

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 21st August, 2012

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE

DISABLING OF SYSTEM FOR TRACKING STATUS OF NATIONAL ID CARDS

Mr. Speaker: Member for Bura! We will return to the Question a little later but I have information since last week that the Member for Bura, you will all recollect, was granted leave to go and attend to an emergency situation in his constituency. Maybe the emergency has not been resolved.

(Dr. Nuh) to ask the Minister of State for Immigration and Registration of Persons:-

(a) Is the Minister aware that the system used to track the status of National Identity Cards on the Ministry's website has been disabled and, if so, why?

(b) Is the Minister further aware of the closure of the customer care desk at the Department of Registration Headquarters?

(c) How does the Minister expect Kenyans to track the status of their applications for identity cards and when will the Ministry re-activate the system and open the customer care desk?

Mr. Speaker: Next Question by the Member for Gatundu North.

WITHHOLDING OF LATE JOTHAM N. WAINYARI'S BODY BY KNH ON ACCOUNT OF UNPAID MEDICAL BILLS

Mr. Waibara: Mr. Speaker, Sir, I beg to ask the Minister for Medical Services the following Question by Private Notice.

(a) Is the Minister aware that the late Master Jotham Njoroge Wainyari, a class five pupil at Miugu Primary School, was hospitalized for two months in Kenyatta National Hospital before passing away on 3rd July, 2012?

(b) Is the Minister further aware that the hospital has threatened to bury his body after refusing to release the remains to the family for burial, even after the family and friends had managed to pay Kshs25,000 out of the total bill of Kshs172,000?

(c) What measures will the Minister take to ensure that the body is released to the deceased's family unconditionally for burial?

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I want to answer this Question although I have not furnished the hon. Member with a written answer. I have, however, discussed this with him. You will remember that Monday was a public holiday; so, this Question went to Kenyatta National Hospital (KNH) today, but it is something I can handle because I have already addressed it with my Permanent Secretary.

Mr. Speaker: Very well. Member for Gatundu North, are you comfortable receiving the answer without a written answer being passed on to you?

Mr. Waibara: Mr. Speaker, Sir, yes, I am comfortable.

Mr. Speaker: Proceed, Mr. Assistant Minister.

The Assistant Minister for Medical Services (Mr. Kambi): Mr. Speaker, Sir, I beg to reply.

We have addressed this problem with the hon. Minister and the Permanent Secretary. Indeed, the Permanent Secretary has done a letter to the Chief Executive, KNH, for this body to be released. This is because it is uneconomical to detain the body. If we were to go ahead and bury the body, this would not make economic sense. Therefore, the body will be released, probably by tomorrow.

Mr. Waibara: Mr. Speaker, Sir, I want to thank the Assistant Minister but I would also want him to come out with a policy---

Mr. Speaker: Member for Gatundu North, there is a point of order! Give way to the Member for Central Imenti!

Mr. Imanyara: (*off record*)

Mr. Speaker: Okay. You came at interventions!

Proceed then Mr. Waibara!

Mr. Waibara: Mr. Speaker, Sir, I wanted to thank the Assistant Minister for releasing the body of Jotham Njoroge. However, I would also want to make a request to the Assistant Minister to come out with a policy to ensure the poor and needy families who face problems similar to this one are not subjected to dehumanization and trauma.

Mr. Kambi: Mr. Speaker, Sir, as a Ministry we have dealt with this issue, and we have issued directives that those people who cannot raise the necessary fees for their dead bodies of their relatives should have the bodies released to them with immediate effect.

Mr. Baiya: Mr. Speaker, Sir, the Assistant Minister has responded to this Question, but this problem seems to be recurring again and again. I have another family in my constituency which is awaiting the burial of one of their deceased family member for the same reason. Why can the Ministry not come up with a definite period within which they can allow members of the public to have bodies of their deceased when they cannot raise hospital charges? It is a matter of dignity for the family concerned.

Mr. Speaker: Member for Kamukunji, what is it?

Mr. Hassan: (*off record*).

Mr. Speaker: Then you pressed the wrong button!

Mr. Assistant Minister, please, answer! Mr. Yusuf, once again you are requesting intervention! Proceed, Mr. Assistant Minister.

Mr. Kambi: Mr. Speaker, Sir, we have tried to address this problem because we wanted to do away with all mortuary fees. The problem, however, is that we need some funds to run the mortuaries and buy chemicals. As a Government, I remember very well that we presented our

proposal to the Ministry of Finance, so that we could be financing this activity, but we were denied the funds. We have, however, made it a policy that if there are people who cannot afford to pay mortuary fees for their dead people, then we are going to waive all of it.

Mr. Mureithi: Mr. Speaker, Sir, if you look at the figures we are talking about at the KNH, they are very high. I remember in my constituency we had a figure of Kshs2 million. Considering that the Government had come up with cost sharing, I would like to know why the Ministry cannot look at the matter, so that the KNH does not now continue reflecting charges like private hospitals; the poor should be able to take their sick to the KNH.

Mr. Kambi: Mr. Speaker, Sir, we have not been inflating figures. Once a patient passes on, the body is taken to the mortuary. I think that as a Government, and particularly the KNH, we have been spending money to buy chemicals to preserve these bodies. As a Government we have tried to minimize the pain. We have come up with a policy that all those who will not be able to pay hospital bills, we are going to intervene. We have waived some of the bills on several occasions. We will continue doing so.

Dr. Eseli: Mr. Speaker, Sir, as you notice, the hospital bill incurred was Kshs172,000, of which the family managed to pay Kshs25,000. That means even though the family had difficulties in paying the bill, which might have inconvenienced them, it means KNH has also lost money. The last time a similar Question came to this Parliament, the Minister said that there was a Social Health Insurance Bill awaiting Cabinet approval. Can the Assistant Minister inform this House the status of that Bill now, because it will be the answer to most of these problems?

Mr. Kambi: Mr. Speaker, Sir, yes as a Ministry we did a Cabinet Paper and it is sitting at the Cabinet office. As a Ministry, we do not have the calendar of the Cabinet and their work schedules.

Mr. Ruteere: Mr. Speaker, Sir, there are several title deeds held by the KNH on the premise that poor families will go and raise funds. Since some of them are unable to raise the funds, is the KNH going to sell these people's land or what are they doing with the title deeds that they hold?

Mr. Kambi: Mr. Speaker, Sir, it has not been our policy to sell these collateral like land and motor vehicles. It was just a way of guaranteeing that payment would be made. As Dr. Eseli mentioned, all these problems are going to be addressed once the Bill is approved by the Cabinet and this House.

Mr. Hassan: Mr. Speaker, Sir, it is shocking that the Government has to resort to holding dead bodies to raise resources. It is also shocking to hear from the Assistant Minister that he is releasing this particular body not on humanitarian grounds but because it is too expensive for the Government to bury it. We have the same problem as far as the people of Kamukunji are concerned. I spend a lot of time attending to people who want bodies of their family members to be released from the mortuary, or patients to be released from places such as Pumwani Maternity Hospital. I want to ask the Assistant Minister whether the pledge that he has made here, that people who cannot afford to pay hospital charges, will be exempted from paying, will reach the hospitals.

If that was the case the hon. Member would not have raised this issue in Parliament. It would have been resolved much earlier. Can he assure us that this information will be available to the hospital administrators and managers, so that relatives will not suffer the pain of waiting for the release of dead bodies of their dead family members? It is particularly contrary to the African tradition for hospitals to hold families hostage for many days; doing this raises costs for both the hospitals and the families.

Mr. Kambi: Mr. Speaker, Sir, we have issued a directive to waive bills for not only people who have passed on, but also for those who cannot afford to pay their bills. We have been waiving them from time to time. That is how the KNH ended up having an unpaid bill of Kshs1 billion. The bill was supposed to be paid by the Government. I remember very well that last year, we did a proposal and we wanted the Ministry of Finance to give us the money to offset the bill. But we have been waiving bills. We will continue to do so in cases where the affected person(s) cannot afford to pay hospital bills.

Mr. Balala: Mr. Speaker, Sir, could the Assistant Minister institutionalize the criterion that will be used when people cannot afford to pay hospital bills? It should not be a discretionary decision that is abused by the Ministers or officials of the hospital. Could the Assistant Minister assure this House that those waivers are not only done at the KNH but countrywide?

Mr. Kambi: Mr. Speaker, Sir, we have been giving waivers not only to the KNH, but also to most of the other hospitals. The criterion is not for the Government to check whether a patient has money or not. We treat you as long as you are sick. We will find out whether you cannot afford when the bill is out. Those people have been asking for waivers and we have been giving them.

Mr. Waibara: Mr. Speaker, Sir, now that they have released the body of Jotham Njoroge, I do not have any further questions.

ORAL ANSWER TO QUESTION

Question No.1554

REASONS FOR POOR RANKING OF KENYAN UNIVERSITIES

Mr. Odhiambo asked the Minister for Higher Education, Science and Technology:-

(a) if she could clarify whether the recent ranking of universities included all the universities in the country in view of the mushrooming of universities in the country, and why most Kenyan universities were ranked poorly even among African countries;

(b) whether she is aware that most universities do not offer programs in particular disciplines but they are driven by the desire for financial gains; and,

(c) how the Government is addressing the problem of shortage of lecturers in public universities, especially in specialized fields such as engineering and medicine and the issue of most universities relying on part-time lecturers who move from one college to another without doing proper research in their areas of specialization. and how the Minister will address rampant tribalism in the universities.

Mr. Odhiambo: Mr. Speaker, sir, I do not have a written answer.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, may I first apologize because this answer was supposed to be given last week. I apologize because I was expecting an ambassador in my office. I did not know in time that the Assistant Minister who was supposed to be here was taken ill. The other one was away. So, I really apologize that we were not in the House. Secondly, this answer was already here by that

time. It was brought to the Office of the Clerk on 7th August. So, I am surprised that it is not here. That is because I checked and it was brought with a book.

Mr. Speaker: You mean the delivery book?

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, yes, there was a delivery book.

Mr. Speaker: Office of the Clerk, could you pass a copy of the answer to Mr. Odhiambo? In the meantime, Prof. Kamar, you may proceed. Mr. Odhiambo, just keep notes for your convenience.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, if the hon. Member will allow me to continue, I will proceed.

Mr. Speaker: Mr. Odhiambo, do you want that to happen?

Mr. Odhiambo: Mr. Speaker, Sir, let me get the written answer so that I can follow better if I read it.

Mr. Speaker: For the time being, let us hear the answer. It may not be so complicated, Mr. Odhiambo. Proceed, Madam Minister! If Mr. Odhiambo requires time, we will give him time but just proceed for the time being.

The Minister for Higher Education, Science and Technology (Prof. Kamar): Mr. Speaker, Sir, I beg to reply.

(a) The recent ranking of universities was done by two different bodies. The first one was done by a body called the Fourth International Colleges and Universities which was done early in 2012, and which gave results of 100 universities and colleges. In that ranking, only four public universities and one private university in Kenya appeared in the top 100. In another ranking which was done by Cybermetric Lab under the auspices of the Ranking Web of the World Universities which was done in January 2012, there were five public universities in Kenya appearing among the top 100 and two private universities. I am giving these figures because of what I am about to say on why the rankings are different. The rankings of universities by the two bodies base the ranking on some criterion. What appears to be poor ranking of the Kenya universities even among the African countries may be misleading mainly because of the criteria used by the ranking agencies. That is because the two agencies appear to use different ranking criteria. It is instructive that rankings of universities were based on, amongst others, the number of teacher staff in a university who hold PhD Degrees. It is also based on the number of applications. The number of academic and research work posted on the website rather than the quality of what is posted was also part of the criterion. In the Kenyan scenario, most universities carry out a lot of intensive academic and research work. However, this does not get posted to the websites owing to the challenges of ICT inter-connectivity in our universities. So, most of what is done is not on the website and yet the two ranking institutions were only using what they can see in the websites. Furthermore, a number of our lecturers - and I would like to admit - do not hold PhD degrees. So, the tallying of the number of our PhD degrees is what ranked some of our institutions below the others. But again, it is not updated in what was used because they were picking the same number of lecturers from the website. So, if you are not on the website or you have not updated your website, then the ranking does not give the exact picture of what is in the institution. It should be noted, however, that, that ranking criterion which was used does not give the right picture of most institutions. I want to give an example.

In the ranking that was done by the first institution in January 2012, the University of Nairobi (UoN) was ranked No.17. In the ranking that was done within the same quarter by the Fourth Colleges and Universities ranking, the UoN was ranked at No.11. The discrepancy again

shows in the other universities. The Strathmore University was ranked No.43 in the first ranking and it was No.46 in the second ranking. Kenyatta University was ranked at No.45 by the first group but was No.54 by the second group. Egerton University was ranked by the World Universities Web at No.50, while it was No.59 by the second ranking.

Moi University was ranked No.69, but it did not appear in the ranking of the first group. USIU was ranked No.71 by the ranking of the Fourth International Colleges and Universities, but it does not appear in the Ranking of the Web of the World universities. Jomo Kenyatta was ranked No.76 in January by the Web of the World universities, but it does appear at No.81 in the next group.

So, Mr. Speaker, Sir, because of the different criteria even between the ranking agencies, it would appear that we do not get the right picture of where the universities fall.

(b) Yes, I am aware how the programmes are offered in the universities. The programmes most of the universities offer are guided by the visions and missions of the universities and the national priorities such as is appearing in the Vision 2030.

The other factors determining the kind of programmes offered by the universities is the interests of the applicants themselves. In this regard, the programmes are demand-driven. Therefore, it is not by the desire for financial gains on the part of the universities.

It should be borne in mind that the public universities currently operate under individual Acts of Parliament which makes them autonomous to expand their programmes according to the desire of their senates. But most of all, they expand according to the market demands.

(c) The Government is currently addressing the problems of shortage of lecturers in the public universities through a number of initiatives and I would like to outline a few for Members:-

First, we have a bilateral agreement with the German Government through which their aid agency DAAD offers several scholarships to the teaching staff in our universities. This project mainly targets university lecturers in the fields of medicine, engineering and the sciences. Each year, a number of lecturers join German universities to study for their PhD programmes. We have, in fact, gone further and we have co-sponsored more candidates under this programme since last year. We, as a Ministry, are putting in Kshs20 million so that we also have partial scholarships.

Second, we have what we call the GOK/ADB Higher Education, Science and Technology quality and relevant Improvements Project, which has a component on training of university teaching staff.

Under this programme, university teaching staff with bachelor's degree will be trained at masters' level, while those with masters will be trained at PhD level in the fields of engineering and applied sciences. This is a programme that we have just finalized with the ADB and it begins in the year 2013. So, these are some of the measures that we are undertaking.

The third initiative we have in the Ministry is through the Pan African University Institute of Basic Science Technology and Innovation, an initiative of the African Union which is now within Jomo Kenyatta University. It is expected to train Kenyans in the fields of masters and PhD levels in engineering and applied sciences. I keep on referring to engineering and applied sciences because this is the area that we had the highest shortage. It is also expected to upgrade the teaching and research capacities of our universities.

Mr. Speaker, Sir, the fourth initiative is that the Ministry receives about 100 post graduate scholarships from friendly countries all over the world each year. Most of the scholarships are in the areas of sciences, medicine, engineering and technology. It is envisaged

that the post graduate studies will be undertaken through the universities. We have prioritized our universities for these scholarships.

All these initiatives are aimed at capacity building within our universities in order for them to have an equivalent staff compliment for the expansion that we are undertaking currently.

The Ministry will address all other issues as they come up.

One part of the Question was on ethnic balancing. It is a very long Question. I would like to say that the Ministry will also address the issue of tribal imbalance in the universities through a series of interventions that spread through a span of three years. This will include the following:-

1. It will ensure that the gender balance in public offices as spelt out in the new Constitution does not exceed two-thirds of personnel on gender and ethnic grouping.
2. We will be reviewing the staffing norms and recruitment procedures for all cadres of staff in the universities.
3. We will be ensuring that the top management in universities strictly adhere to the one-third rule on gender, as well as ethnic balance.
4. Finally, we will be seeking out members of unrepresented communities in the universities, so that there is some level of ethnic representation in each of our departments in the universities.

Mr. Odhiambo: Mr. Speaker, Sir, I wish to thank the Minister for that lengthy answer she has given to this House. But in the first instance, where we are talking about quality of education being offered by our universities, she has stated very clearly here that it depends on certain criteria. One such criteria is the number of lecturers that hold PhD degrees or post graduate degrees. In fact, she emphasized on PhD degrees.

Now that we know that there is shortage of lecturers in most of our universities, particularly those holding PhD degrees in sensitive areas such as science and medicine, why is the Ministry allowing these universities to go on opening up other colleges in many places, even in market places and calling them university colleges, centres of learning and among other names?

In my opinion, the Ministry is allowing the universities to dilute the quality of education. What is the Ministry doing about that?

Prof. Kamar: Mr. Speaker, Sir, we are not allowing the establishment of universities in market places and everywhere. We have one law that is used to establish universities currently. The establishment of a university or university college goes through the law. The universities, however, can establish campuses for themselves. The problem with the current law, which we are hoping will be repealed in the next few weeks, is the fact that the autonomy in campuses does not allow you to re-penetrate and check. The laws that are about to come to this House are going to reform that bit of the law thoroughly, so that the Commission for Higher Education, which we have already reformed to be the Commission for University Education, will be able not only to inspect the universities that are established under that law, but will also be able to inspect any campuses and satellite campuses that are being initiated by the universities. In the previous law of the Commission for Higher Education, there was a clear indication that, actually, the private universities were the target of the Commission for Higher Education. In the new law, we are empowering the Commission to ensure that both public and private universities are treated equally and any little campus that is opened must be vetted before they open doors, so that we ensure that our students receive the requisite attention, both in the academic content and number of lecturers in the institution. So, we are addressing it.

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, from the information that the Minister has indicated, she is trying to dispute the evaluation of the universities that was done. But if you see the variation, they are not really anything much to write home about. You will find that the only variation is that somebody was put as number 70, but is now number 80. Either way, you are in the 70/80 bracket. It is not like you are ranked number 1 and then you are number 80. Therefore, that shows that we have a crisis in our universities. Could the Minister, please, clarify that it is not just the colleges and campuses that she is talking about, which are in every market place? Even when I was coming here, I saw two; one on top of a bus stage, just here in Nairobi. The other one is also next to a bus stage. I have also seen a fully fledged university the size of a high school. She has also confirmed that most universities do not even have websites, which I can create here in my iPad when I am sitting. If the universities do not have that, could the Minister confirm that we have a serious crisis in our institutions of higher learning and do something extremely urgently?

Prof. Kamar: Mr. Speaker, Sir, on the issue of the ranking, I said that we even have universities that do not appear in one ranking and appear in another one. That tells you that the bodies that are ranking have different criteria and that is why they cannot be uniform. The hon. Member has talked of one being ranked a step behind the other. That is not true because some do not even appear in the ranking of others. You could have Egerton at 50 in one ranking and 99 in the other ranking. So, it tells you that the discrepancy is still very bad. This is because if two people have gone to rank an institution out of 100 and have that kind of variation, it tells you that the variation is significant statistically. The University of Nairobi that is number 11 in one ranking is number 17 in the other ranking. So, you can tell that the six---

Mr. Speaker: Order, Minister! I think what is critical and important, instead of perhaps tending to be very winded, is: Why are we away from the top ten, for example? That is the matter and what the hon. Members are telling you. Concentrate on that.

Prof. Kamar: Mr. Speaker, Sir, I was just responding to how she put her question. Otherwise, I would like to agree that we would like to be in the top ten. We are really working on how we can be in the top ten. I want to say this because we will be coming back to this House, to even request for that kind of expansion. I did mention the fact that we are really addressing the issue of staffing in universities. It is very urgent and I did admit at the beginning that the---

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. The Minister must be aware that even before setting up a simple primary school, there is a criterion that must be followed. So, is she in order to say that for the universities to be set up, we must wait for the legislation to come, debate and pass it, when, in fact, it is within our power to promulgate regulations which can set the tone even for the law to come?

Prof. Kamar: Mr. Speaker, Sir, I have talked about what the new law, which is a creation of this House, is doing. The old law did not envisage, in fact, inspecting public universities. If you look at the Commission for Higher Education, it was directing its efforts to inspecting private universities, actually creating charters for the same and issuing authority to operate. But over time, it has been realized that the public universities must be addressed in the same manner that the private universities have been done. So, the new law that is coming will be the only way that the Ministry would be enabled to do that. Creating a regulation on a law that does not even give you the leeway does not help. What I said was that in the old law that establishes our universities, you can only establish a university or a university college after inspection, and that was it. But the university campuses are actually within the powers of each and every council, and it will continue. But we are looking for a way in which we must inspect

the same. So, the new law that is coming will enable the Commission of University Education to actually inspect these universities and satellite colleges. So, they must be approved before they set stage. This is because, as hon. Odhiambo has mentioned, the issue of having colleges or universities on top of bus stages is something that will be of the past immediately this law takes effect. This is because the Commission of University Education will inspect all of them. That is what we expect to take place immediately the law is passed.

Mr. Njuguna: Mr. Speaker, Sir, the Minister has raised the issue of tribal balance in our universities. What is the Ministry doing to make sure that people are not retired, sacked or demoted, as it engages in this very important exercise?

Prof. Kamar: Mr. Speaker, Sir, I am not worried about the way we are going to do the balancing. As the hon. Members are aware, we are talking of increasing the number of staff in the universities. I have already said that even holders of the Doctor of Philosophy Degree (PhDs) are less. So, what we have discussed with the universities and agreed before the Kibunjia Commission is the fact that additional members of staff must deliberately look for ethnic groups that are not dominant in the universities currently. This is because of the rapid expansion that we are going to see very soon in the universities. In fact, those ethnic issues will be diluted very fast, because we are now deliberately looking out for Kenyans who have not enjoyed any employment in the universities and will deliberately look for them. For example, even the spread of the councils currently is so good. You have everybody from everywhere in the country. So, we are already deliberately looking into that. We have realized that it is possible for a Kenyan from anywhere to even get a PhD. We are telling universities that they must deliberately look for the best candidates from various corners of the country, in order to ensure that this balance takes place. So, we are not going to sack anybody. The universities themselves are expanding and will be requiring a lot of staff at all levels. We are sure that we will be able to balance out.

Mr. Koeh: Mr. Speaker, Sir, listening to the Minister's response to this Question, it goes without saying that we are doing very badly in terms of the rankings especially in Africa where I believe we should be in the lead. The Minister should be working towards ensuring that we are number one; rather than looking at the challenges that she has mentioned.

One of the reasons she has given is that the number of researches posted on the website counts when ranking is being done. What is she doing to ensure that all researches done by our universities are posted on the website so that we can be ranked in the right position?

Prof. Kamar: Mr. Speaker, Sir, it is true that we are actually pushing to be among the top ten. I have said that with regard to the staffing issue, we are addressing that through various agreements and negotiations with other partners to ensure that we do proper capacity building for the universities.

On the other side, we are working on the connectivity of all universities. In fact, all our middle level colleges are going to be connected very soon. We are also demanding from the universities that we must see them on the website so that we can gauge the most updated. We realize that updating a website sometimes takes a very long time and that is why information from these institutions sometimes lacks and it is not exposed to the groups that are interested in ranking. So, we are addressing those matters. We are seized of the problem and we believe that very soon you will be very proud of our universities.

Dr. Otichilo: Mr. Speaker, Sir, while I appreciate the answers given by the Minister, I want to know from her why the universities do not make a deliberate effort to have staff development programmes so that they can programme very well the staff they require and then train them. Previously, when some of us were in the university, the universities ensured that they

had staff development programmes. Those who performed well were absorbed as tutorial assistants or assistant lecturers and eventually they got the PhDs. Why are our universities not doing so?

Prof. Kamar: Mr. Speaker, Sir, I want to assure the House that universities have staff development programmes. One of the challenges they had faced was resources. In fact, even in their money-making programmes, what they call the privately sponsored programmes, they have a quota for staff development for universities. So, there is still a percentage that they are using for that.

I know that the other challenge was the fact that the number of students in the universities was so high that very few members of staff were being released at the same time. We have since discussed that - I have had a meeting with Vice-Chancellors and Principals. We have said that we must ensure that we must do a thorough staff development programme. They are also anxious, as managers in the universities, to have proper staff for these universities. So, it is something that we are really addressing. However, as far as staff development policy is concerned, it is still the same that an academic staff member cannot settle down and rest until they get their PhDs. So, we are trying as much as possible to avail as much resources as we can to ensure that the universities comply. Yes, we are moving there.

Mr. Odhiambo: Mr. Speaker, Sir, the Minister in her answer, has touched on staffing at the universities. Out of the teaching staff and non-teaching staff, if you put them together--- I would like to find out from the Minister if she is aware that in most of our universities both the teaching and non-teaching staff tend to be from the tribe of the Vice-Chancellor. If you did your good research and went to our universities and requested that each employee at the university provides identification of where he or she comes from, you will be shocked to see the kind of tribalism that is going on in our universities. What can you do to reduce the tribal way in which the Vice-Chancellors are employing staff, both academic and non-academic?

Prof. Kamar: Mr. Speaker, Sir, we received this observation from the Kibunjia Commission and we did our own analysis as a Ministry. We went to the University of Nairobi and it did not seem to apply. When you look at the University of Nairobi, the current Vice-Chancellor and the former one are from completely different regions. While analyzing to see if the members of staff come from where the current Vice-Chancellor comes from, the PF Numbers will show you that some were employed at the time when the former Vice-Chancellor was in place and who was not from the same region.

We did the same analysis for Kenyatta University. The current and former Vice-Chancellors come from two different regions. It is the same thing for Jomo Kenyatta University of Agriculture and Technology (JKUAT) and Moi University. The current Vice-Chancellors have taken over from their colleagues who are from different regions. For that reason, we were able to align the very junior staff only, that is, Grade One to Grade Four. They are not just aligned to Vice-Chancellors, but they are aligned where the Vice-Chancellor is coming from the same region. So, in our analysis, it was the region that was influencing the junior staff in the university more than where the Vice-Chancellor came from.

The reason was simply the explanation that from Grade One to Grade Four, most people would not move, say, from Mombasa to Western. So, you would find that people in Grade One to Grade Four, say, in Mombasa being in Kilifi and the same applies in Moi University. As we move forward to improve the salaries of these members of staff, we would like to have a situation where a cleaner gets a salary that would warrant him to be employed anywhere.

With the current salary structure, it becomes very difficult to get somebody from the Coast Province to go to Meru. This is because our junior staff still rely on their families to subsidize the income for themselves and their children. That we found to be slightly different, but we do recognize the fact that there is some tendency towards the senior members of staff. It looks like when a university is opened, say, Masinde Muliro University of Science and Technology (MMUST) most of the people from around there would move to that university. You start running Chepkoilel Campus and most of the members of staff will come from the villages around there. We observed and discussed it openly.

I want to assure this House that that will be a thing of the past because we have committed ourselves to changing the face of the national institutions. It is not just for the universities, but also the technical training institutes.

Mr. Speaker: Very well, Minister. That must come to an end. We have spent a lot of time on that Question because of its significance. So, I want to go back to Question No.1 by Private Notice which I defer until such time that the Member for Bura is available. So, it will be deferred infinitely. It will appear on the Order Paper only upon the return of the Member for Bura.

QUESTION BY PRIVATE NOTICE

DISABLING OF SYSTEM FOR TRACKING STATUS OF NATIONAL ID CARDS

(Dr. Nuh) to ask the Minister of State for Immigration and Registration of Persons:-

(a) Is the Minister aware that the system used to track the status of National Identity Cards on the Ministry's website has been disabled and, if so, why?

(b) Is the Minister further aware of the closure of the customer care desk at the department of registration headquarters?

(c) How does the Minister expect Kenyans to track the status of their applications for identity cards and when will the Ministry re-activate the system and open the customer care desk?

(Question deferred)

That then brings us to the end of Order No. 6. I want to move to the next Order.

MINISTERIAL STATEMENTS

Mr. Speaker: Are there any Statements due today? Assistant Minister for Foreign Affairs, do you have a Statement to deliver?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I have a Statement to deliver.

Mr. Speaker: How long are you going to be?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, most probably about five minutes.

HARASSMENT OF MOTORISTS BY SECURITY OFFICERS
AT ISRAELI EMBASSY IN NAIROBI

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Speaker, Sir. Nominated Member, Mr. Kombo, had asked the Ministry of Foreign Affairs to explain why security officers at the Israeli Embassy in Nairobi---

Mr. Speaker: Order, Assistant Minister! You have been under sanctions! You just returned and you must account for why you were not here when we expected you to be here to answer Questions!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, there was correspondence to your office that I had attended a funeral in Ghana and when I came, the same day, I found that you had given the sanctions. But I believe that by being here---

Mr. Speaker: Do you not know that you have a duty to account, explain and apologize to the House? When you are not here and your colleague is not here to answer Questions, that is gross disorder, according to our Standing Orders. When you return, even after serving those sanctions, you must offer an explanation.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, I apologize unabatedly.

Mr. Speaker: Very well. Carry on.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, hon. Kombo had wanted to know why the Israeli Embassy had inconvenienced motorists by stopping them outside the Embassy precincts and the legality of that action. He also asked what action the Kenyan Government was taking on the matter.

The barriers along the road outside the Israeli Embassy were put in place after the terrorist attacks at Kikambala Hotel in Mombasa. There was also a second attack on the Israeli Airliner in Mombasa. At the same, owing to this and the current global terrorist threats as well as past attacks on Israeli interests in several countries such as Kenya and our neighbours, it was agreed by the Government that we would adopt those barriers in order for us to provide enough security to the personnel working within the Israeli Embassy and its diplomatic missions. Therefore, those barriers are meant to pre-empt any attacks as one of the most common methods used by the terrorists. Terrorists usually use vehicles to blow up buildings and most of these vehicles will be filled with explosives.

The deployment of police officers along Bishop Road is, therefore, not meant to inconvenience or harass Kenyans who are using that road. It is only done because the Israeli Embassy is located on the same road and the Kenyan Government felt that it was important for us to provide that security. Apart from this, Article 22 of the Vienna Convention on Diplomatic Relations of 1961 states that:-

“The receiving or host State is under a special duty to take all the appropriate steps to protect the premises of a mission against any intrusion of damage to prevent any disturbance of the peace of the mission or impairment of its dignity”.

The police will continue to monitor and review the levels of the threat from the terrorists with a view of reducing the number of road barriers in the City in order for the Government to allow free flow of security where it is necessary. It is in the interest of all Kenyans and the City residents to co-operate in effecting such security measures where it is appropriate or necessary.

Finally, it is noteworthy for the Ministry of Foreign Affairs to state that we do not, at any one time, unilaterally issue sanctions or any security decisions touching on the security of any embassy. The requests, sometimes, are made by the missions accredited to Kenya and it is our responsibility to oblige where it is necessary.

Mr. Speaker: We will take three interventions beginning with hon. Kombo.

Mr. Kombo: Mr. Speaker, Sir, I am glad that what was a Question has come in a way of a Statement. I have a private office around that place.

Mr. Speaker: Mr. Assistant Minister, will you, kindly, take notes. We are going to take three interventions.

Mr. Kombo: Mr. Speaker, Sir, the harassment is on a daily basis. The inconvenience is on a daily basis. That road is the shortest route to the Nairobi Hospital. I have actually witnessed an ambulance being stopped with its siren on as it tries to get to the Nairobi Hospital, obviously carrying somebody who was seriously ill. I understand that the host, namely, the Kenyan Government, is trying to give security to the Israeli Embassy, but would it not be possible to make arrangements to move the Embassy from that busy place? It should be moved to another place like Gigiri where it can be protected more effectively than in that congested place where it inconveniences motorists and people who work there.

There are major offices around that place. The traffic that goes to the Ministry of Lands, for example, is heavy. Motorists queue to be checked in order to get to the Ministry of Lands and other Ministries. The Government should think of moving that Embassy away from that area.

Mr. Balala: Mr. Speaker, Sir, I appreciate the response from the Assistant Minister. I totally agree with my colleague, hon. Kombo. This is the only Embassy in that area and it can easily be re-located to where other embassies are like in Muthaiga and other areas and be appropriate where it does not inconvenience Kenyans. Any Kenyan is stopped there and checked and inconvenienced, but if you are of my colour and religion, you get arrested and you are traumatized by the investigations and interrogations that take place in that area. I have an example and it has not been once, but continuous. So, the profiling is important.

We appreciate that we need to protect these embassies, but this is the only embassy that is given such protection. The American Embassy was attacked and they re-located from down town to Mombasa. Then they found Mombasa Road inconvenient and they moved to Gigiri. It is important for us to relocate this Embassy. Upper Hill and that area has become the new Central Business District (CBD).

Mr. Speaker: Order, hon. Balala! Your Standing Orders tell you certain criteria which you must apply even as you seek a clarification. Hon. Kombo has talked about re-location. If I were you, I would have gone to a different area. You want to conclude?

Mr. Balala: Mr. Speaker, Sir, I emphasize on re-location because it is the cause of my point. When you are arrested because of being of a different complexion, you get traumatized and then the investigations of it become null and void. So, it becomes harassment to Kenyans. So, it is important for us to re-locate the Embassy vis-à-vis the issue of investigations of people of a certain complexion that they can be potential terrorists and we are not terrorists.

(Mr. Affey pressed a button)

Mr. Speaker: Order, hon. Affey! We will conduct our proceedings in a manner more civil than where you want us to go!

Mr. Kabogo: Mr. Speaker, Sir, is the Assistant Minister aware that every time a senior diplomat is about to leave or enter the Embassy, that road is completely closed until the official, for instance, the Ambassador or the First Officer, has cleared from the road? That is when they open the road. I have been a victim. This reminds us of the Margarians. Foreigners come to this country and take over our security apparatus.

He should tell the House what immediate action he is taking. The only thing that is friendly is a smiling face that they have put on those drums on the road. It is very sad when, I, a Member of Parliament, have to wait there for 30 minutes for the Ambassador to leave his office. Kenya is a sovereign State and if they feel that the Embassy is not secure, they should be free to find a forest somewhere and go and build their offices there where they will guard themselves on a 365 days basis. Could he clarify to the House what immediate measures the Government of Kenya is taking to secure Kenyans from these frustrations?

Mr. Speaker: Mr. Assistant Minister, you may respond to those. I am afraid we have to keep them restricted.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, first of all, I would like to categorically state to my colleagues and the House that Kenya enjoys very warm and friendly relations with the country known as Israel. At the same time, Kenya has tried to maintain a middle ground of warm—

Mr. Speaker: Hon. Amina Abdalla, what is it that is out of order?

Ms. Amina Abdalla: Mr. Speaker, Sir. I had put the intervention sign because my microphone has been on. So, I thought that you needed to see the intervention sign for me to raise a point of order.

Mr. Speaker: Very well.

Proceed, Mr. Assistant Minister!

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Thank you, Mr. Speaker, Sir. My microphone had gone off. I was stating that Kenya enjoys a very special relationship with the country of Israel. We also enjoy cordial respect with the people of Palestine in the struggle to become a free and independent state. The reason I am making this Statement is because--

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to bring a point that is not relevant at all to this situation? The question was not about Palestine but about the Israeli Embassy. Is he in order to try and excite us with another issue that has not been brought to the House?

Mr. Speaker: Mr. Assistant Minister, proceed.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, we will proceed because hon. Shakeel should know better. The point I am making is that currently, the Ministry of Foreign Affairs---

Hon. Members: No!

Mr. Speaker: Order, hon. Members! The Assistant Minister shall be heard!

Carry on, Mr. Assistant Minister.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Mr. Speaker, Sir, as I am stating, the Ministry of Foreign Affairs is in discussion with the Embassy of Israel for them to seek a second opinion on whether they should move or not. We have already mentioned that to them and it is very clear that they are and they have been discussing with our Ministry where they will move to. The problem we have in Kenya is that in other countries, land is usually allocated for free for countries to set up their missions, unfortunately, we do not have that

privilege provided to any of the countries that would like to open their missions here. However, I know that the Cabinet has been in the process of discussing where and how we can create a diplomatic zone where all these Embassies can be moved to. The fact that this Embassy is located next to the Nairobi Hospital is a matter that has been worrying us. On top of that, we have been looking at the possibility of persuading the Israeli Government to move to an area that is convenient for them and for us.

Finally, I would like to state, categorically, as I said that under the Vienna Convention, it is our responsibility to protect the Israelis if they feel that there is a threat to them. That is what we have done to the British Embassy and two other missions.

Thank you.

Mr. Speaker: The Minister for Trade, I think we will take your Statement now if it is ready. How long will you take?

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, may be 10 minutes or less.

Mr. Speaker: Ten minutes is too long!

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, what about five?

Mr. Speaker: Five is okay but try and live within the five minutes strictly.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, I do not see the Member who requested for the Statement in this House. Do I just proceed?

Mr. Speaker: The interest in it is public. Carry on.

ENGAGEMENT OF CHINESE CITIZENS IN SMALL SCALE BUSINESS IN KENYA

The Minister for Trade (Mr. Wetangula): Thank you, Mr. Speaker, Sir. The Member for Dujis, hon. Duale, requested for a Ministerial Statement on the following issues; the number of Chinese citizens and companies issued with work permits and business permits since 2008 to date, whether the Chinese citizens are involved in hawking business in all major cities in our country, to confirm or deny whether there are regulations or policies that allow foreigners to engage in small trading activities such as hawking and to give the measures the Government is undertaking to safeguard local businesses, especially small scale traders and hawkers.

I am not aware that Chinese Citizens are involved in hawking activities in all the major cities in the country. However, there are isolated cases of Chinese, Somalis and Indian sub-continent nationals spotted hawking in various commercial centres in the country.

Kenya is a liberalized economy and there is no law that discriminates persons who carry out legitimate business in Kenya. There is also no law against hawking except where the local authorities provide for designated areas to carry out hawking subject to payment of---

Mr. Affey: On a point of order, Mr. Speaker, Sir. I heard the Minister refer to "Somali hawkers". Is he talking about Kenyan Somalis or which Somalis is he talking about?

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, obviously, my good friend was not listening! I said, Chinese, Somalis and Indian sub-continent nationals. Those are not Kenyan Somalis!

Mr. Speaker Sir, in addition, such designation does not discriminate on the basis of the nationalities of operators. Following the repeal of the Trade Licensing Act Cap.497 in 2007, there is no specific law restricting foreigners from engaging in the activities of trade of any kind in this country. If there are Chinese and/or other foreign nationals hawking in the Central Business District (CBD) in our cities, they should be dealt with within the respective local

authority regulations. Any foreigner illegally operating in the country is bound to be arrested, prosecuted and/or deported in accordance with the Immigration Laws, the Chinese included.

To safeguard local businesses especially small traders and hawkers in the country, the Government is undertaking, among others, the following measures. To address some of the weaknesses within our legal trade policy framework, my Ministry is developing the National Trade Development Policy and the National Trade Development Bill which will be brought to this House to address concerns and safeguard the interest of small business communities in the country. The Government is enforcing the Anti-Counterfeit Act to protect the consumers from counterfeit and sub-standard goods. The Government is implementing the Policy Directive that 10 per cent of all Public Procurement be sourced from small businesses. The Ministry is also continuously engaged in negotiating for market access for Kenyan products across the borders with emphasis on sustaining our export trade.

In the Vision 2030 flagship projects, the Ministry of Trade is establishing wholesale hubs and tier one retail markets to improve the value chain efficiency. It is estimated that about 4,000 Chinese nationals are legitimately residing in Kenya at the level of development support. China has over the years extended substantial financial assistance to Kenya which has had significant impact on Kenya's socio-economic development. China is one of the leading donors to Kenya with cumulative grants totaling Kshs1.925 billion and loans totaling Kshs40.285 billion, amounting to a total of Kshs42.21 billion to date in development assistance.

In tourism, Kenya was among the first African countries to be granted the approved destination status for the Chinese outbound tourists. Kenya Airways direct flights to Hong Kong and Guangzhou have boosted the tourism promotion campaign targeting the Chinese market. Over 14,000 Chinese tourists visited Kenya in 2008, and by November, 2009, the number had risen to 37,000 tourists. In tandem with the reciprocal business exchange between China and Kenya, the Chinese Consular issued a total of 9,922 visas to Kenyans in 2011 of which over 80 per cent were commercial visas compromising small traders who go to sell their wares in China.

As at 16th August, 2012, the Embassy had issued 6,628 visas to Kenyans, again 85 per cent of them being commercial visas for Kenyan traders going to China. These are formidable proofs that there exist cordial relations and beneficial partnership in various sectors including agriculture, health, education, trade and tourism which continue to expand.

In conclusion, I wish to confirm that the trade between our two countries is guided by principles of international trade and bilateral trade agreements. Both Kenyan and Chinese businesspeople have access to each other's market; access to trading and investment in each other's territories conducted in accordance with the respective laws of the country. Any hawkers who are unlicensed are breaking the law and should be arrested regardless of their nationality.

Mr. Speaker: I will allow a maximum of five clarifications on this one beginning with the hon. Member for Kisumu Town East.

Mr. Shakeel: Mr. Speaker, Sir, I have the honour of sitting in the Finance, Planning and Trade Committee. The issue of the Chinese involvement in the development of our infrastructure has been one that we have looked at with great satisfaction and protected even when we go to trade talks.

However, the issue of the Chinese now doing illegal trade is of great concern. It has been raised in Ghana and other African countries. For example, we have unregistered Chinese trucks transporting murrum and other building materials in Kisumu City. They have been doing this business unperturbed for the last two months. The police have been instructed not to harass or arrest them. I had those trucks and the six Chinese who were driving them arrested. However, the

following day, the Minister of State for Immigration called the OCS to have them released. It appears that the Chinese seems to have special treatment here. They cannot be here to break the law---

Mr. Speaker: Order, Member for Kisumu Town East! I do not want to interrupt you, but you know you are just supposed to seek a clarification and do it precisely in the shortest span of time possible. A clarification should take you just a minute.

Mr. Shakeel: Mr. Speaker, Sir, could the Minister tell us unequivocally whether the Chinese are allowed to break the laws of this country and trade illegally? Are they allowed to break all laws, including traffic laws as well?

Mr. Imanyara: Mr. Speaker, Sir, I think we really should not go out of our way to criticize the Chinese when we are to blame for some of the problems that we envisage here. I have in mind a situation where the Ministry in charge of issuing work permits and entry documents to foreigners, issues them without consulting the Minister for Trade. We do not know whether these people came here as visitors. There are 37,000 of them who came here. We do not know how many of them have approached the Ministry of State for Immigration and been given work permits to trade in Kenya. What procedures exist between the two Ministries to ensure that genuine Chinese traders operate in Kenya as opposed to those who obtain work permits illegally through corrupt practices at the Ministry in charge of immigration?

Eng. Maina: Mr. Speaker, Sir, I may not agree with what the Minister has told this House. It is true that the Chinese are here and working without any legal framework. In this country, most small industries have been closed. Nobody should tell us the Chinese are here to work at par with Kenyans because they come here with subsidies from their government. There are ships that leave China, dock at Mombasa, Dar-es-Salam, Durban and West Africa. A case in point is in Britain when one of these ships was not allowed to dock because it was carrying sub-standard goods or subsidized goods. The British Government feared their goods would be kept out of the market by subsidized goods from China.

I would like to tell the Minister that during the last general election in Zambia, campaigns were centred on the way the Chinese had been given a free hand in the country. That is why the present President won the elections. So, I am warning the Minister as he answers this question not to be reckless because the elections are around the corner.

Could he tell us here whether this country truly---

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. I am sure you heard Eng. Maina warning the Minister not to be reckless. I think the terms “reckless” and “warning” are unparliamentary. I wonder whether the hon. Member is in order to warn Members of Parliament when he is seeking clarifications.

Mr. Speaker: Order. Unless the Minister takes objection, the words “warn” and “reckless” are, indeed, parliamentary.

Proceed, Eng. Maina.

Eng. Maina: Mr. Speaker, Sir, I need not go into that subject. I actually wonder whether we really fear and have the feelings of our countrymen at heart when a subject of this nature is on the Floor of this House.

Could the Minister clarify to this House whether there are any policies in this country which protects local businessmen against invasion by unscrupulous people from America, China and India who come here with subsidized goods and are supported by their governments?

Mr. Chepkitony: Mr. Speaker, Sir, I want clarification from the Minister as to whether the over 9,000 Kenyans given documents to travel to China are going there to buy Chinese goods or sell our goods there. What type of goods are they selling in China?

Mr. Chanzu: Mr. Speaker, Sir, the cotton industry in this country was destroyed by the Government. It is a pity that when you go to a bookshop, you find an imported notebook which can be made here. The Pan African Paper Mills Company in Webuye which was producing paper was equally destroyed by the Government. What is the Government doing to revive these industries so that we reduce the cost of importing goods from outside?

Mr. Wambugu: Mr. Speaker, Sir, this issue of foreigners coming to take over jobs in this country is not only found within the hawking industry, but even in other professions. Currently, the aviation industry has been invaded by pilots from all over the world. The Government is facilitating them to take up these jobs. Kenyan pilots are presently threatened with the sack. What will the Minister do to make sure that these foreigners who are coming to take up our jobs here are stopped?

Mr. Speaker: Order, hon. Members! We will make an exception and give the Floor to the Member for Dujis. He had requested for this Statement.

Mr. Duale: Mr. Speaker, Sir, I had asked the Minister to provide the House with the work and business permits of Chinese nationals in the country. I would be very happy if he availed them to me, so that I can go through that document and look at the companies that are facilitating the hawking business in the country.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, on hon. Shabir's clarification, I would like to clarify that there is nobody who is above the law, be it Kenyan or non-Kenyan. That is very clear. It needs no elaboration.

Regarding the clarification sought by the Member for Central Imeni, I would like to agree with him that my Ministry does not issue Entry Permits, or Egress Permits, and that here has been little collaboration between my Ministry and the Ministry of State for Immigration and Registration of Persons as to how work permits and other permits should be issued. It would be a good idea if we had internal consultations whenever such permits are issued.

I agree with the hon. Member that there are many genuine Chinese traders and investors in this country, whom we have no difficulty with.

Mr. Speaker, Sir, the Member for Mathira made a long speech, which borders on xenophobia. Such xenophobic speeches created a serious problem in the Republic of South Africa recently, where even Kenyans suffered. I want to particularly encourage leaders in Kenya, including Members of Parliament, that there are many thousands of Kenyans doing business and working outside this country. I have personally seen Kenyans hawking wares in Hwan Zhu, China. Those who go to China must have seen them. Therefore, where there are laws, we shall enforce them.

We shall also encourage Kenyans to compete in a liberalised economy. Of course, the Government has a duty to---

Mr. Speaker: Order, Minister! There is a point of order. What is it, Member for Mumias?

Mr. Washiali: Thank you, Mr. Speaker, Sir. While hon. Shakeel was seeking clarification on this Ministerial Statement, he raised a very pertinent issue touching on the licensing of the traditional drugs that the Chinese hawk around. Could the Minister also inform us whether the so-called "Chinese Traditional Medicines" are licensed?

Ms. Amina Abdalla: That one does not sound like a point of order!

Mr. Speaker: Order! Order! Hon. Amina Abdalla, you are indeed right. That one does not sound like a point of order. Minister, you may respond for whatever it is worth, maybe, ignoring the bit raised by the Member for Mumias.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, I suspect that my good friend has just walked in. I said that the Trade Licensing Act was repealed. So, my Ministry does not license any trader or business person in this country. Even if the Act had not been repealed, the licensing of traditional medicines, or any other medicines for that matter, would be the purview of another Ministry, and not the Ministry of Trade.

Mr. Speaker, Sir, I was dealing with the issue raised by the Member for Mathira. I was urging caution. We need to be careful and guarded in the language we use lest we ignite unhelpful issues that can undermine even the interests of the thousands of Kenyans living and working in other countries.

The economies of this region, including those of the Republic of South Africa, Botswana, Namibia, Zimbabwe, Zambia, Tanzania, Uganda, Rwanda and Burundi run on Kenyans. We have seen Kenyans owning even kiosks out there. I am not justifying the Chinese hawking on our streets. I am simply saying that we need to be guarded in our language, as leaders.

Mr. Speaker, Sir, the Member for Keiyo North asked whether Kenyans just go to China to import goods. They do both. They take their wares there to sell and get wares from there to come and sell in our country. So, it is a two-way traffic.

I agree with the Member for Vihiga that the cotton industry needs to be revived, but the truth is that it is dead. We have the new Cotton Board, which is trying to revive the industry. I saw some bits and pieces of money in the Budget. I hope that the industry will be revived but, as it is being revived, business must go on.

I also want to inform him that the death of the cotton industry has allowed the flooding of *mitumba* clothes in this country, and there is no evidence that any *mitumba* clothes come from China. We know where *mitumba* clothes come from.

Mr. Speaker, Sir, back to the Member for Mathioya, I want to encourage him, having been a graduate of the aviation industry himself; that if he goes out there, he will appreciate that Emirates Airline alone has employed over 800 Kenyan boys and girls as in-flight crew. I have seen Kenyan pilots in various international airlines. So, why should Kenya be adverse to other nationals working with our airlines when we have many Kenyans working with other airlines? Qatar Airline is running on Kenyans.

Mr. Speaker: Order, Minister! There is a point of order. What is it, hon. Duale?

Mr. Duale: Mr. Speaker, Sir, the statement that I sought was only dealing with hawking and hawkers, which is a small business tenet.

Mr. Speaker: Order, Member for Dujis! Please, be patient. The Minister has not finished.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, the Member for Dujis was not here when I started responding. I am responding to issues raised by hon. Members---

Mr. Speaker: Carry on, Minister! You are running out of time. I allowed you five minutes. You have done a total of 12 minutes now.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, I will provide the Member for Dujis with a list given to my Ministry by the Chinese Embassy of 11 companies that are licensed as business people in this country. These exclude the mega construction companies, because those are Chinese state corporations. These are licensed business people. Ten of them possess valid licences from the City Council of Nairobi, and one from the Communications

Commission of Kenya (CCK), to carry out business in the country. Hawkers who have got no legal standing, and who are breaking the law, be they Chinese or Somali or people from the Indian sub-continent; should be arrested, prosecuted and deported.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Very well. That must rest the matter. I sense persistence from Capt. Wambugu. What is it?

Capt. Wambugu: Thank you, Mr. Speaker, Sir. I was trying to get some intervention on the matter. It is true that we have got Kenyans who are working in other countries but the question is: Is it in order for the Government to continue issuing work permits to foreigners to come and work in the country when we have Kenyans who can do those jobs? Some companies have gone to the extent of laying off Kenyan workers, so that foreigners can take over their jobs.

Mr. Speaker: Minister, maybe, that would be valid to the extent that you had been asked to clarify that part.

The Minister for Trade (Mr. Wetangula): Mr. Speaker, Sir, indeed, Kenyans do not work in other countries because there are no other nationals to work in those countries. They work out there because of existence of reciprocal arrangements between countries. We have Kenyans working in other jurisdictions, and we have people from other jurisdictions working in Kenya. Of course, what we need to do is to balance our national interests with the interests of a country living amongst civilised countries. We cannot close ourselves to other countries and other nationals. It is, simply, not possible.

Mr. Speaker: Minister, you have, indeed, made a point. You have been heard. Even as you made this Ministerial Statement today, there are Kenyans hawking wares in China. So, you have to tread carefully.

Hon. Members, we will take indication on any other Statement. Minister for Lands, I want to allot you time but, definitely, not this afternoon. Do you have a Ministerial Statement?

STATUS OF ALLOCATION OF CHEPCHOINA ADC FARM

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I had a Ministerial Statement, which I had prosecuted, but the Member for Turkana Central, hon. Ethuro, was allotted time today to look at the documents I had tabled with a view of asking questions.

Mr. Speaker: Yes, indeed. Minister, will you be available on Thursday since I want to defer that to Thursday afternoon at 2.30 p.m.?

The Minister for Lands (Mr. Orengo): No, Mr. Speaker, Sir. That is because Thursday the other week - I have already sought your permission to be away. I will not be here until the other week.

Mr. Speaker: Very well. Then I direct Thursday the week after this week.

The Minister for Lands (Mr. Orengo): Thank you, Mr. Speaker, Sir.

Mr. Speaker: It is so directed. Any other Minister with a statement to deliver? I want to allot him time. Minister for Transport, you have a Statement and I want to give you time tomorrow morning.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, I just want to confirm to the House that there were two statements that had been requested from the Ministry of Transport, and which appear on the schedule as outstanding, but were actually already spent. They have already been dealt with and one of them was overtaken by events; that is, the *matatu* strike that never took place. The other one was to do with some accident that had taken place at the airport.

When I discussed it with hon. Shakeel, he said that he did not need the matter to be prosecuted on the Floor.

Mr. Speaker: So, for those then, I will direct that they be deleted from the list of pending statements.

The Minister for Transport (Mr. Kimunya): Thank you, Mr. Speaker, Sir.

Mr. Chanzu: Mr. Speaker, Sir, I thought the Minister will talk about a Statement that I sought on 8th about the airports and airstrips in the country. Last week, you ordered that it will come up today.

Mr. Speaker: Minister for Transport, you have one pending request by the hon. Member for Vihiga on airstrips and airports in the country.

The Minister for Transport (Mr. Kimunya): Mr. Speaker, Sir, can I go with your earlier ruling that we push it to the other Thursday?

Mr. Speaker: Fair enough. It will come on Thursday next week. Hon. Chanzu, please, note that because of the nature of business that is before the House now and the rest of the week.

We will now take request for Statements. So, hon. Shebesh, please, proceed!

POINTS OF ORDER

ASSAULT ON MRS. KANDIE BY SHELTER AFRIQUE MANAGING DIRECTOR

Mrs. Shebesh: Mr. Speaker, Sir. I wish to seek a Ministerial Statement from the Minister for Foreign Affairs regarding the alleged assault on Mrs. Karen Njeri Kandie, a Finance Director at Shelter Afrique by the Managing Director of Shelter Afrique, Mr. Alicen Ba, on 20th June 2012 at her place of work. In his Ministerial Statement, the Minister should:-

(a) explain the circumstances under which Mr. Alicen Ba was arrested and released from Capitol Hill Police Station;

(b) clarify whether Mr. Ba enjoys diplomatic immunity and if so, provide details of those immunities; and,

(c) explain why the Minister has not extradited him to his country to face assault charges if he enjoys diplomatic immunities.

Mr. Speaker: Minister for Foreign Affairs, I think it is.

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Yes, Mr. Speaker, Sir. The Ministerial Statement will be provided tomorrow afternoon, if you allow.

Mr. Speaker: Is it possible that you can come up with it tomorrow morning?

The Assistant Minister for Foreign Affairs (Mr. Onyonka): Yes, Mr. Speaker, Sir. I think that is fine.

Mr. Speaker: Very well. It is so directed. Tomorrow morning. Hon. Mbadi.

DELAY IN TABLING OF DRAFT ELECTION RULES AND REGULATIONS

Mr. Mbadi: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Justice, National Cohesion and Constitutional Affairs on the tabling of the Draft Election Rules and Regulations to Parliament. In the Ministerial Statement, the Minister should indicate:-

(i) when the Draft Elections Regulations 2012 will be tabled in the House as stipulated by the law, now that the contents of the said regulations are already in public domain and

causing anxiety and jitteriness to Kenyans who want to contest in the next general elections;

- (ii) state if the Minister is aware that Section 109(3) of the Elections Act stipulates that the power by Independent Electoral and Boundaries Commission (IEBC) to make electoral regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly, at least, six months preceding a general election and that the six months expire on 4th September, 2012 and, if so, what is the road map towards realizing that; and,
- (iii) finally, indicate the reasons behind the delay in tabling the draft regulations as envisaged in Article 109(3) of the Elections Act, 2011.

The Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Wamalwa): Mr. Speaker, Sir, the Statement can be ready on Tuesday afternoon. I can deliver it.
Mr. Speaker: Very well. It is so directed. Mr. Kiuna.

CRITERIA FOR APPLIED RECRUITMENT OF PRIMARY/SECONDARY SCHOOL TEACHERS IN MOLO CONSTITUENCY

Mr. Kiuna: Mr. Speaker Sir, I beg to seek a Ministerial Statement from the Minister for Education regarding the criteria which the Ministry used in recruiting the primary and secondary school teachers countrywide and, more so, in my constituency.

Mr. Speaker, Sir, in the Ministerial Statement, I would like to know why the Minister did not include all the stakeholders who are supposed to be in that recruiting panel – that is the Provincial Administration, the Kenya National Union of Teachers (KNUT) representative, the area District Education Officer (DEO) and the rest.

Thirdly, how come that, out of 950 applicants from Njoro District - and there were about 30 vacancies - only three were recruited from Njoro District? In Molo District, there were 400 applicants for the 31 vacancies that were available but only seven were recruited.

Mr. Speaker: Order! Hon. Kiuna, I want to recollect that from my desk, I authorized what you have now sought as a request for a Ministerial Statement to be raised as a Question by Private Notice because we are trying to be careful so that everything is not treated as a request for a Ministerial Statement. If that is so, then I want to, in fact, reiterate that the Minister prepares the answer in the category of Questions by Private Notice.

Mr. Kiuna: Mr. Speaker, Sir, I would really be very grateful if it can be framed as a Question by Private Notice.

Mr. Speaker: Yes, indeed, and those are the directions that I had given. So, Minister for Education, that will be directed to your Ministry as a Question by Private Notice. You will be expected to answer it in the next two days. I think it is also noted by institutional memory. The Clerks-at-the-Table will ensure that, that happens. Mr. Affey.

ORGANISED CRIMINAL ATTACKS AGAINST RESIDENTS OF WAJIR SOUTH CONSTITUENCY

Mr. Affey: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security with regard to organized criminal attacks from Lagdera Constituency on the people of Akalari area of Abakokore Location, Wajir

South Constituency in Wajir County which left Mr. Abdullahi Aden Hanesa dead and several others critically injured on Saturday, 18th August, 2012.

Mr. Speaker, Sir, in the Minister's Statement, he should inform the House who were behind those attacks, their motives and clarify why they used Government guns to carry out the attacks under the directives of Government officers. The Minister needs to update the House on any arrests made in respect of that crime and whether there are any criminals who have since been arraigned in court because the matter involves murder.

Mr. Speaker, Sir, I want the Minister to confirm that, that criminal gang confiscated national identity cards of over 20 villagers and Kshs5,000 from an innocent lady, who is a teacher. I intend to table the names of the villagers.

Mr. Speaker, Sir, fourthly, I want the Minister to clarify whether there has been any humanitarian assistance so far extended to victims of this shameful and primitive attacks. I also want him to clarify whether there has, indeed, been any boundary changes or alterations between Wajir and Garissa counties boundaries since Independence. I just want to give you an indication of the gravity this matter, I will give the number of Kenyans whose identity cards have been confiscated by the criminal gangs or goons. They are:-

Abdwakal Abdilahi, Bishar Dhahir, Ebla Kahir, Halima Mohamud,
Mohamed Gabbow Hassan, Gurahi Hassan, Abdi Ali Ahmed, Mohamed Dur Hassan Hassan Duale and Abdi Farah

(Loud consultations)

Mr. Speaker: Order! Mr. Affey, I had given you directions that you should just table and that would have been adequate, but they have heard you, that notwithstanding.

Mr. Affey: I table.

(Mr. Affey tabled the document)

Mr. Speaker: Ms. Amina Abdalla, I can see you are interested to input in that request!

Ms. Amina Abdalla: Mr. Speaker, Sir, I was concerned that the list he is reading--- The other criminal gangs that he might be talking about did not have the opportunity to raise their voices! So, I am concerned that we might be using the Floor of this House to incite the public further.

Mr. Speaker: Mr. Affey, do you want to respond to that? What exactly were you doing?

Mr. Affey: Mr. Speaker, Sir, I am just surprised by my friend's intervention, because the matter that I have brought before the House happened in Wajir where criminal elements have confiscated the identity cards of Kenyans, and that is a fact. So, if Ms. Amina Abdalla has contrary information she can table it; she is here and she can protect those criminals in the House.

Mr. Speaker: Order, Mr. Affey! I will not allow that to escalate. That notwithstanding, I must hear one hon. Member from that diaspora.

Mr. Sirat: Mr. Speaker, Sir, as the Minister responds to the request, I would want him to also table the report by the former Provincial Commissioner, Mr. ole Serian, that was done in March, 2011, when the border dispute in Wajir South and Lagdera was resolved. The Minister has that report and I want him to table it when responding to this request.

Mr. Speaker: That matter must now rest there.

Mr. Minister, when will this Statement come?

The Minister of State for Defence and Acting Minister of State for Provincial Administration and Internal Security (Mr. Haji): Mr. Speaker, Sir, I will issue that Ministerial Statement tomorrow afternoon.

Mr. Speaker: Fair enough, tomorrow afternoon, Wednesday, 2.30 p.m.

Order! Delegate No.5, I do not know your identity. To me, you are a nondescript. Is it you, hon. Member for Gichugu? It says "Delegate No.5" and I do not know who it is.

Ms. Karua: Mr. Speaker, Sir, I am Delegate No.5 this afternoon for reasons beyond my control.

Mr. Speaker: My attention has not been drawn to the fact that, that is the description you are going by this afternoon.

Ms. Karua: Mr. Speaker, Sir, I did not know that it is the hon. Member who does that. I could, therefore, have done so. For this afternoon, I am Delegate No.5.

Mr. Speaker: It is normally done discreetly. We do not take the time of the House to give you that description.

Order, hon. Members! We have now finished with Order No.7.

Hon. Members, you will notice that from this point on, we will be guided by the Supplementary Order Paper.

MOTION

ADOPTION OF REPORT ON NOMINEES TO THE NATIONAL LAND COMMISSION

Mr. Musyimi: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on the nomination of the following members to the National Land Commission laid on the table of the House on Tuesday 14th August, 2012.

Dr. Mohamed A. Swazuri, OGW	-	Chairperson
Dr. Tomiik M. Konyimbih	-	Member
Mr. Silas K. Muriithi	-	Member
Dr. Rose M. Musyoka	-	Member
Dr. Samuel K. Tororei	-	Member
Mrs. Abigael Mbagaya	-	Member
Mrs. Emma M. Njogu	-	Member
Mr. Clement I. Lenachuru	-	Member
Mr. Abdikadir A. Khalif	-	Member

Mr. Speaker, Sir, our Constitution, Articles 124 and 250, and also the National Land Commission Act are very clear regarding the process of appointing the chairperson and members to the National Land Commission. The law sets out the composition of the Commission, criteria and procedure for appointment and qualifications for appointment of the chairperson and members of the National Land Commission.

The National Land Commission Act is very clear in that it requires the President within 14 days of receipt of names of those that have been successful applicants to nominate for appointment the chairperson and members of the National Land Commission and forward the

names of the persons so selected to the National Assembly for approval. The National Assembly is required by law to vet, consider all the applicants and to approve or reject any or all of them within 21 days when it next sits after receiving the names.

Mr. Speaker, Sir, from your communication, you indicated that by a letter from the Office of the Permanent Secretary and the Head of the Public Service dated 4th July, 2012 addressed to the Clerk of the National Assembly, the National Assembly was advised that His Excellency the President had, in consultation with the Right Hon. Prime Minister, nominated the persons whom I have mentioned today to be considered for appointment to the National Land Commission. Further, you observed that there were two letters, one from the Office of the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service dated 4th July, 2012 purporting to replace one of the nominees, and the other from the Office of the Prime Minister contesting the replacement.

Mr. Speaker, Sir, you directed that the names of all the nominees and their accompanying curriculum vitae (CVs) and other documents relating to those nominees be forwarded to my Committee for consideration and report on or before 14th August, 2012. In addition, you directed that the two letters aforementioned be forwarded to my Committee for consideration, and that the Committee took action as it deemed appropriate. Following your directions, the Committee considered the nominees' CVs and other documents, vetted the same and also considered the two letters that had been forwarded to us.

The Committee held seven meetings. Let me just take this opportunity to mention Members of my Committee, I think it is appropriate because they worked extremely hard. They include:-

The hon. C. Simam, MP – Vice-Chairperson

The hon. B. Washiali, MP

The hon. S. Ruteere, MP

The hon. B. Gunda, MP

The Hon. J. Kizito, MP

The hon. Njuguna Gitau, MP

The hon. Mohamed Affey, MP

The hon. Omar Zonga, MP

The hon. Dr. E. Mureithi, MP

The hon. K. Kilonzo, MP.

Those Members, under my Chairmanship, met seven times to undertake the vetting process, put in place a programme and also look at all the communication that had come before the Committee, including the two letters and the report from the selection panel.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, during the vetting process, the Committee noted that, indeed, there was consultation in the nomination of the forwarded nominees to the National Assembly, and that the names that had been forwarded to the two principals were selected based on merit, gender, ethnic balance and professional qualification. We also noted that the appointments to commissions are also considered on the basis of regional balance and ethnic

diversity. We looked at those facts and we were aware that none of the candidates had ever been charged in a court of law, mentioned in any investigatory report of Parliament or any other commission of inquiry or removed or dismissed from office for contraventions of the provisions of Article 75 of the Constitution. We also noticed that, indeed, all the nine nominees have had distinguished careers in their respective fields and have either been involved in the land policy development or participated in commissions of inquiry on land or worked in the Ministry of Lands, among other places. All the nominees, of course, are Kenya citizens except for one who has dual citizenship.

There was a proposal that Mr. Abdikadir Adan Khalif be replaced. A letter was written from the Office of the Permanent Secretary and Secretary to the Cabinet based on a report from NSIS. The report had alleged that the candidate was in possession of three passports and was also involved in political movement and other activities not so helpful to this Republic. The Office of the Prime Minister contested the replacement of Mr. Abdikadir Adan Khalif and one of the reasons it gave was that there was no consultation and so on. The Committee listened to the advisors of the principals because we invited them so that we could interview them. We did this in camera. Our own observation, after a long session, was that with regard to consultation in respect of the replacement, we concluded that, indeed, there was no consultation as the letter proposing a replacement was only copied to the Office of the Prime Minister as a matter of information. This, indeed, was confirmed by the Office of the President that they had copied a letter to the Office of the Prime Minister. With regard to the three passports and other activities, obviously, we cannot say a whole lot but we were not, as a Committee, persuaded that there was sufficient clarity from the office that had initiated that information.

I do not wish to take long; I will, therefore, say that the Committee deliberated on the issues raised and now recommends that pursuant to the provisions of Paragraph 6 of the First Schedule of the National Land Commission (NLC) Act, No.5 of 2012, this House approves the appointment of the following candidates to the NLC in their stated capacities.

They are:-

- | | | |
|-------------------------------------|---|-------------|
| 1. Dr. Muhamed Abdalla Swazuri, OGW | - | Chairperson |
| 2. Dr. Tomiik M. Konyimbih | - | Member |
| 3. Dr. Rose M. Musyoka | - | Member |
| 4. Mr. Silas Kinoti Muriithi | - | Member |
| 5. Dr. Samuel Kipngetich Tororei | - | Member |
| 6. Ms. Abigael Mbagaya | - | Member |
| 7. Mrs. Emma M. Njogu | - | Member |
| 8. Mr. Clement I. Lenachuru | - | Member |
| 9. Mr. Abdulhkdir Adan Khalif | - | Member |

Mr. Temporary Deputy Speaker, Sir, I stand, first of all, to thank my Committee for a job well done. That is how they have worked over the last three or so years since the Committee was constituted after the new Standing Orders came into effect.

The Temporary Deputy Speaker (Mr. Manyara): Order! On the list with the Chair, No.7 is not Mrs. but Ms. Can you clarify that or it does not make any difference? You read it as “Mrs”. yet the list I have is “Ms”.

Mr. Musyimi: Mr. Temporary Deputy Speaker, Sir, the list I have has Mrs. But, either way, she is a Kenyan citizen, eminently qualified.

I wish to thank Members of my Committee, as I was saying earlier, for a job well done. I also wish to thank the offices of the Speaker and the Clerk of the National Assembly for their

support in executing this mandate. We also appreciate the interest of the media in covering this event. Indeed, we are grateful because as you know, the land issue is one of the issues that come under Agenda No.4 and this is an attempt to try and bring reforms in the land sector. So, we are glad when the media give these matters attention so that our people know what is happening. I also wish to thank the public who made their submissions to the Committee. I also take this opportunity to thank the Office of the President and the Office of the Prime Minister for finding time to come to be with us to answer questions. I am particularly grateful to this House for passing the National Land Commission Act without which we would not be here today.

It is my pleasant duty and privilege on behalf of the Departmental Committee on Land and Natural Resources to present and commit this Report of the nominations to the NLC to the House for adoption pursuant to the Communication from the Chair made on 31st July, 2012 and in accordance with the provisions of Paragraph 6 of the First Schedule to the National Land Commission Act, No.5 of 2012. Allow me to request Mr. Affey to second this Motion.

The Temporary Deputy Speaker (Mr. Imanyara): As you do so, the officers at the Table have indicated to me that the Report, indeed, that was submitted and approved has the two ladies not as Mrs. but Ms. Both of them. So we will go by the descriptions in the Report. To that extent, Mr. Musyimi, we will take the two where you have read as Mrs. as Ms.

Mr. Musyimi: I stand guided, Mr. Temporary Deputy Speaker, Sir.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity to second this very important Report. First of all, I want to thank our Chairman, Mr. Musyimi, for the manner in which he led us through the interviewing process. When we received this list, we ensured that it really reflected the letter and the spirit of the Constitution in terms of the recommendations that we were bringing before the House.

Mr. Temporary Deputy Speaker, Sir, the National Land Commission is, perhaps, one of the most important commissions that his House will approve. As we thank the House and Members of Parliament for putting the laws into place and making this day a reality, a lot of our appreciation goes to the Minister for Land himself and his staff for giving us the necessary support. I am sure this Commission will work with the Minister for Lands, Mr. Orengo, to bring the necessary envisaged land reforms in this country. I am confident that we will give this country the best ever set of commissioners that will undertake any of the responsibilities the Constitution demands of us.

Mr. Temporary Deputy Speaker, Sir, looking at these names, personally, I am very excited by Dr. Samuel Kipng'etich Tororei. This is a true Kenyan who appeared before us. Contrary to what Mzee Moi thinks of him, this is a very credible nominee. He is highly educated in spite of his sight and he has shown that he can work in this Commission.

It is important that we realize as leaders that we are not setting a Commission of tribal lobbyists who will only serve and defend rights of their tribes. The Commission must reflect the face of this country. The nine commissioners of this Commission reflect the ethnic diversity of Kenya. It reflects gender requirements that we need. It also reflects the very important aspect of minorities. Commissioner Clement Isaiah Lenachuru is a Njemps. I do know as a Committee on Equal Opportunities, we have looked at all the Commissions that have been set up. Apart from only, this is the other second other Kenyan from that community who has been nominated to serve in a Commission on behalf of the Kenyan people. Therefore, I want to congratulate the panel that brought forward these names, particularly the President and the Prime Minister. These names were sent to the House by the two principals. That is how we ended up interviewing them.

Mr. Speaker, Sir, the Chairman of this Commission is a distinguished Kenyan scholar. He served in the Commission that came up with the Bomas Draft. It was chaired by Prof. Yash Pal Ghai. He has served in several other Commissions that precisely worked on matters of land. He is a lecturer at a university at the Coast Province.

Mr. Temporary Deputy Speaker, Sir, in his own explanation, I saw that he has real passion to be able to work for this country. The choice of the Chairman was so important because though he will serve the country, he hails from the Coast of Kenya. We know the problems of land at the Coast. Therefore, it was well thought out to give the Commission that deals with land matters to be under leadership of somebody from that region of this country. Therefore, I want to congratulate the President and the Prime Minister for doing this wonderful nomination of Dr. Mohamed Abdalla Swazuri.

Mr. Temporary Deputy Speaker, Sir, the letters we received referred to by the Chairman--

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Bahari, are you on a point of order? Yes, what is your point of order?

Mr. Bahari: On a point of order, Mr. Temporary Deputy Speaker, Sir. Hon. Affey made a statement with due respect to him that this is the best set of commissioners that has come through this House. I do not think that is fair. I think he should withdraw that because he was not involved in nomination of----

The Temporary Deputy Speaker (Mr. Imanyara): Order! You are totally out of order. That is an opinion. In his view, it is the best Commission. He is entitled to his opinion.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, could he substantiate then.

The Temporary Deputy Speaker (Mr. Imanyara): You are out of order, Mr. Bahari! Continue, Ambassador Affey.

Mr. Affey: Mr. Temporary Deputy Speaker, Sir, in fact, I was just about to conclude by saying that we have confidence with the ability of these commissioners. The House should join us in approving these nine names entirely.

With those few remarks, it is my pleasure to second this Report.

(Question proposed)

Mr. Mungatana: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Ruteere, are you on a point of order?

Mr. Ruteere: I want to contribute, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Imanyara): Then you pressed the wrong button. Continue, Mr. Mungatana.

Mr. Mungatana: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to make my contribution.

Mr. Temporary Deputy Speaker, Sir, first of all, I want to state from the outset that I fully support the names that have been laid by the Chairman of the Departmental Committee on Lands and Natural Resources. There is a lot that you can see about these names. I am impressed for the first time that of all the constitutional commissions, for the first time, this one is headed by the person from the coast region.

Mr. Temporary Deputy Speaker, Sir, this issue has so infuriated people that of all the constitutional commissions that had been set up, there had been none that had come from the Coast on the post of the Chairman or Vice-Chairman. I remember raising this issue on the Floor of this House with the Prime Minister. I am very happy because this time round, the President and Prime Minister in nominating the names, considered those issues that are seriously affecting part of this country and making people feel alienated from the rest of this country. So, I want to commend the House very strongly that we should support these names.

The second issue I would like to address is that as they start their work, funds be made available to them immediately. We also pray that the commissioners, who will be approved, I believe by the end of the day today, will not give the Chairman a hard time. We want to see this Commission function properly. We do not want sideshows. This is a very critical Commission.

If you look at another important Commission like the National Commission for Integration and Cohesion, it became very famous for just the wrong reasons. So, we are asking the Ministry to avail funds to this Commission immediately. We should not spend six months looking for offices, six months looking for cars and whatever for these people. They should be ready to accommodate these people and make them move on. More importantly, we would want them to operate properly.

Mr. Temporary Deputy Speaker, Sir, the last point I want to make is with regard to Section 67(2)(e) of the Constitution, which sets up the Land Commission. It says:

“To initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress.”

We expect this Commission not to sit and wait for more problems from the side of the coastal people. This particular mandate was placed for a reason. There are problems affecting particularly the poor at the Coast Province. We expect this Commission to hit the road running. Already, there are enough reports of what has been happening in the Coast Province. There is expropriation of whole populations or locations by settlers. We expect quick action and redress, so that we do not have issues arising from the Coast Province around the question of land.

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

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I wish to oppose the nomination of these people to the National Land Commission.

Mr. Temporary Deputy Speaker, Sir, I want to say very clearly that the Maa Community, which I represent, think that they have been discriminated. They have not been considered for nearly all the commissions that have been appointed in this country. We have to talk loudly on the National Land Commission, because if there is any community that lost the biggest chunk of land to the white men, it is the Maa Community. We lost over a million acres to the white men and never got an inch back even when they left. Using all the monies that came from the colonial office and the resettlement fund, all this land was bought and handed over to other people. We never got an inch or acre. These are the historical injustices that this Government must start really to think about. We lost all this land at gunpoint. It might not be recorded in the books of our history, because the colonial office was very careful to make all the happenings a secret. In areas like Naivasha, Nakuru and Molo, the white men said that there was an agreement to move the Maasai from the Rift Valley to the southern reserves, which are full of tsetse flies and malaria. Can you imagine if the Maasai morans, who were there reigning and whom culture had given the responsibility of protecting the community, would just move easily? You can be shown this by the massacre that took place just near Mai Mahiu during those days, where 800 in

the slave caravans were killed by the Maasai moran, when they wanted to rape young Maasai girls. There was not an agreement. The Maasai moved at gunpoint and scores of young morans were killed. Even during the movement, children died of hunger, exhaustion and so forth.

Mr. Temporary Deputy Speaker, Sir, what am I trying to show? How can we be left out of the Land Commission? It is unfair. We are being totally disregarded and discriminated in this Government. One might say that we have got a young man called Lenachuru who comes from the Njemps Community, which is a small Maa community in Lake Baringo. But they, themselves, lost all the land and resources there. The whole of Baringo belonged to them, but now who is staying there? It is other people. The lodges are run by other people and they have been completely moved out of their own area. They are a small minority. What about the big areas? Why are we left out? People have gone to court and the court has decided that this thing should be suspended until the minority are heard by the Government.

Mr. Temporary Deputy Speaker, Sir, if you look at the names very carefully, there is no regional balance here at all; something that should have been considered by this Committee. I think the Committee needs more representation. It needs to call a few more people and listen to them, because this is not fair. In this country, some people are experts in lobbying. They are in every Commission, even those that they have no business in. As a result, some of the right people are left out. Maybe we are not quite enthusiastic in lobbying, but I think we should look at the truth.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Hon. Affey, please, consult in low tones.

The Minister of State for National Heritage and Culture (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I wish to oppose the nomination of these individuals.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Rachel Wambui Shebesh!

Mrs. Shebesh: *(Off record)*

(Technical hitch)

Hon. Shebesh, use the Dispatch Box if your microphone is not working.

(Mrs. Shebesh moved to the Dispatch Box)

Mrs. Shebesh: *(Inaudible)* ---and that is the issue of looking at---

The Temporary Deputy Speaker (Mr. Imanyara): What is your point of order, Mr. Kigen? Are you on a point of order?

Mr. Kigen: Mr. Temporary Deputy Speaker, Sir, we cannot hear what the hon. Member is trying to say. Can we have the microphone set a bit louder?

The Temporary Deputy Speaker (Mr. Imanyara): I believe it is on now. Hon. Shebesh, you may continue.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, I hope I can be heard now.

I want to start by supporting the list of nominees for the Commission. I want to speak about three things, two of which have been canvassed. One is on the issue of tribe and tribe being

a factor on this list of commissioners. The second issue I am going to speak about is the unfortunate remark about one of the commissioners.

The issue of historical injustice on land has been centered on communities for a very long time and maybe that is the reason why we have been unable to solve concretely the issue of historical injustices on land. If the way to go is to ensure that all tribes that feel affected by land grievances are represented on any commission or body that will be dealing with the same, we, probably, need to put over 20 tribes out of the 42 tribes that we have. This is because I can tell you that it is not only three or four who speak the loudest who are aggrieved. Therefore, just because others do not have the numbers to speak loudly does not mean that they are also not aggrieved. They also need to be represented.

Mr. Temporary Deputy Speaker, Sir, what we have done in setting up commissions is to clearly put in place a structure that will allow this issue of historical injustices to be set out. When we were discussing the Land Commission, we went to Mombasa for a retreat. The Minister for Lands did a lot of work to convince us that the structures that were set were right. I think we agreed on that. Therefore, today, if the same argument that we want to use is that because my community or your community is not represented in the list--- It is the same argument we should have used by saying that the Minister for Lands being from a community that normally has no issues with land is not the right Minister then to oversee the Ministry of Lands.

I want to say without fear of contradiction that any of the members here will represent any community that feels marginalized as if they were representing their own. In fact, let me say that if these members come on board as members of these communities – I heard one of my colleagues from the Coast Province congratulating the Chair because he is from the Coast and now the Coast issues will be solved – I will be very hesitant, therefore, as person who does not come from the Coast Province, and this is the Chair of my Commission, to say whether or not he will be biased.

Let us be very careful about labeling these commissioners. These commissioners will be rendering a national service and not service to their communities. I am 100 per cent sure that is what they intend to do.

Mr. Temporary Deputy Speaker, Sir, I want to speak about the very unfortunate remarks by a former Head of State; a man whose retirement we want to leave him to enjoy; a man whose respect we still want this country to give and a man whose legacy we want to be able to enjoy. We want to say candidly as people who represent the people of Kenya – all the people of Kenya, that is, those with disabilities and those without, women and men, children and the aged, that anybody in this country can do the work that they are given to do, especially if they go through such a thorough vetting process.

Mr. Temporary Deputy Speaker, Sir, there is no way the former President could have given this very commissioner he spoke about, that is, Kipng'etich Tororei, a degree and all that appertains to the same and then later say, when he is given a job on the recommendation of that degree, that he cannot do it. That shows you how far we have gone with being tribalist. We need to start getting ashamed to speak such things. It will not matter who you are and what level you are. We will start calling you by name as Kenyans. If you are going to reduce somebody's legitimacy, qualifications and right to a job to their tribe, we will start saying that you do not yourself deserve to be a leader.

Therefore, Mr. Tororei, I am sure, will probably be the best commissioner in this particular Commission. This is because for so many years, we had commissioners who could see

and yet their sight enabled them to take away all the land in Kenya. Today, we have no playgrounds in Nairobi. The reason we have no playgrounds in Nairobi is because of the past commissioners. I am sorry to say that one of the hon. Members here who supported this statement is a former Commissioner of Lands. He should be very careful when commenting on issues that have to do with discrimination and the kind of illegality that was done during his tenure. Let us be focused leaders. Let us be serious and let us respect every Kenyan individual in their ways.

I want to conclude by saying that of all the reforms that we are doing, this continues to be the most critical. It does not matter how many times we reform the police or the Judiciary, but as long as Kenyans keep looking at each other and say, “You took my land and you did not pay” or “I deserve to have that land”, I can assure you that we will not go far. It does not matter what we do. This Commission is probably one that needs to be given the biggest respect and support. If we do not do that, we will repeat what we saw in 2007 and what we have continued to see. Let us not cheat each other that it was all about elections; it had to do a lot with historical injustices key amongst them being the historical injustices on issues of land. Therefore, let us give this Commission support. I thank the Committee and especially the Minister for Lands who brought these reforms in place. He is a Luo and not a Kikuyu or a Kalenjin or a Maasai and yet he did a good job. I want you to have confidence with all these commissioners that they will do a good job for this country.

I want to support.

Ms. Karua: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the Motion before the House. I want to congratulate the Kenyans who have made it on this list. These are not going to represent the communities that they come from. These are now our commissioners. They are going to be land commissioners of Kenya and they are going to address the problems of everyone.

I just want to remind them that under Article 67 of the Constitution one of their tasks will be to manage public land on behalf of the national and county governments. We know that public land has been mismanaged there before. The task before them is to see that the remaining land is managed in a proper manner. They will also be recommending on the National Land Policy to the national Government. These are pioneers who are going to help us reorganize the way we manage our land. One of their mandates will also be to advise the national Government on comprehensive programme for the registration of title in land throughout in Kenya. This is no mean task. We have several different legislation systems going on currently. We expect that they will lead us on the way to harmonization and the way to come from the bad habit of double registration and issuance of double titles and also confusion where people do not respect title as much as they should.

They are supposed to conduct research related to land and to the use of our natural resources and to make appropriate recommendations to the authorities that are governing this. They are also to initiate investigations on their own initiative or on a complaint into historical injustices and recommend redress. We have great expectations on the commissioners that are now being discussed for appointment. I would like to remind them that it is a heavy responsibility that the nation is putting on them. It is their conduct that will dispel the notion that is now gaining currency that if your community has a commissioner then your issues are sorted out. They are the ones who will give Kenyans confidence that even if a Commission has only three people they represent all the corners of Kenya and all shades of opinion. I wish them well because I know a majority of the Members will support them. I want to ask them not disappoint

Kenyans, to be true to the spirit of the Constitution, serve this nation and help us re-organize our issues surrounding land coming from the past where we have been unfair to each other on matters of land.

I beg to support.

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, as I call the next Member to speak, I wish to bring to your attention that you must have seen the Order Paper and the kind of legislation that we need to pass before 27th August. As I speak to you now, I have 17 requests from people who want to speak on this Motion. So, I would like to suggest that we limit the time that you speak, so that we can give as many Members as possible, an opportunity to speak. If you agree, then we can limit it, except for the Official Responder, to a maximum of three minutes. That is the order I wish to pursue. The next request is from hon. Shakeel.

Mr. Shakeel: Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support the list of the commissioners, but also say that I am very disappointed. Hon. Karua has said that we do not want to look at these people as from a particular tribe, but as our own. But hon. ole Ntimama said that the Maasais are not involved in this. We agree that this is about Kenya, but it is a fact that the Maasais are the ones who have faced the worst historical injustices. I hope and pray that these commissioners will protect the interests of the Maasais.

I must object very seriously the comments of the former President. He used to say that he was like a giraffe and looked very far, but apparently, he forgot inner vision. I know Dr. Tororei personally and he has a great inner vision. You do not have to see something with your eyes to understand the situation. Sometimes when you are not sure what your eyes are seeing, people tell you to close your eyes and see it in the mind. Inner vision is very important. I must say that the former President Moi, much as I respect him very much, should not have brought this gentleman into this dispute. Finally, any of those commissioners who may have a second passport will be required to surrender that passport. That is in the Constitution. I hope and pray that those who have second passports will surrender them. I hope and pray that the commissioners who have already admitted having two passports will surrender the passport of the foreign country as required by the Constitution.

Mr. Ruteere: Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to comment and contribute on this very important Motion. I stand to support the adoption of the Report of the Committee on Lands and Natural Resources. As the Chairman has said, the integrity of these persons is unquestionable. Their CVs are of the highest calibre. In all the Commissions that we have approved in this House, we cannot represent the 42 tribes of this country. It is important that we accept whoever tops once there is ethnic and regional balance. When we talk about ethnic and regional balance, it does not mean that every region will be represented, but it is a general representation.

Land issues are very crucial. These persons stood out in the interviews that they went through, the vetting that was done by the Committee and they were accepted. It is important that Parliament adopts the Report without punching holes on these persons who presented themselves and showed their credibility. Let us ask these gentlemen and ladies that once they take on their duties, they should not become masters. They should not be talking to the Press, but they should go about doing their business. We have appointed other commissions whose responsibility has come out as telling Kenyans through the Press what they are doing instead of performing their duties. We want these gentlemen and ladies to know that they have to eradicate corruption in the issuance of land. They have to address the historical injustices. As stipulated in the Constitution,

they have to know whether it is the rightful owner of land who is occupying it and if not, what redress is there. So, I stand to support the adoption of this Report.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I also rise to support this Report that was moved by the presidential candidate, hon. Musyimi. The entire Report is very satisfactory. Because of the limited time that we have been given, the Report should be supported by all the Members of this House. The commissioners will serve the entire nation just like the Minister for Lands, hon. Orenge, and the President serve the whole country.

This Commission will be responsible for addressing the displacement by the colonial Government and the fellow Africans who displaced their own people. I urge the Commission not to entertain any internal wrangling and in-fighting because this will not help any Kenyan. It is also important to recognize the role that was played by the former President Daniel Toroitich Arap Moi. He is a Kenyan with his freedom of mind and this right should not be denied to him. He should be listened to by all Kenyans and we either disapprove or approve his position. We should not be swayed or directed by his thought. Therefore, I hope this Commission will address all the matters concerning this nation. Regional balance is also reflected in this Report. Therefore, the two tribes, as indicated earlier, should not be accommodated in this Report. The nine commissioners will carry out the full mandate as provided for by the Constitution.

With those few remarks, I fully support.

Mrs. Odhiambo-Mabona: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to support and congratulate the Departmental Committee on Lands and Natural Resources for this Report. In supporting, I want to say that when I came to this House as a Nominated Member of Parliament, I developed a strategic plan, and one of the core issues in my strategic plan was mainstreaming what I call cross cutting issues which are issues of human rights, minorities marginalized by either by gender or religion, issues of youth representation, issues of people with disability and the environment.

I want to say that one of the things, as a country, we have always forgotten is Article 54 of the Constitution. We pushed a lot on the issue of representation of gender and sometimes we try on the youth but we have not done favour to persons with disability. So, I am happy that, indeed, for me, this is one of those commissions that have taken into account Article 54. Even though the Constitution talks about 5 per cent, this percentage will not be realized unless we take that deliberately into account.

Secondly, I want to say that as much as I am happy that we have met the one-third mark of gender representation, I want to encourage any other coming commissions that our names are not “hon. Millie One-Third Representation Odhiambo.” Let the next one be “hon. Gitobu-One-Third Imanyara,” so that the one third can be you and not only us. The one-third is not a women thing. It is either gender. So, we want to encourage the principals that we want to see more Commissions that have one-third men and two-thirds women. The only one that already has one-third comprising of men is the National Cohesion and Integration Commission. I think it is because we acknowledge that when you want to have peace, you should look for women because we do a lot of good in that.

Finally, I want to encourage these commissioners, because I believe that we will pass this list that they should take this issue very seriously because the land question is at the heart of the conflicts in this country. If we can solve the land issue, then we will have taken Kenyans a long way. We have many Kenyans who are landless and some who are killing themselves because of this. If it were up to me, I would have put communities that have absolutely no interest in land.

However, I doubt that there are any such communities. Probably, there are some that have minimal interest in land.

With those few remarks, I support.

The Minister of State for the Development of Northern Kenya and Other Arid Lands (Mr. Elmi): Thank you, Mr. Temporary Deputy Speaker, Sir. First, I want to thank the Committee for an excellent job. I also want to thank the principals for having made sure that we have a Land Commission. Land issues are part of Agenda 4 and it was the basis for the agreement of the Coalition Government and I am happy that today, we will pass the Motion on Land Commissioners. I agree with those who have said that once we have these commissioners, they should make sure that they serve all the interests of all Kenyans. I am also happy and pleased that this Commission is special in the sense that as hon. Mungatana has said, for the first time, we have a Chairman from the Coast region, not because coast has those problems alone because any other Kenya would solve them but because this is something they have clamored for. It also has a commissioner with physical challenges. That shows that we are now putting the Constitution first which says that there should be no discrimination against anybody.

Mr. Temporary Deputy Speaker, Sir, land issues, as I said, are complex. The whole of northern Kenya is still trust Land. The Community Bill is still being brought. So, my plea to the commissioners is that as they sit, and we say that they are *quasi-judicial*, they should help us sort out land issues. Land issues are the things that almost made our country break. Therefore, I urge the commissioners not to listen to any regional or tribal sentiments. Once they are appointed and are sworn-in, they should look at all land problems of this country and we trust that they will help us solve them. They should not be distracted by side issues or political statements issued along the corridors. Therefore, they should settle down as soon as possible and get on to their work. This is a Commission, as Parliament, we should allocate enough money once they are sworn-in.

The Minister for Fisheries Development (Mr. Kingi): Asante Bwana Naibu Spika wa Muda kwa kunipatia fursa hii ya kuchangia mjadala huu.

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, you must move to the Dispatch Box or the Front Row.

(Mr. Kingi moved to the Dispatch Box)

The Minister for Fisheries Development (Mr. Kingi): Asante sana Bwana Naibu Spika wa Muda kwa kunipa fursa hii ili nichangie mjadala huu. Mwanzo kabisa, ningependa kusema kwamba ninaunga mkono Hoja hii na ningependa kusema kwamba wale Wakenya ambao wameodhoreshwa katika Kamisheni hii ya kuangalia Mambo ya Mashamba ni Wakenya na watu ambao wanaweza. Ukimuangalia Mwenyekiti wa Kamisheni hii, Dr. Swazuri, utakuta kwamba ni mtu ambaye ninamjua vizuri sana. Ni mtu mchapa kazi na pia kutokana na elimu yake, ni mtu ambaye ana ujuzi sana katika mambo ya mashamba kwa sababu shahada yake ni ya Land Economics. Kwa hivyo, ni mtu ambaye kusema kweli, ataweza kuiendesha Kamisheni hii na kutupatia majibu ambayo, bila shaka, yataboresha usimamizi wa mashamba katika nchi yetu ya Kenya.

Tulihitaji Kamisheni hii tangu jadi. Ni Kamisheni ambayo imechukua muda lakini angalao, Washwahili husema kwamba kawia lakini ufike. Tumechelewa kuunda Kamisheni hii lakini angalao, sasa tunaona kwamba tuko katika ile hatua ya mwisho ya kuhakikisha kwamba Kamisheni hii imebuniwa na kuanza kazi. Majukumu ya Kamisheni hii ni mazito.

Kamisheni hii itahitaji kulindwa sana na Wakenya wote. Kama tujuavyo, kati ya yale majukumu ambayo Kamisheni hii itakuwa nayo, kwanza, ni kufanya uchunguzi wa hati zote za kumiliki mashamba na hati ambazo zitapatikana kwamba zilipeanwa kimakosa ama kinyume cha sheria, bila shaka, zitatupiliwa mbali. Kama ujuavyo, hakuna maskini atakayenyakua ardhi. Wanyakuzi wa ardhi ni wenye nazo au mabwenyenye wa nchi yetu. Kamisheni hii itahitajika kupambana na watu walioiba au kunyakua ardhi bila kuzingatia sheria. Hawa ndio watu Kamisheni hii itapigana vita nao.

Kwa hivyo, ni kibarua kikubwa na inatubidi kama Wakenya tuwe nyuma yao kuona kwamba wamepigana na mabwenyenye hawa. Hii ni kwa sababu ikiwa bwenyenye aliiba ama alinyakua ardhi, bila shaka itakuwa si rahisi kwa mtu kama yule kukaa tu, kuangalia kwamba cheti chake kinafutuliwa mbali na Tume hii. Kwa hivyo, itakuwa ni kibarua kigumu na bila shaka sisi kama Wakenya, kuna umuhimu sana tuwe nyuma yao.

Kama tujuavyo, hata wakati wa tetezi na machafuko ya baada ya kura ya mwaka wa 2007---

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Kingi, I am told you are on your fourth minute. So, you must really be winding up.

The Minister for Fisheries Development (Mr. Kingi): Tunajua wazi kwamba mambo ya ardhi ilichangia pakubwa sana katika kuleta mtafaruku baada ya kura za mwaka wa 2007. Kwa hivyo, Tume hii itakuwa na fursa nzuri kuhakikisha kwamba shida ya ardhi imezikwa katika kaburi la sahu. Kama wahenga wanavyonena: “Mwamba ngoma huvutia kwake.” Ni matumaini yangu kuwa kwa sababu mwenyekiti wa Tume hii ni kijana kutoka Pwani, atafanya lolote lile kuhakikisha shida za ardhi katika mkoa huo zimetatuliwa. Kijana huyu anajua uchungu wa ukosefu wa ardhi kwa sababu ni mzaliwa wa Pwani.

Kwa hayo machache, ningependa kuomba wenzangu tuunge mkono Hoja hii ili Tume hii ianze kazi mara moja.

The Minister for Transport (Mr. Kimunya): Mr. Temporary Deputy Speaker, Sir, I will be very brief. I want to say I support the report of the Committee and the nomination of these Kenyans to this very important National Land Commission. I feel particularly happy today that the efforts that started quite a while ago and which went through my hands when I was Minister for Lands and then I passed them on to the Minister who succeeded when I left and eventually found themselves with Mr. Orengo have now come to fruition.

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

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, the root of all these things, the National Land Commission and the clamour for an independent commission, are in the Njonjo Commission that reviewed reforms that were required within our land sector. They are also found in the Ndung'u Commission. There was need to remove the responsibility for management of land from one individual, being the Commissioner of Lands working for the President, to a bigger body that would look at our land issues. It found its way to Bomas and there was very healthy discussion. After the Bomas talks collapsed and in 2005 the Constitution did not pass as was envisaged, I do remember the team that was looking at the land chapter within the Commission felt, how can we rescue? We started the process in the Ministry of Lands then in terms of resuscitating that

process with the national land policy until eventually this found its way in the Commission and into the Constitution and the laws.

So, it has some history. This history is borne by the experiences of Kenyans with their land and where we are going into the future. I do not envy them. I know the expectations of Kenyans are great. We wish them well in doing what they must do in terms of sorting out the past. More importantly, in terms of looking at how we synchronize the land resource that we have as Kenya with the population that is now five times more what we had at Independence; in terms of where we are going in the future with the subdivisions that have taken place and made our land obviously unproductive yet we need to sort out that productivity.

We attempted it in the past with some minimum land sizes. It got a political dimension to it. I believe had we sustained it at that point, we would not be where we are going. But they have a responsibility and we wish them well. I do believe that with the goodwill and expectations that Kenyans have on them, they will live up to the expectations.

My only advice to the Commission---

Mr. Deputy Speaker: Mr. Kimunya, you have run out of time.

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I support.

The Minister for Lands (Mr. Orengo): Thank you, Mr. Deputy Speaker. First of all, I fully congratulate the Chair of the Committee and the members of the Committee for a job well done. It is significant to note that in the presentation of this report, they have given a justification for the appointment of all the members of this very important Commission. Let me say from the outset that you appoint members of the Commission and the National Land Commission is just one of these commissions, once you are appointed you are not a delegate of a community or a tribe. For example, the Chief Justice of Kenya, hon. Willy Mutunga is not a delegate of the Kamba community in the Judiciary. He is the Chief Justice of the Republic of Kenya. Now this Commission is so important that the moment we begin to look at members of this Commission as delegates or representatives of particular communities or tribes, then we are completely lost in what this Commission is required to do.

I want to say that by passing these land Bills which are now part of the laws of Kenya and also in putting in place this National Land Commission, the responsibilities of the Commissioner of Lands and that entire department and the Department of Lands and Settlement now fall within the jurisdiction of this National Land Commission. On top of it, the quasi-judicial body that will look into historical injustices is not just as a side show, but should come up with tangible recommendations and relief for those who have suffered for not just past historical injustices, but even what can be categorized as current injustices.

In accordance with Article 68 of the Constitution, they will review all title deeds; that means from year 1910, to determine whether those title deeds were regularly issued. Those are the words of the Constitution. By the Land Bill that we passed in this Parliament, they have been given a framework to determine on reasonable complaints being made to it or by its own motion to determine whether any title deed issued, including in the Maa community, was irregular. Every title deed that has got its origin even in the colonial days, this Commission has the right and authority to determine whether they were irregularly issued or not. So, their responsibility is wide. I do not envy the work they will do.

The issues of those who are internally displaced and compulsory acquisition of land on behalf of the Republic are responsibilities of the Commission. So, I pray to Mr. ole Ntimama particularly, that if we begin to look at these commissions as bodies which should carry every single community, then we are not going to be able to work. If today Martha Karua is elected

the President of the Republic of Kenya - I wish you well - I will not look at you as a delegate of Gichugu Constituency. The issue of your agenda would not matter. Are you up to the job? That is the first responsibility. This Commission is so important that I think that if it can deliver, then 60 per cent of the problems that we face as a country will have been resolved. There are issues of planning or zoning of our cities and environmental issues. All these fall within the province of this Commission.

So, when I was looking at the qualifications of those who have been appointed---

Mr. Deputy Speaker: Mr. Ndiritu Muriithi, you are rising on a point of order.

The Assistant Minister for Industrialization (Mr. Muriithi): Mr. Deputy Speaker, Sir, listening to the debate, we all seem to be in agreement. So, would I be in order to ask that the Mover be called upon to reply?

Mr. Deputy Speaker: Assistant Minister, the Mover is now replying. The Mover is actually the Minister for Lands.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I am responding on behalf of the public.

Mr. Deputy Speaker: The Minister for Lands is the one responding on behalf of the---

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, the Mover has not replied.

Mr. Deputy Speaker: Who was the Mover?

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, the Mover is the Chairman of the Committee.

Mr. Speaker: Okay, you are responding on behalf of the Government. So, proceed.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, I am responding. So, I need time. Hon. Muriithi will only be in order if he ties his tie properly, so that when he rise on a point of order---

Mr. Deputy Speaker: Order, hon. Orengo!

(Laughter)

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, look at him.

Mr. Deputy Speaker: Hon. Muriithi has got a tie on. How he has tied it, it is up to him. After all, there are over 360 ways of tying a tie.

So, proceed, Minister.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, the only thing I would appeal to the stakeholders and the Government, in particular is that this Commission should start working like yesterday. In order for it to work, it needs to have a secretariat. We have actually made arrangements for them to be allocated offices within the Ministry of Lands premises because nearly all the staff members in the Ministry of Lands will now fall under the National Land Commission.

Mr. Deputy Speaker: You have two more minutes, Minister.

The Minister for Lands (Mr. Orengo): Mr. Deputy Speaker, Sir, let me not take so much time. Since the matter is generally receiving approval from the House, I beg to support.

Mr. Deputy Speaker: Ye, hon. Mung'aro.

Mr. Mung'aro: Bw. Naibu Spika, ningependa kuchukua fursa hii kuunga mkono Mswada kuhusu Tume ya Kitaifa ya Ardhi, pamoja na wale Wakenya ambao wamepewa fursa ya kuhudumu katika Tume hii.

Ningependa kuunga mkono yale yaliyosemwa na ndugu yangu, mhe. Mungatana. Ninajua watu wengi wanasema kwamba Tume hii ni ya Kenya nzima lakini, kama Wapwani, ni lazima tujivunie kwamba, kwa mara ya kwanza kuanzia wakati tume za kikatiba zilianza kubuniwa humu nchini, tumeweza kupata Mwenyekiti. Hatuoni aibu kujivunia kwa kupata fursa hiyo.

Bw. Naibu Spika, umiliki wa ardhi nchini Kenya ni suala gumu, lakini sisi sote tunakubaliana kwamba suala hili limekita mizizi katika eneo la Pwani. Tunatumai kwamba, kupitia uongozi wa Mwenyekiti, pamoja na Makamishna wengine watakaoteuliwa kuhudumu kwenye Tume hii, suala hili, ambalo limekuwa sugu katika sehemu ya Pwani, litatatuliwa.

Sote katika Bunge hili, tunafahamu kwamba suala hili limechangia kuibuka kwa makundi mbali mbali nchini, ambayo yamejaribu kupigania haki za jamii zao. Tunatumai kwamba Tume hii itasaidia kupunguza uhasama ambao umekuwa ukiendelezwa na makundi kama Mombasa Republic Council (MRC), wanaharakati wa kundi hilo wakijua kwamba sasa wanaweza kupata haki yao ya kumiliki ardhi.

Bw. Naibu Spika, jambo la muhimu zaidi linalopaswa kuangaziwa na Tume hii ni kwamba kuna mabwenyenye wengi ambao walitumia afisi zao kunyakua ardhi katika sehemu tofauti humu nchini. Dhulma kubwa iliyotendewa Wapwani, ambayo ni miongoni mwa dhulma za kihistoria, ni kwamba ardhi kubwa katika mkoa huo haikuchukuliwa na Wakenya, bali ilichukuliwa na watu kutoka nchi za kigeni. Hili ni suala ambalo linatusikitisha zaidi.

Kwa hivyo, ninatumai kwamba Tume hii itachukua fursa hii na kurekebisha hali hiyo. Kama Tume hii itawaondoa mabwenyenye kutoka nchi za nje walionyakua ardhi Mkoani Pwani, asli mia 30 ya shida za ardhi katika mkoa huo zitakuwa zimetatuliwa; kabla ya kutatua matatizo yaliyosabishwa na mabwenyenye wengine wa humu nchini.

Bw. Naibu Spika, ningependa kuchukua fursa hii kuitakia Tume kila la heri. Ninajua kwamba Tume hii itakuwa na kazi ngumu. Kwa hayo machache, ninaunga mkono kubuniwa kwa Tume hii, pamoja na Makamishna waliopendekezwa, ambao majina yao tayari yameshaletwa Bunge.

Mr. Deputy Speaker: Yes, hon. Mohamed Mahamud Maalim.

The Assistant Minister for Energy (Eng. M.M. Mahamud): Mr. Deputy Speaker, Sir, I beg to support the names proposed by the Committee.

The enactment of the National Land Commission Act has revolutionised the way land is going to be managed in this country. I am sure that the persons that have been nominated to serve in this Commission will be up to the task. They are distinguished Kenyans, and I am confident that they will be able to discharge their duties as stipulated in the National Land Commission Act.

Mr. Deputy Speaker, Sir, my only appeal is that the Commissioners should serve the national interest, and not represent individual communities' interests although, for the first time, Manderu County has also been able to get a Commissioner in the constitutional Commissions, in the name of Abdikadir, who was my classmate in primary and secondary schools. He is a very qualified land surveyor.

I hope that the Commission will go out of its way to solve the myriad land problems that have befallen this country, in line with the National Land Commission Act, which has revolutionised land management in this country.

With those remarks, I beg to support.

Mr. Deputy Speaker: Yes, hon. Joseph Nkaiserry!

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaiserry): Mr. Deputy Speaker, Sir, I stand here to oppose the Motion for two reasons. First, my community went to court for being marginalised by the Committee and the court determined the matter. I am, in fact, surprised that this Motion is before the House today.

Secondly, although I am a nationalist, looking at the representation in the Commission, in my view, Members of the Committee decided to pick people from their regions and forgot people from other regions. This is an issue of integrity. If you are given an opportunity to represent Kenya, you should, first of all, look at the law.

Article 67(e) of the Constitution of Kenya talks about historical injustices. I want to challenge the Committee; how can they forget two counties of my community, which have lost more land than anybody else in this country? The Committee ignored my community and said that there is an Ilchamus in the Commission. The Ilchamus come from Baringo County. There are two people from that region, namely, Tororei and the gentleman called "Isaac". The Committee has forgotten a whole community occupying the area from Kilgoris to Taita Taveta yet our land has been lost. We are the people who are going to talk about Article 67, and we needed somebody from that community to be part of the Commission. So, those are the two reasons as to why I am opposing this Motion.

Thirdly, we have people with Ph.D qualifications, who applied but they were deliberately left out. We have to be careful. If you look at the list of the nominees, you can see three or four or two people from the same region even though they have no historical injustices to fight for while in the Commission. So, I am not persuaded by the Minister for Lands, who is telling *mzee* to forget about this matter. If you are a chicken farmer, you have no business talking about cattle. That is the issue. That is why I am opposing the Motion.

Mr. Deputy Speaker, Sir, I am not opposing the Commission because of the membership, I respect the citizenry. They are qualified people. However, my community has never been considered.

Hon. Members: Your time is up.

Mr. Deputy Speaker: Hon. Nkaiserry, you have two more minutes, because you are raising a weighty matter.

Please, proceed.

The Assistant Minister, Ministry of State for Defence (Maj-Gen. Nkaiserry): Thank you very much, Mr. Deputy Speaker, Sir. I know that you are a nationalist. I thank you for being a respectful citizen.

Mr. Deputy Speaker, Sir, I have no problem with any of these good citizens who are qualified to sit in the Commission but I have a problem with a whole community, with grievances, being excluded from representing their issues in the Commission. So, the Minister for Lands trying to bring an analogue of the Chief Justice, that is not an issue. The issue is, who is going to talk about what we lost in the National Land Commission.

Those who have not lost anything do not know the pain of losing land. Those who have lost land know the pain of losing land. That is why we want people who can actually talk about such issues and give reasons, included in the Commission. People should not have just been included in the Commission because of money.

With those very few remarks, I beg to oppose.

Mr. Deputy Speaker: Yes, hon. Judah Katoo ole Metito!

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Mr. Deputy Speaker, Sir, I have heard what my colleague has said but I want to support this Motion.

What hon. Nkaiserry has said is very valid and I would like to urge the Committee that next time they are analysing applications, they should consider one thing; there is no need of bringing two people from one county and say the whole region has been represented. It is also good to refer to those people who are representing that region in other commissions. That is because if you have about three commissions and the people representing, for instance, the entire Rift Valley in those three commissions come from one county, surely, we are not doing justice to that region. I am just giving this as an example. It is the same in other regions.

Mr. Deputy Speaker, Sir, but in support of this Motion, I would like to say that Article 67 of the Constitution, where the Commission derives its powers and responsibilities, has given it three big mandates. One is to manage public land. This is very important and it is an enormous responsibility. We are now going into the county system whereby land is very critical. That is because county governments are supposed to generate their own revenue. I think the Commission should really move fast and conduct a comprehensive land use plan for all counties and advise the authorities in those counties on how they are going to sustainably use land for revenue generation.

Mr. Deputy Speaker, Sir, the second issue is that of comprehensive registration of title deeds. This Commission should really look into---

Mr. Deputy Speaker: Order, hon. Metito! Hon. Shebesh is on a point of order.

Mrs. Shebesh: On a point of order, Mr. Deputy Speaker, Sir. I want us to be very fair to ourselves and this House because what we say here is covered on national television. The point of order I want to raise is because three distinguished Members of Parliament have spoken here about the unfair treatment or the unjust work that the Committee has done. Would I be in order to ask the Committee to clearly explain to us how they deliberately connived to leave out a member who had applied from the Maa community and the reasons which they used to justify leaving out that particular applicant? That is because what is being said on the Floor of the House here will, in fact, poison the minds of the members of the Maa community that, under the Committee, they were marginalised and their issues are not going to be addressed and, therefore, if the Commission goes to that area, they will not be taken seriously because their leaders have spoken here. I think it is proper that the Committee shows us how they arrived at marginalising the Maa community.

Mr. Deputy Speaker: The only issue is that the Parliamentary Committee is not composed of panelists. This was done by the panelists. All that the Parliamentary Committee does is to interrogate the people presented by the two Principals and present the report to the plenary of Parliament as they have done. That is what we have now. The ones who basically did this do not have the jurisdiction or mandate to come and address us on the Floor of the House. They are not Members of the House. But I think on that note, maybe, on their own behalf, if the Chair of the Committee on Lands and Natural Resources is interested and he is ready to do that, he can say something. But you will have to allow hon. ole Metito to conclude.

Hon. Metito, conclude your presentation.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Thank you, Mr. Deputy Speaker, Sir. I was talking about the second enormous responsibility of the Commission - the comprehensive registration of title deeds. I was saying that the Commission needs to initiate its own motion and really try to streamline title registration in this country, so that we do not see incidences like what we were seeing around Jomo Kenyatta International Airport (JKIA) and the demolition of individual houses where Kenyans have invested along bypasses.

Mr. Deputy Speaker, Sir, finally, there is the issue of historical injustices. I think if the Commission could read the recommendations of the Ndung'u and Njonjo commissions--- There are people complaining about injustices like the MRC in Coast Province and the Maa community. Those injustices should be addressed.

I beg to support.

Mr. Letimalo: Mr. Deputy Speaker, Sir, I rise to support this Motion and I just have two comments to make in regard to the functions of the National Land Commission. If you look at function "C", it says: "To advise the national government on a comprehensive programme on registration of titles on land throughout Kenya." There are areas in Kenya---

Mr. Chanzu: On a point of order, Mr. Deputy Speaker, Sir. I think we have talked about this and it has been heard out there. The two have made their point. Should we be listening to it and they will take care of the concerns here. We want to have this moving because we do not have a lot of time. So, the Mover should be called upon to reply.

Mr. Deputy Speaker: Hon. Letimalo, can you conclude your contribution?

Mr. Letimalo: Mr. Speaker, Sir, I was just saying that there are areas here in Kenya - particularly pastoral areas - where people still live on communal land. I would like to appeal to the Minister for Lands that an adjudication exercise should be carried out on that land, so that either the land can be registered in group ranches or individual ranches for the people to be able to get title deeds and use them as securities to develop their land.

Two, and which is really critical to me and it is good because the Minister for Defence is here, if you look at function "E", it states: "To initiate investigations on its own initiative or on a complaint by representatives of people with historical land injustices and recommend appropriate redress." Land has been allocated to the Kenya Army for military training and they deserve it. We support that, but my concern here is that the Kenya Army and even the British Army, because of the collaboration that exists between us and the United Kingdom (UK), carry out training beyond the gazetted area to the extent that people are killed. Right now, we have a case where we are now dealing with the Ministry where a *moran* was killed outside the gazetted area. I do not know for what reasons the Government is insisting that he was killed in the gazetted area. That is really unfair.

Mr. Deputy Speaker, Sir, three, when they carry out those military exercises, they leave behind a lot of unexploded ordinances and ammunitions to the extent that when herdsmen are grazing their animals, they get attracted to ---

Mr. Deputy Speaker: Hon. Letimalo, you have run out of time, but let me give you one more minute to talk about your issues.

Mr. Letimalo: Mr. Deputy Speaker, Sir, I was just saying that those are the issues that we need the National Land Commission to investigate and address because people are suffering. You can imagine a situation where our land is utilized and people are killed, there is no compensation and nobody is concerned. This is very unfair. So, I think this is one area where the Commission should move in and make the necessary recommendations.

Thank you.

The Minister for Trade (Mr. Wetangula): Mr. Deputy Speaker, Sir, I will be very brief. One, I think the Parliamentary Committee on oversight should audit how we are appointing commissions. That is because we bring here a shortlist and they look like they represent the country. But in certain parts of the country, certain communities are completely left out and marginalised. So, I want to see an audit by the Constitutional Implementation Oversight Committee (CIOC) brought there so that we know how we are balancing those appointments.

Secondly, this Commission whose appointment I support has a major responsibility. In a country where only about 22 per cent of our land is rain secure, we really want to see serious agrarian reforms coming to this House. I want to urge the House that in the event that the Commission proposes some legislation to reform our land laws, tenure system and so on, this House should rise to the occasion and pass such legislation. If you look at the country, almost all agricultural land is being destroyed through informal settlement, land demarcations that are not in line with the interests of the country and so on.

Thirdly, I want this Commission to retrace and address historical injustices. There are people in this country who own what they ought not to own. There are people in this country who took land that does not belong to them. I think that needs to be corrected because the disputes over the 2007/2008 elections was just but an excuse to settle old scores, some based on injustices in land. This Commission has an arduous task to give this country direction to solve the problems that we have lived with once and for all. I urge them to be courageous, speak without fear and never fear to speak on what would make this country a better country which is at peace with itself, because everybody will be secure in what they do about land. We are living in a country where, unfortunately, we seem to believe that to be anybody you must own land. This ought to change and if it changes, it will be for the better. We need people to emphasize on housing and other social amenities other than land ownership.

Mr. Deputy Speaker, I can see that you have cut me off.

Mr. Deputy Speaker: Yes, because you took more than three minutes; but I am not the one who chopped you off; it is the ICT system because it is programmed!

Mr. Konchella: Mr. Deputy Speaker, Sir, thank you for the opportunity to talk on this very important subject. I stand to support the report of this Committee, because we have an urgent need to get this Commission working, so that they can address the issues relating to historical injustices and other vices which have caused a lot of suffering to Kenyans. When you look at the corruption that has been going on at the lands offices all over the country, there are many people who are suffering because they lost land due to those acts. Now this Commission should actually stand up and address the issues of land, and particularly historical injustices and community land; I believe that the Minister will bring the necessary Bill to this House for debate and enactment.

Mr. Deputy Speaker, Sir, the pastoralist communities, particularly the Maasai have lost land, just as Mr. Ntimama said and continue losing it. Just like other Kenyans, particularly in the Coast Province, they need to be protected. We need to urge this Commission to ensure that the pastoralist communities are not going to suffer. The other day we had problems in Mandera where communities were fighting each other, and the land issue has to be addressed. The issue of boundaries has to be addressed. My request is that we should have proper representation in the Commission at other levels. The Maasai community has gone to court to request that one of them be appointed to this Commission. Now that we do not have representation, we want to demand, as a community, that the Chief Executive Officer (CEO) of this Commission must be a Maasai. This is because we have had situations where other communities were not considered for representation, but it was ensured that people from other regions were included on certain commissions. I want this House to support that because it is important. I want this House to support me so that when we appoint the CEO he is a Maasai.

Thank you.

Mr. Deputy Speaker: I will allow one more before I can entertain any points of order calling on the Mover to reply.

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I rise to support this Motion because it establishes a very important National Land Commission, which is eagerly awaited in this country. There are numerous land problems all over the country. You have heard my friend, Mr. Ntimama talk---

Mr. Deputy Speaker: Order, Mr. Murungi! A ruling was made from the Chair that Ministers are not going to address the House from any place other than the Front Bench or the Dispatch Box.

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, there are numerous land problems all over the country. I have heard emphasis on historical injustices. There are native Indians in Canada who are convincing us that the Government of Canada is illegal because the French and the British are occupying their land, and they will never rest until the French and the British leave that land. I do not see the day when the British and Canadians are going to leave. We should find other mechanisms of compensating these communities because I do not see the day when Mr. Ntimama will go back to Nanyuki, or when the Maasais will occupy Nairobi. I think the Commission will have to come up with an innovative way of dealing with that problem.

Mr. Deputy Speaker, Sir, where I come from the biggest problem is the issuance of land title deeds. Since Independence, the people of Meru have been waiting for title deeds to be issued, especially in Meru North and some parts of Meru Central. The owners of the land and their children have died waiting for the title deeds, and we see an answer through this National Land Commission. We believe that it will be fair, efficient and will do what all the governments have been unable to do.

Mr. Deputy Speaker, Sir, just one last point. I think we need to look at the transparency of the selection process. I think the Committee of Parliament did a good job, but the selection panel did some things which were not fair. I know top land lawyers in this country who had applied to be on this Commission, but were knocked off for no reason whatsoever, and which we do not understand. The Committee of Parliament should have interrogated that panel a little more to find out how those top land lawyers were left out of this list, when maybe they could have been the chair or members of this Commission. We suspect that there is reverse discrimination taking place. We suspect that some people were left out because of where they come from.

Mr. Deputy Speaker: Order, Mr. Murungi! Mr. Mbadi is on a point of order.

Mr. Mbadi: On a point of order, Mr. Deputy Speaker, Sir. I do agree that this Coalition Government is a government of collusion, collision and confusion. But the selection panel was appointed by the Executive - the two Principals. The hon. Member, speaking as a Cabinet Minister in this Government, comes to the House to complain and lament about wrong things done by the Executive without resigning. Is it in order?

Mr. Deputy Speaker: Mr. Murungi, can you conclude?

The Minister for Energy (Mr. Murungi): Mr. Deputy Speaker, Sir, I think the President and the Prime Minister did a great job in appointing the panel, but they cannot be responsible for the individual acts or rogue actions by members of the panel who excluded very qualified people who we know. So, it is the duty of the Commission to look beyond the list. It is the duty of the Commission to ask all the people who applied and find out why they were left out when they were qualified.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Except you are merely telling them why they should not be there. That is because when you say someone was left out, someone must have been taken in. It does

not mean that you can bring some more. You cannot tell them to find out why they should be there and others should not have been there.

Mr. Samoei: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to speak. This is a very important Commission that the country has been waiting for with bated breath because issues of land in this country, apart from being emotive, if they can be properly handled and resolved, can stimulate economic growth in our country.

There are many farmers out there - and I want to agree with Mr. Murungi. When I was in Tigania and Meru, many people complained that they have land, but adjudication and survey has not been carried out. They cannot access any meaningful funding, either through banks or other lending institutions, to develop their land. If the question of land is resolved, then many farmers can access loans using their title deeds. We can improve the food security in our country. Looking into the future, the Commission, even as we pass these names which I support, I think the two Principals and the Committee of Parliament have done a good job. I want to put it on record that we support Dr. Tororei who is a Kenyan, qualified in every aspect and I think he is competent enough to take charge and responsibility of that very important Commission.

(Applause)

I think this is a positive development in our country that Kenyans who are visually impaired or who are physically challenged can take up responsibility in our country and participate in revolutionizing our country.

I have two issues which I would like to put to the Commission, even as we create it today. The Commission must think deep and wide, and help transform our country so that the issue of land is demystified. In other countries, land owners are less than 5 per cent. Land must be viewed as a factor of production. It must not be that every Kenyan must have a little piece of land. I think that is not the way to go. We have very serious challenges of land fragmentation and the Commission must take this country to a level where land is viewed as a factor of production. We should avoid the culture of sub-dividing productive agricultural land and reducing it to residential areas and, therefore, putting a serious strain on food production in our country. I also want this Commission to decentralize its services.

Mr. Deputy Speaker, Sir, there is absolutely no reason why Kenyans should come all the way to Nairobi to get a title deed. The Commission should decentralize its services, so that Kenyans at rural areas can acquire title deeds in every county. We want to demystify this whole thing about title deeds and ensure that the process of adjudication survey and issuance of title deed is taken to the grassroots, where many Kenyan can access.

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

Eng. Maina: Mr. Deputy Speaker, Sir, I stand to support the Commission.

Mr. Deputy Speaker, Sir, I wish to make some observations. This Commission has very heavy noble tasks for our country. We have reached a point in this country where sometimes the holding of a title deed becomes a piece of paper. If this country will be a country that is law abiding, the beginning is where a title deed becomes a trusted document that a citizen can hold and become a valid document, anywhere in the country. This Commission has that responsibility to ensure that, that is understood by all the citizens.

Mr. Deputy Speaker, Sir, we have the issue of the IDPs in this country. When we stand here to talk about historical injustice, I am actually wondering which bigger historical injustice is there than a person who owned land which he paid for, but he is no longer staying on it. We

have witnessed these people forcefully removed from their land. Some of them know where their land is, but yet they cannot be allowed to access it. Unless we settle them on their land, this will be an exercise in futility.

We, as leaders, have a duty to preach to our people about the issue of sovereignty and unity in this country. I hope this Commission will be able to drive that point home. Otherwise, if they cannot achieve what they are supposed to achieve; they should actually be the first ones to resign because we expect them to carry a heavy responsibility.

Mr. Deputy Speaker, Sir, truly, the Maa community has made its point. They at one time owned a big part of Kenya. After setting up this Commission, we must look at how they are represented and have their voice heard. Otherwise, we are starting with a setback.

Mr. Deputy Speaker, Sir, the other thing---

Mr. Deputy Speaker: You have half a minute to conclude.

Eng. Maina: Mr. Deputy Speaker, Sir, one and a half minute lapses by the time you finish.

Mr. Deputy Speaker, Sir, before I conclude I wish to say that already the sentiments expressed in this House show that this country is tribalized and balkanized. As much we say we are one---

Mr. Shakeel: On a point of order, Mr. Deputy Speaker, Sir. Would I be in order to request that the Mover be now called upon to reply?

Mr. Deputy Speaker: Order, hon. Members! I will now put the Question.

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

Mr. Musyimi: Mr. Deputy Speaker, Sir, I wish to take this opportunity to thank the hon. Members for their very wise interventions and contributions.

Mr. Deputy Speaker, Sir, allow me to make the following comments. First, the National Land Commission Act anticipates the creation of county boards. The concerns raised by hon. ole Ntimama and my good friend, hon. Nkaisserry, will be addressed at that level. There will be county boards that will be acting on behalf of the National Land Commission.

Mr. Deputy Speaker, Sir, a lot of the land issues, particularly in places like Kajiado, Narok and other places, might actually come under the anticipated Community Land Bill. I know that the hon. Minister is working very hard to make sure we have that Bill here as soon as possible. I have no doubt that when that happens, a lot of the concerns that have been raised by those communities and others will be addressed in that forum.

Mr. Deputy Speaker, Sir, may I also say that my Committee will continue with the work of oversighting the National Land Commission. This honourable House should rest assured that we will not relent in that task. Indeed, we will somehow make sure that the National Land Commission gets a copy of the HANSARD, of the deliberations of the House today, so that as they start their work, they will be aware of what the hon. Members have said and their concerns.

Mr. Deputy Speaker, Sir, there was the issue of the nine persons that we are recommending today. I know that hon. Shebesh was of the view that I should make a comment. Indeed, as others have said, there were applications - I think about 400 - which were put in the print media. Eventually, 16 people made it to the shortlist. Those names were taken to the Principals and they picked eight members, plus the chairperson. We had nothing to do with that process. What we were given were nine names. So, for us to be asked to comment on the process

prior to that, it may not be easy. Indeed, it is the responsibility of the panel to a large extent. I think that one of the Committees of the House needs to maybe summon the panels that are involved in interviewing members of these Commissions, to just explain the process and make sure that we have a sense of balance.

Mr. Deputy Speaker, Sir, as I close, I want to thank, again, the hon. Members and especially the Minister for Lands. We have worked very closely in this and many other respects and I have no doubt that when the Community Land Bill is in place, I think, like I said, it will go a very long way in solving some of the outstanding problems in the lands sector.

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

(Question put and agreed to)

BILLS

Second Reading

THE LEADERSHIP AND INTEGRITY BILL

(The Minister for Justice, National Cohesion and Constitutional Affairs on 16.8.2012)

(Resumption of Debate interrupted on 16.8.2012)

The Minister for Transport (Mr. Kimunya): Mr. Deputy Speaker, Sir, I was seconding this Bill. I will be brief on my remaining remarks.

Yes, I recognize that there has been a lot of media attention for the wrong reasons. I would like to start by particularly paying special tribute to one brilliant young lawyer who put it spot on over the weekend in *Sunday Standard*. I would ask every hon. Member to read the article by one Charles Kanjama. I think he got it very right. I do not quite agree with the media at times, but at this time he got this article spot on and he has helped clarify most of the issues that we would have been required to.

Mr. Deputy Speaker, Sir, in terms of the declaration of income, and, again, this has caused a lot of confusion--- Having been part of the initial Anti-Corruption Authority in the early 1990s and having done quite a bit of work through Institute of Certified Public Accountants of Kenya (ICPAK), I want to say that declaration of wealth as a tool for leadership only works if you also have alongside it the issue of living beyond known means as a crime. It is not in our statute books and so whatever you declare at the beginning, if nobody is going to hold you responsible for the increase of your wealth, it makes it redundant from the word go.

We need to be very careful about what we ask for in view of the limitations that have been put by the new Constitution, in terms of what information you can ask people to give and in terms of how you can use that information. If you cannot use it in a court of law in terms of self incrimination – I think this was proved in some recent court cases – then it begs to bring the issue into conflict in terms of what you are asking to self declare and you are not going to open that information or use it.

Mr. Deputy Speaker, Sir, I want to mention a few things about the issues that have been coming up and we discussed them at length in our Committee. This is in terms of what gainful

employment is and whether we are going to have a situation where, by implication of the law, you are saying that any public servant or any State officer or their relatives or friends should not engage in any gainful employment. That is a draconian law that CIOC would like us to pass. We are basically saying that you are criminalizing business by assuming that any one State officer is criminal unless proved otherwise by engaging in business which, again, is cutting people's livelihoods. You might find a situation where nobody wants to serve in the public service or as a State officer because their relatives or their families will be stopped from engaging in any business.

There is a lot of talk that there are no sanctions in the law. Now, this House has passed lots of sanctions in terms of anyone engaging in economic crimes. This has been defined within the Economic Crimes Act. Some have been put in the Penal Code. I do not think it is fair that every piece of legislation that comes should attempt to be a stand alone with its own sanctions when they are already available elsewhere. I believe our Committees will be looking at those things because these are some of the misleading information that are being peddled to the public out there that, in fact, this Parliament has not done a proper law when, in fact, it has very good laws and cross-references.

Mr. Deputy Speaker, I want to leave some of those issues to my other colleagues who are in the Committee. I want to pay tribute to hon. Kingi, hon. Elmi and hon. Wamalwa who sat with the CIC, the Law Reform Commission and all the stakeholders from morning until midnight and we agreed on these matters clause by clause. We agreed that this is the best Leadership and Integrity Bill to be presented in the House. Obviously, people must play to the galleries. They must appear to be whiter than white and that is what is causing the biggest problem in this country. Even when we have agreed on something, people want to go back and say that Parliament is not an institutional that is giving good laws and that stakeholders out there can do better laws, yet they are not on the Floor of this House. The people of Kenya have voted and determined that the 222 Members are the ones who make laws and anyone else can only come through the representatives.

Leadership is inspirational. If we are to listen to what the civil society is saying out there, then there may be a time when Kenyans will have to look for angels to run the affairs of this nation. Even those angels will be fought. People will say even those angels will need to be vetted because Kenyans have come to a point of believing that anything that they see in their leadership is bad until proved otherwise by the civil society. We must rise up to the challenge and say that we can give Kenyans a law that facilitates them to have good leaders while we continue changing the cultures in this country which will take a whole generation from now.

I beg to second.

Mr. Deputy Speaker: Order, Members! Hon. Wetangula, I know you were one time in the Speaker's Panel, but then it is a pity the rules do not allow me to have a Minister's help, but otherwise, you would have been a good help on the Chair.

(Question proposed)

Mr. Shakeel: Thank you, Mr. Deputy Speaker, Sir. I stand to oppose this Bill. The whole Bill is not wrong. Most of it is fair. I oppose it on the following basis:- I read the supreme law of this country and it says in Article 80 that:-

“Parliament shall enact legislation establishing procedures and mechanisms for effective administration of this Chapter”.

It goes on prescribing penalties. This Bill is changing this. It is not putting down the procedures and mechanisms as clearly as it should have done. It appears to water down certain elements of what should have been put in. I have the first draft and it covered much more than what the Bill does. Unfortunately, there are many issues here that we need. The Bill has failed to establish procedures and mechanisms. It has failed to prescribe penalties. In respect of integrity in gainful employment, I beg to differ with my brother and learned friend, accountant. We are also learned by the way. I beg to differ that State officers can have gainful employment through limited companies. If you are a State officer, you must remain a State officer. You cannot then go and hide behind limited companies. That hiding is the problem and unfortunately, this is what happened under the Moi regime. That is why we do not have enough doctors in hospitals because doctors are going all the time.

ADJOURNMENT

Mr. Deputy Speaker: Hon. Shakeel, you will have an additional 18 minutes when the House resumes on this Bill. Hon. Members, it is now time to adjourn the proceedings of the House. The House stands adjourned until tomorrow, Wednesday, 22nd August, 2012, at 9.00 a.m.

The House rose at 6.30 p.m.