR-something--- Mr. Weya could be knowing it. It is a big company. This company was taken to court and pleaded guilty to deliberately engineering the contents of cigarettes to create addiction in young people so that once they start smoking, they will never stop. This was a boardroom conspiracy by the manufacturers. They must have asked themselves: "How do we get dependency to sustain this terrible trade?" These are merchants of death! So, they put excessive amounts of nicotine and other substances to make sure that, once you start smoking, you become addicted and you live by the smoke. This has been acknowledged by the WHO Framework Convention on Tobacco Control.

So, by bringing this Bill here, we are trying to domesticate an international convention which was crafted, designed and passed in Geneva by, among others, the Government of Kenya. The issues I have read in part from the Convention are things we all know. We have seen in our televisions how a cloud blows on your television screen, then a well dressed man arrives, sometimes he is called *Jokur*. This scene depicts that when you smoke, you are *Jokur*. What will stop our children from imagining that they are *Jokur*? We also see in our television a scene of a young man swaggering on the streets, hand-in-hand with a beautiful girl, showing that if you smoke, you will attract a beautiful girl. We have seen many such misleading advertisements.

We have had many advertisements of cigarettes. These have to be brought under strict control, if not to an end. This is because children in formative years are very vulnerable. The moment we expose them through the electronic and print media, that smoking makes one a tough guy, they will believe that, that is the way of life. They will also believe that, that is how to be a responsible person in future, yet, at the end of the day, we know that they are courting death.

Nothing costs the Third World economies more than the cost of treatment of active, direct and involuntary smokers. Billions of shillings are expended by Third World governments, Kenya included, to treat people with respiratory complications and all manner of diseases, including cancer. These are avoidable. In fact, the passage and enforcement of this Bill will most likely increase our Constituencies Development Fund (CDF) kitty, because the money that we are pumping into treating people who fall involuntarily ill because of the merchants of death, will be put to more productive use.

Mr. Temporary Deputy Speaker, Sir, my constituency has a tobacco-growing section. One of my four divisions grows tobacco. I look forward to the day when, in enforcing and implementing the provisions of this Convention of the World Health Organization (WHO), a fund will be set up to give the local farmers alternative means of livelihood, so that they can grow crops that bring them reasonable income. They will be able to grow crops that will not subject them to constant coughing and sneezing. In addition, they will be able to grow a crop, whose very handling, will not be a health hazard.

Mr. Temporary Deputy Speaker, Sir, the Bill has not mentioned one of the dangers of tobacco-growing; that is, the destruction of trees. Everywhere the tobacco is grown, it is cured

through smoke from firewood. To get this firewood, we have to cut down trees to light the kilns to dry the tobacco. As a result of this, rain patterns have changed. Once in a while we see a token intervention by those who deal in tobacco, which is never enough. This Bill has come too late in the day, but it is a very important.

Mr. Temporary Deputy Speaker, Sir, the Bill also provides for penalties for those who encourage reckless advertising and sell cigarettes to young persons. As we all know - and I think this is scientific - there is no young person in this country or anywhere who will just wake up one morning and smoke *ganja*, commonly called *marijuana*. We call it *enjaka* in my language. I do not know what you call it in your language. To graduate to *ganja*, one must first taste a cigarette. It is those cigarettes that lead to graduated bad behaviour. They make our children end up going for what is commonly called in slang, "the joint." We hear our young sons saying: "I tasted a joint." Before you taste the "joint", you start with a cigarette. When we control this cigarette smoking, we are anticipating the arrest of a worse situation. Those who expose young persons to cigarettes must be severely punished. The provision of a fine of Kshs500,000 is not enough. What is Kshs500,000 to ASPEN or BAT? Nothing! A much stiffer penalty should be set, especially, if a manufacturing company engineers false and fraudulent advertisement that causes children to think that to smoke will make them somebody. The fine must be in millions. Recently, an American court in Los Angeles fined a cigarette manufacturer over US\$90 billion for continuously exposing young persons to cigarette smoking by putting in substances, including nicotine, that would make everybody who tastes a cigarette become addictive to it. When you fine a villager from Shinyalu, a sum of Kshs200, it is very painful. But when you fine a cigarette manufacturer Kshs10 million, it is pocket change. The punishment must reflect the status of the offender. I think this is something that we need to look at.

Mr. Temporary Deputy Speaker, Sir, the Bill sets out a regulatory board that will be dealing with issues of tobacco products. But I want to remind the Assistant Minister that he omitted to provide for the chairman or chairperson of that board. The Bill is silent on this. I do not know who will chair that board. I want to urge him, at Committee Stage, to bring in the provision of a chairman or chairperson, and the qualifications.

The Bill also leaves out a very critical component on the regulation of tobacco production, that is, the environmentalists. I would wish that the Assistant Minister increases the number of persons in Clause 5 who will sit in this board, to include either a representative of the Ministry of Environment and Natural Resources, or somebody from the National Environment Management Authority (NEMA). This is because tobacco production is a danger to our trees. The board needs to be advised by the NEMA.

Also, sometimes when we leave provisions as fluid as simply saying, "one representative of the business community in Kenya to be nominated by the Kenya National Chamber of Commerce," we need some clarity. This is because the Kenya National Chamber of Commerce might send in tobacco lobbyists to advance their cause from the board. If we are looking for control, we must look for probity as well. I think the Committee responsible for public health in this House should assist the Ministry in enriching the quality of persons who will sit in this board. Otherwise, we might end up with a board full of smokers and pro-smoking characters, who will eventually reverse the whole content of the Bill. If we have to fight smoking, we must be clear as to who we want to put in this board. I am sure my good friend, the Assistant Minister, is hearing this.

Mr. Temporary Deputy Speaker, Sir, some of the temptations that lead to our young persons falling into traps, are the uncontrolled *kiosks* around schools and learning institutions. I think we should go head-on and eliminate those *kiosks* that are deliberately placed outside the gates of schools by dubious fellows who constantly give our children free sweets and cigarettes. Who pays for these cigarettes? In America, it has been proven that cigarette manufacturers give free

cigarettes to retailers to give them to children, to create addiction. This, in turn, will enhance their business tomorrow.

Mr. Temporary Deputy Speaker, Sir, most of these companies spend millions of shillings, if not billions, on advertisement and promotion. How do they promote their products? They give hon. Sambu a free cigarette knowing that once he finishes it, he will need a second one and a third one. The next day he will want a packet of cigarettes.

We need to eliminate kiosks that sell cigarettes outside our learning institutions. If they have to do so, there should be stringent regulations governing their licences, which must require that they should never sell cigarettes outside learning institutions where young persons can be exposed to cigarette smoking. This is absolutely critical. The Bill, of course, is very clear on this issue. It states that anybody who sells cigarettes to a young person knowing that person is young will be fined heavily. The fine should even be heavier. The Bill authorises promotion of cigarettes under Clause 20. If it was within my authority, I would delete this clause altogether. I do not think cigarettes need any promotion, given what they do to our people. Mr. Temporary Deputy Speaker, Sir, Clause 21 talks about promotion of sporting events. How the hell on earth would cigarette companies promote athletes without encouraging them to smoke, or cigarette companies put money on footballers without encouraging them to smoke? The World Health Organisation has discouraged this. Even at the risk of sporting going down, we must avoid going to cigarette manufacturers to sponsor marathon events. You know that a runner who smokes cannot run even two kilometres. So, why do you want to go to them to sponsor marathon events? We should ban it altogether. Let them keep their money. We can have better business dealings with soft drink manufacturing companies like Coca Cola bottlers, manufacturers of things like biscuits and bread, which can sponsor sports instead of legitimising merchants of death, and allowing them to come to us with their money bags. When cigarette manufacturing companies are allowed to sponsor sporting events, they distribute packets of cigarettes to those watching the event. Some of them are the same young people whom we want to protect.

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

*(The Temporary Deputy Speaker
(Capt. Nakitare) took the Chair]*

This is a dangerous trend. I can see hon. Sungu nodding and smiling. As the engineer of the original idea on this Bill, I hope he will introduce some amendments to the Bill at the Committee Stage to make sure that we do not leave any loose ends. I want to advocate here that smoking in all public places should be outlawed completely. There is no justification in going to a hotel or a restaurant and you are shown different sitting places for smokers and non-smokers. This is because smoke from the other side circulates throughout the same room. That is what I call "involuntary smoking". It does not matter whether the smoker is seated where my good friend, hon. Ahenda, is from where I am. The smoke will circulate in the room. As people say when they promote AIDS awareness, you are either infected or affected. You are either smoking or somebody is smoking for you. We should stop this habit altogether.

You have lived in USA, where winter sometimes becomes very harsh. In Canada, when the temperature is -40 degrees, you see somebody standing in a street corner holding a cigarette. This is because he cannot smoke in any building or corridors of buildings. This is geared towards protecting involuntary smokers. If you want to smoke you should go to Uhuru Gardens or Uhuru Park. Eventually, we will see you running out of Uhuru Park, because of the hazards that cigarette

smoking carries.

The Bill deals with involuntary smokers, as I have said. I think the Minister may have made a serious omission. She has listed, under Clause 29(2) places where smoking is banned. She has not listed any workplaces, especially factories. She has listed cinemas, health institutions, restaurants and hotels, public service vehicles, aircraft, passenger ships and trains, education facilities and public buildings. I think she has to add to this list workplaces such as factories. In that way, when anyone of us is working in factories, they will not have somebody, simply because he owns the factory, blowing smoke all over because his behaviour is not covered under this Bill.

Clause 30 provides for display of anti-smoking signs to be limited to English and Kiswahili languages. I want Clause 31 to cover English, Kiswahili or any other language. Sometimes, when I drive through Kisumu, I see an advertisements like *Ayaki Chira*. The people who live there understand what that means. When you are talking of death you must describe death in every conceivable language, whether English, Kiswahili, Dholuo, Kisii, Kikuyu or Kikamba. The people will understand signs better when the warnings are in their first language. English and Kiswahili are not the first languages of many people in this country. So, we should enlarge that clause so that we provide for other languages as well.

On the whole, when you look at the Schedule on page 625, you will see that the Ministry says "the following health messages shall be displayed on every package containing a tobacco product, sign or advertisement stipulated under the provisions of this Act: tobacco harms people next to you, that is involuntary smokers; tobacco use kills; tobacco harms your unborn baby; tobacco use causes cancer; tobacco use causes lung diseases; tobacco use is addictive; this product can cause gum disease and tooth loss; this product includes smokeless tobacco products; this product can cause mouth cancer; this product is not a safe alternative to cigarettes" If the Ministry of Health can acknowledge all these dangers of smoking, then why are we talking of regulation and not banning? All these diseases are as a result of tobacco smoking: lung cancer, mouth cancer, heart diseases and cause harm to the unborn baby.

I want to conclude by once again congratulating hon. Sungu and the Minister for Health for bringing this Bill. I want to urge the Minister for Health to work hand in hand with the Ministry of Agriculture and that of Planning and National Development to assist in areas where tobacco growing is the mainstay. Our people should be enabled to grow alternative crops to tobacco, so that they can continue earning their living without endangering their health. If we can do that, it will be wonderful.

I also to urge that the fine provided in this Bill, especially on those who manufacture, promote and sell cigarettes, of Kshs500,000 be increased. This is because it is grossly inadequate. The Minister and hon. Sungu must address this. In law, if you want to punish, the punishment must provide a deterrent. If the punishment makes people say "It is better than I thought" then that is not a punishment. That is just a joke. The law on narcotics provides that those who are found with narcotics either face a life sentence or fines of millions of shillings. In China, you are sentenced to death. If you fly to Singapore, as you land at their airport, you will see a sign larger than the airport itself telling you that if you come into this country with drugs you will be sentenced to death and be put to death.

We all know about the graduation from cigarettes to *marijuana* to *ganja* and other drugs. By dealing with this problem today, we are arresting a worse situation for tomorrow, especially for growing children.

With those very few remarks, I beg to second.

(*Question proposed*)

Mr. Weya: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say one or two things with regard to the regulation of the tobacco industry within this country.

Mr. Temporary Deputy Speaker, Sir, from the outset, I want to say that I support the regulation of the tobacco industry. I want to make this very clear. I also want to make it very clear that tobacco is harmful to human health. However, we have to take into account the many things that happen around us. We should also look at what neighbouring countries are doing. If we are not careful as a country, we might find the tobacco industry going to dogs. We need to be very careful when addressing this issue. Apart from tobacco, even alcohol kills our people. We also have other things like HIV/AIDS which are big killers of our people.

Mr. Temporary Deputy Speaker, Sir, one of my concerns is that if we are going to take this Bill as it is, we might just ban tobacco use completely. We should say that Kenya will not allow tobacco use at all. Just ban it! That will be the best option if this Bill is going to pass the way it is.

Mr. Temporary Deputy Speaker, Sir, we know that most cigarettes in this country are sold by retailers as single sticks. As an hon. Member, I have to look at both sides. I represent smokers, non-smokers and farmers who grow tobacco. So, I have to take a general view. It is important for me to protect those under the age of 18 years, because they are minors. That is my key responsibility as an hon. Member. I also have to give those over the age of 18 years the freedom to make a choice. They should choose whether they want to drink alcohol and be reckless in their behaviour. You cannot curtail the freedom of someone who is over the age of 18 years. They should choose whether to go to a disco or not, or whether to drink beer or not. That is not my responsibility as an hon. Member. My responsibility ends when a person attains the age of 18 years.

Mr. Temporary Deputy Speaker, Sir, I say this because even illicit brews in this country are found in the underworld. If you go to Uganda, you will find that the community has taken the responsibility of making their local brews available to the whole society, instead of them being for the underdogs only. They are now taxed. Uganda gets tax from the *waragi*. Even our neighbours, Tanzania, have allowed their society to consume their local brews. In that way, they are able to regulate quality, the way it is consumed and get tax. It controls the society as a whole. When you allow some of these things to exist only in the underworld, the results are disastrous. Quality control is not taken into consideration. For example, *chang'aa* brewers mix their drinks with other chemicals. You can imagine if cigarettes go the same way. The health dangers will be three times what we are looking at today.

Mr. Temporary Deputy Speaker, Sir, we talk about the First World countries. I have had an opportunity to go there and see what happens. Cigarette smoking in the First World is a disaster. Everybody smokes; children, women and parents. You will find parents smoking with their children! It does not cause as much concern as we have in Third World countries like Kenya. If a woman is seen smoking in our society, people look at her with bad eyes. She is even given bad names because she smokes. In the First World countries, when a woman smokes, it is acceptable. So, you find that women who smoke in our country hide when smoking. The same thing happens with children, unlike in the First World where they do it in the open. That is something that we need to look into.

Mr. Temporary Deputy Speaker, Sir, I have a quarrel with the WHO. Recently, it lifted the ban on the use of DichloroDiphenylTrichloroethane (DDT) after 20 years. Whose concerns did the WHO take into account? We must be very clear. Twenty years ago, in the USA and Europe, this product called DDT was used to eradicate malaria. If you go to Europe now, you will not find malaria. Then, in the Third World countries, it said it had banned use of DDT. Twenty years later, it is saying that it wants to lift the ban. Millions of our people have died over the last 20 years from malaria. This was because they were not allowed to use DDT, even though the Americans and

people in Europe used it. Now, WHO is telling us it has lifted the ban on DDT. We must also query what these foreigners are doing. I know for sure that in a country like the United States of America (USA), its excess cotton and tobacco are bought by the government. The government buys all excess tobacco and cotton and keeps it. Even if there is no market for it, they just keep it. Will the Third World countries' governments have the capacity to do that? Do they even have the capacity to destroy these products, if they have to?

Mr. Temporary Deputy Speaker, Sir, will a country like ours be able to create regulations the way the First World countries do? How are you going to put "no smoking" and "smoking" signs in kiosks and small bars in a rural area? You may have a small local bar in rural areas without space for such signs, yet that is where people can afford to drink.

Mr. Temporary Deputy Speaker, Sir, we know that a kiosk owner makes a profit of between Kshs100 and Kshs200 a day, yet you are telling him that he will be fined Kshs20,000 if caught selling cigarettes. Are you telling me that, that is realistic? It could be possible in Europe because a kiosk owner in Europe makes Kshs20,000 in a day. In Kenya, does he make that amount in a day? The maximum he can make in a day is Kshs200. When looking at this man, let us look at him within the Kenyan situation. The tobacco industry is dominated by a multinational, and I agree that we might need to increase the fines for manufacturers. However, we must be realistic when suggesting fines for ordinary Kenyans. Sixty-five per cent of these people are poor. They cannot even afford filtered cigarettes. They smoke Rooster and the cheapest brands in the market. In rural areas, people cannot even afford this; they take tobacco from the farm, roll it in a newspaper piece and smoke it. Most cigarettes are smoked in towns. If you go to my rural areas you will find that cigarette smoking is not a concern. It is not a problem at that level. Very few people smoke in the community I come from. I can vouch for that. However, you find that those who do, smoke *sokota*. They roll tobacco in pieces of newspapers and smoke it.

Mr. Temporary Deputy Speaker, Sir, you have heard the Assistant Minister say that Kenya uses Kshs18 billion to treat cigarette-related diseases. I do not think that, that is a realistic figure. Let us look at the Ministry of Health budget.

The figure that the Assistant Minister has given is not realistic. Although he may decide to protect it, it is not realistic. We should look at the total budget of the Ministry of Health in relation to HIV/AIDS, typhoid and malaria. The figure of Kshs18 billion does not account for buying drugs and paying staff.

The Assistant Minister for Health (Dr. Kibunguchy): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Weya to mislead this House? He has said that I said that Kshs18 million is borne from the Ministry of Health. I said that, that is the kind of money that is being borne from the public and private sectors. I made it very clear in my presentation. So, it is really not coming from the Ministry of Health. We are talking about quite a number of people who have problems related to cigarette smoking going to see private doctors.

The Temporary Deputy Speaker (Capt. Nakitare): Is that a point of order or a point of information?

Mr. Weya: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is arguing his point. He is making his point clear.

We have been told that five million people die every year in the world from smoking-related diseases. We need to find out how many of these people are from Africa. Diseases like malaria and HIV/AIDS are the key killers of our people in Africa. When it comes to advertisement, you either allow somebody to do business or you stop him from doing it. In the a First World country, you cannot advertise cigarettes on television unless it is after 10 o'clock at night. In a liberalised economy, you cannot curtail businessmen. You can either tell them to pack and go, or you allow them to advertise their goods during a certain time frame.

We should allow people to advertise cigarettes or alcohol within a certain time frame. We should also allow people to advertise cigarettes in bars because people go to bars to drink alcohol and smoke cigarettes. For example, in Europe, they allow people to advertise cigarettes and alcohol in discotheques. In Europe, there are discos for children up to the age of 21 years, where they do not allow alcohol and cigarettes. There are other discos for people over the age of 21 years and one can smoke and drink there. We should not curtail our society. When somebody wants to drink and smoke, he should go to the drinking and smoking discos, and when somebody does not want to drink and smoke, he should go to where he can drink sodas and dance as well. We should give everybody an opportunity to have his independence as a human being.

I support the issue of banning smoking in public places. When you smoke in a public place, you affect the people around you. I had an opportunity to listen to different stakeholders with regard to the issue of banning tobacco smoking. If you go to the streets, you will find a disabled person surviving by selling cigarettes, chewing gum and a few sodas. His stock cannot be worth more than Kshs1,000. If you introduce a requirement that people can only buy cigarettes in packets, you will lock out all these poor people. Then the only people who will afford to sell cigarettes will be the likes of Uchumi and Nakumatt. The poor people will be cut out. Other people will then buy cigarettes from Uchumi and sell them in pieces in dark corners. If you try to curtail the sale of cigarettes in pieces, then people will be selling them in dark corners at a higher cost.

When it comes to advertising, I agree that it should be banned within a certain radius from schools. We do not want to encourage our school-going children to smoke. We should also not allow kiosks near schools to be selling cigarettes. We should not allow cigarettes to be sold within a certain radius from every school, so that our children are not affected. I support that kind of a regulation.

Mr. Temporary Deputy Speaker, Sir, I come from an area where growing tobacco has recently been introduced. My people have put up barns at a certain cost. The concerned company has come in and it is financing my people to grow tobacco. If the Government can tell me how it is going to compensate my people who have started growing tobacco, and come up with another crop and finance its growth, then I might consider supporting this Bill. I know for sure that the Government will not have the capacity to do that. It cannot afford to pay for the barns. Each barn is about Kshs50,000. If the Government is willing to tell my people to uproot tobacco and finance an alternative crop for them and commit to do that, then I will be one of the hon. Members who are supporting this Bill. I will not support the Bill unless the Government has put up a concrete plan to compensate the farmer.

Our tobacco is being exported to Somalia and Congo and Kenya is earning some foreign exchange and taxable income. A lot of taxes have been levied on tobacco companies because of the Government's concern on health. If the Government wants to levy more taxes on cigarettes, it should levy them in order to compensate some of the things that it wants to phase out. We cannot wake up today and ban cigarettes within a month. We should give the industry some time to phase out, for example, one year, so that they can make use of their packets. They have been manufacturing the packets, advertising agencies have been paid and some people are holding cigarettes in stock. A poor man could be holding cigarettes in stock in the rural area. He might be holding 10 cartons of cigarettes, which he intends to sell after some time.

If you put a ban on cigarettes, what will happen to the income that the poor man has paid? He must have paid the manufacturer and he must also have paid taxes. You cannot tell him that this will be illegal in a month. How will he function? You should give the retailer, the wholesaler and the manufacturer time to phase out cigarettes and allow a new production to come into place. We should phase cigarette smoking out slowly. You cannot wake up and decide that you want to put certain regulations in place just because you have been put under pressure by the WHO or some

other international organisations.

I will be bringing some amendments to the Bill. It is true that when we talk about smoking, there is a concern on environment. We should have somebody from the environmental bodies in the Board. We should also have a representative of the advertising agencies. Advertisers and airlines are already regulating themselves. People are not allowed to smoke in aircraft. This clearly shows that the air industry is regulating itself when it comes to smoking.

If you visit some multinational offices, for example, banks, you will find that they have banned smoking in their premises. So, you will not be doing anything new because in many Government and private offices in Kenya today, smoking is not allowed. The ban should not interfere with the right choices of individuals.

We should ask ourselves why people smoke. We do not know why people have been smoking for many years. We also do not know why people drink alcohol. Those are social issues that we cannot get into as Parliament. People smoke out of choice and it is within their human rights to choose what they want to do. If we try to curtail people's right to choose, we might find ourselves in a very tricky situation.

The other issue that I would like to get into is the issue of branding. I do not have a problem with the slogan that cigarette smoking is harmful to one's health, or cigarette kills, but you cannot just say this about all the cigarettes. Each company has its own brand. People choose cigarettes on the basis of branding, as long as their labels show a certain percentage of nicotine which is not very high.

We should also stick to using the two national languages; English and Kiswahili, as far as we are concerned. The advertisements on the billboards that are used by the Ministry of Health to pass messages regarding the abuse of drugs are done in different languages. The billboards advertise in those languages because they have been collecting revenue for a long time.

Mr. Temporary Deputy Speaker, Sir, one of my concerns is that when you have an industry that is operating within the Government, it becomes the responsibility of the Government to look into its operations. I have heard the issue of destruction of forests being discussed here. I think it is the Government's responsibility to curtail the multinationals that are destroying trees. It is the responsibility of the Government to check the operations of a company like BAT, which utilises trees but does not replace them. It is the responsibility of the Government to compel such multinationals to have quotas or a certain number of trees that they have to plant within a given period. The companies should show the Government where they will plant the trees. This is a problem we are having with the multinationals that are dealing with cigarette production, and those which produce paper in this country. They cut down trees and do not replace them. We need to bring a Bill to this House to curtail the way they misuse trees. It is the responsibility of the Government to make sure that the multinationals meet their corporate social responsibility.

*[The Temporary Deputy Speaker
(Capt. Nakitare) left the Chair]*

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

One of the issues that has been raised here is that of corporate social responsibility, particularly by manufacturers. We said that they should not be responsible for anything. I think it has been identified that cigarette smoking is harmful to our health. There is no reason why those companies cannot be compelled to put up health facilities. Why should we stop them from putting up health centres, yet we know that the substance they produce is a health hazard? Let them put up

health centres because that will help our people in the rural areas, and even people who are not smokers.

One of my concerns, which I would have liked put in this Bill, is the issue of protection of farmers. How are they protected when they are handling the crop? I think it is an issue that the companies have not considered at all. Considering the huge profits the companies have made in the past, it should not be a problem for them to take care of farmers and protect them from the hazards of handling the crop.

On the issue of destroying forests as has been raised by an hon. Member, I would like to say that there are other technologies that can be used in curing tobacco. Tobacco does not necessarily have to be wood-cured. It is good if BAT and Mastermind Tobacco Company (MTC) put up these kind of machinery if they want to continue with this business.

Mr. Temporary Deputy Speaker, Sir, I want to conclude by saying I support the regulation of the tobacco industry. However, regulation should be done responsibly by hon. Members without any hon. Member leaning on one side. We must be sober. We are leading constituents who could be tobacco farmers, non-smokers, smokers, minors, disabled people selling cigars for a living, and those people selling small commodities on the roadside. We need to be very realistic in a Third World country like ours. We should not just follow what is happening in the First World. We should not just fine someone, for example, Kshs20,000, yet that individual is earning that money as a profit in a year. In Kenya, a kiosk owner makes a profit of just about Kshs200 a day. We cannot fine this individual Kshs20,000 and put him on the same level with other people because this is a blanket law that is followed all over the country.

Mr. Temporary Deputy Speaker, Sir, I beg to support this Bill and request that we regulate this industry responsibly.

The Temporary Deputy Speaker (Mr. Khamasi): Capt. Nakitare, I think I will "bribe" you!

Proceed!

Capt. Nakitare: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support the Tobacco Bill. Tobacco control is a universal issue. Having listened to Mr. Weya, we understand that the Ministry has come up with standards for regulating smoking. In developing countries, this is quite clear. Where the Ministry has gone astray, this is not something that is strange to us. We would like to give a limit at least to the age of a child. A shopkeeper should not sell a cigarette to a child under the age of 18 must. These are the stringent rules that are now applying in developed countries.

Smoking is a bad influence. If we look at how tobacco was introduced by Christopher Columbus, basically, we do not even know the reason why he did this. When you go to Central Domingo, where he first landed in the Dominica, there are Christians there. Where Christianity came in with the early missionaries, smoking of cigarettes was an evil thing. There were rules to be followed. When we diluted the lifestyle and softened rules from religion, that is when we invited social abuse. Why are school-going children allowed to smoke? Is this an influence from their parents? If so, why should the Ministry not come up with rules and say: "Should a parent allow an underage to smoke, the child, parent and the seller of the cigarette should be punished. The law will then apply and there will be an improvement in the regulation of tobacco use.

Mr. Temporary Deputy Speaker, Sir, why are we making a fuss of this issue? Tobacco is not a special crop in this country. May I inform this House that where tobacco grows, even cotton can grow. Why can we not say that cotton is a substitute of tobacco? Farmers say they are looking for a lifestyle; they want to earn a living. Cotton is used in all forms of life. There is no limit to the use of cotton. However, there is a limit to the use of tobacco. This is because there are people who have abstained from smoking, but is there anybody who has abstained from using cotton as

clothing or a blanket cover? These are the instances that we have to consistently look at. We do not have to look at the pros and cons of this issue from the developed countries. The multinationals want to come here to magnify their businesses.

In the recent past, there was the introduction of GMOs in the tobacco sector. Developed countries have introduced GMO tobacco. What is the effect of that to human life? I am not looking at the diaspora, but if I take this House through the anatomy of a human being; if you dissect a smoker's body from the mouth to the lungs and you see the penetration of nicotine, you will be shocked. One does not even need to study the anatomy of a smoker. When a person who is addicted to smoking laughs, you will turn aside. The mouth stinks pungently. The oesophagus is turned into the colour of soot. Soot comes from carbon dioxide. I do not think a smoker would enjoy smoking where there is no oxygen. That is an indication that smokers burn a lot of money.

In fact, this is a lifestyle where some people just want to smoke a bit of the cigar and then throw it away. I wonder whether these people can take a Kshs1,000 note, set it on fire and throw it away. This is a social behaviour. I do not think a smoker has anything other than addiction to the cigar.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members! Capt. Nakitare, when debate on this Bill resumes, you will have 25 minutes to finalise your contribution.

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 16th November, 2006, at 2.30 p.m.

The House rose at 6.30 p.m.